OECD Public Governance Reviews

System Change in Slovenia

MAKING PUBLIC PROCUREMENT MORE EFFECTIVE

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Foreword

Governments need new and innovative approaches to better address ongoing, emergent and societal challenges. Complex issues cannot be solved by single interventions focusing on specific characteristics – they need to be tackled systemically. Systems thinking has received increasing recognition in OECD countries as an approach that can help address some of these challenges in a dynamic and holistic way.

Public procurement is an ideal focus for systems thinking approaches. It not only enables the acquisition of necessary products and services, it can also help achieve socio-economic goals and encourage innovation. However, in Slovenia, as in many OECD countries, opportunities exist for greater innovation in the public procurement process and associated systems to enhance the potential for positive impact.

Through the support of the European Commission's Structural Reform Support Programme (SRSP), the OECD's Observatory of Public Sector Innovation (OPSI) (https://oecd-opsi.org), in collaboration with the Public Procurement Unit in the OECD Directorate for Public Governance, has partnered with the Slovenian Ministry of Public Administration to apply systems thinking to the public procurement system of Slovenia. The report looks beyond traditional solutions for improving system effectiveness, instead applying a systems approach to assess the potential for creating more innovation within the public procurement system and producing better outcomes for Slovenians.

The report uses over 1 000 data points collected through interviews and workshops, analysis of past and present laws and regulations, and analysis of procurement data from the Slovenian Government and the European Commission. These data are used to map the procurement system and the experience of those responsible for its operation. The report identifies tensions within the procurement system and the underlying factors that explain them. The analysis further shows that the main challenges within the system are behavioural and cultural rather than legal. Finally, the report recommends a series of systemic interventions focused on changing behaviour and culture, and greater collaboration to enhance the effectiveness of the procurement system beyond adherence to existing rules.

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Executive summary

In order to respond effectively to cross-cutting problems and provide interconnected services to citizens, governments must transform their approach to increasingly complex issues. In the public procurement system of Slovenia, transformation means creating culturally and behaviourally informed procurement strategies that allow for the exploration of new and innovative procurement processes. This will enable the development of a more responsive and effective public procurement system.

The public procurement system of the Government of Slovenia has a strong legal foundation. Reform efforts have been driven by regulatory changes and have focused primarily on increasing transparency and reducing corruption. As a result, Slovenia has become one of the OECD countries that make the most information about the procurement process available to the public. In addition, the government has undertaken efforts to develop a stronger and more innovative procurement system – a process that has involved changing procurement laws, updating practice in line with international standards, developing guidance documents for procurement officials and sharing good practices throughout the system. However, in spite of these reforms, highly formalised procedures remain and provide limited flexibility for experimentation and little incentive for the application of new procurement and innovative methods. As a result, innovation around procurement and pre-commercial procurement, and the use of innovative and agile development processes, are rare in the Slovenian public sector.

Beyond analysing the legal and foundational elements of the public procurement system in Slovenia, this report seeks to identify possible levers that could activate greater innovation within the system and lead to better outcomes. In co-operation with the Slovenian public sector, a systems approach has been used to identify the main purposes and outcomes of the procurement system, and then map and analyse the key drivers, tensions and trade-offs. Through this process the report identifies key obstacles preventing the system from achieving its aims.

The range of systemic tensions in the procurement system of Slovenia support different and, at times, contradictory aims. These include trade-offs linked to the degree of centralisation or decentralisation of the system, legal versus behavioural solutions to procurement issues, understanding of procurement processes from a user perspective, and the prevalence of isolated incentives to act in the face of limited resources to do so. These issues need to be considered together rather than tackled individually.

This process involves co-designing strategies with key stakeholders within the procurement system and building up capacity for continuous change based on systems thinking. The application of this approach resulted in several new ideas to help the Slovenian procurement system move forward:

- Develop communities of practice that can share knowledge, develop expertise, build trust and implement solutions faster across the procurement system.
- Tackle fragmentation by creating new work processes that foster understanding and collaboration between technical experts and procurement officials, and increase the capacity of the procurement process to achieve its aims while keeping costs down.

- Manage risk by creating safe spaces for experimentation to test new procurement methods, with input from oversight organisations such as audit, revision and competition authorities.
- Support capacity building and risk taking within the procurement process to ensure that procurement can achieve the strategic aims of government.
- Build up the role and image of the public procurement system, and tackle issues linked to negative perceptions, to help the profession become an attractive and highly regarded option for future employees in the public sector.

These should not be seen as discrete solutions but rather as starting points for reform. The report identifies a range of scenarios for the continuous development of a flexible, agile and ethical public sector procurement system that supports the use of machine learning, procurement sandboxes, innovation procurement, hackathons and agile methodologies. Each of these scenarios corresponds to the level of ambition within the system. The report seeks to estimate how the system would respond to specific scenarios (e.g. through the use of wild cards) and to identify the kind of resources (e.g. capacity, collaborative networks, etc.) required to ensure successful implementation.

1 Adopting a system lens for public procurement

This chapter outlines the methodological approach of the whole report and makes the case for re-examining the role of public procurement in government using new tools and methods. In Slovenia, persistent issues with system effectiveness – despite alignment between the legislative acts governing the procurement system and international standards – underline the need for a systemic approach to complex issues within public procurement.

The premise of the report

With the support from the European Commission Structural Reform Support Programme (SRSP), the OECD has been advising the Slovenian government on the application of a systems thinking approach to public procurement. This exploratory process represents a test case for the use of systems thinking to solve concrete challenges in Slovenia. Previous support from the government for the OECD's work in this field culminated in the report Systems Approaches to Public Sector Challenges: Working with Change (OECD, 2017[1]), launched in Ljubljana in 2017. This report drew the attention of governments to the opportunities offered by the adoption of systems thinking – a key methodology to align existing structures and practises with government objectives and to address the complex challenges facing the public sector. The purpose of the present report, *Introducing Systems Change to the Public Procurement System of Slovenia*, is to provide advice and guidance to the Slovenian government that will help them to apply systems approaches within the context of public procurement.

Public procurement in Slovenia provides an excellent test case for the use of system approaches in government, as the system is well developed but could be used more strategically to achieve broader policy goals. While the Government of Slovenia's Public Administration Development Strategy 2015-2020 aims to prepare the public sector for the 21st century, a key challenge is the ability to successfully address complex issues. There are problems surrounding the translation of new government policies into clear legal frameworks and appropriate implementation tools. However, efforts are being made to improve the situation. In the public procurement sector, the Open Government agenda has helped to facilitate structural change and introduce new business models, as well as new electronic procurement tools integrated with national e-government and e-commerce frameworks.

The European Commission (EC) has called for further improvements to public procurement in Slovenia to remedy issues with complexity and lack of clarity in current procedures, insufficient professionalisation of procurement staff, underdeveloped digital infrastructure, lack of high-level strategic focus and an over-reliance on price as the key factor in awarding contracts (European Commission, 2020[2]). The EC has also called on Slovenia to improve public procurement in major focus areas. For instance, the EU Council Country Specific Recommendations to Slovenia in 2017 cited the need to improve the public procurement framework in the field of health care, and capitalise on the centralised co-ordination system (European Commission, 2017[3]). The recommendations also emphasised the need to increase competition in the system and improve the bidding process.

The Slovenian government has taken a number of actions to address these issues, a consequence of which is the harmonisation of national legislation with European law. The Ministry of Public Administration – the authority in charge of implementation of national public procurement law – offers various forms of consultations for procurement authorities, prepares general non-binding written interpretations, provides recommendations, guidelines, manuals and a help-desk, and also ensures that all processes are transparent. Nevertheless, rigidity and slow adaption to new and innovative forms of public procurement procedure remain a main barrier to public sector innovation across the country. Pressure for change often results in legislative responses but fails to spark innovation in public procurement process management. The system is characterised by an absence of reflection regarding what is possible and appropriate for a new EU regulatory context with new expectations and demands of local policy priorities. Furthermore, disrupting horizontal government processes and core systems such as public procurement, while continuing to provide essential public services, presents a challenge.

There are over 3 000 public entities in Slovenia at the central and local level, which are obliged to comply with Public Procurement legislation. These contracting authorities differ significantly in size and capacity, and the number of tenders they undertake annually can vary substantially. While some policies and provisions are mandatory for all contracting authorities, regardless of statutory type, source of financing and so on (e.g. green public procurement), others are compulsory only for the central government and recommended for local entities (e.g. the use of e-auctions when procuring off-the-shelf products and

services). The system is therefore quite complex in character and encompasses different stakeholders with divergent roles and responsibilities. Such an environment would benefit from a systems approach as a means to tackle public sector challenges in a more holistic manner.

Taking a systems approach involves not only mapping different systems components and how they delivers outcomes independently or in connection with each other; it also entails building a common understanding of how the system functions and how it can be geared towards new goals and purposes. This entails a bottom-up approach to change that addresses perceptions, behaviours and realities on the ground. The first stage in the work therefore was to analyse the lived experience of the procurement system in Slovenia, collectively validate systemic challenges and co-design strategies to tackle them.

A systems approach to change

Today, complexity and uncertainty are the norm – they are contexts, not just risks. The world seems to operate by a new set of rules that are difficult to observe directly. The defence and intelligence communities refer to this state as "VUCA", a reference to the volatility, uncertainty, complexity and ambiguity characterising geopolitics after the end of the Cold War period. Technology, decentralisation, the rise of non-state actors and other factors have accelerated the rise of VUCA in every domain. In this context, isolated efforts to address to policy issues and objectives are unlikely to be successful. Policy making is becoming highly interdependent with the consequent trade-offs and unintended side effects creating challenges for governments. There is a need for a new policy-making approach that will promote robust systems and adaptive structures.

In this environment, the effectiveness of decisions will depend on how completely the problem and its context are understood and how well the dynamic relationship between interventions and context is tolerated. This requires a new mindset – one that acknowledges uncertainty and complexity as part of everyday decision making and encourages working in iterative and innovative ways. At the same time, public policy makers have traditionally dealt with social problems through discrete interventions layered on top of one another. This is also true for the machinery of government, where challenges such as people management, budgeting, policy making and procurement require new approaches that take into account these new realities. However, such interventions may shift the consequences from one part of the system to another or continually address symptoms while ignoring causes. Recognition of the complexity gap (the disconnect between institutional capacity and the problems they face) has therefore led to growing interest in systems thinking as well as other systems approaches such as design thinking.

Design, systems engineering, systems innovation, systems thinking and design thinking have interlinked philosophical foundations and share – to some extent – methodologies. This analysis uses the umbrella phrase systems approach to describe a set of processes, methods and practices that aim to affect systemic change. The use of systems approaches to analyse public service delivery and common ministerial responsibilities can prove challenging due to siloed structures and narrow remits, but can also effect change. Public interventions need to move beyond a narrow input-output line of relationships. Of course, the ease or difficulty with which government systems can be changed depends on the maturity of the system; however, new developments are underway. This topic was explored in the OECD publication *Systems Innovation: Synthesis Report* (OECD, 2015[4]), which discussed public sector challenges through a systems innovation lens. Followed by other supporting material (Burns and Köster, 2016[5]) (Burns and Köster, 2016[6]), the OECD (2017[1]) launched a report specific to the context of the public sector covering the history of systems thinking and its interlinkages with other approaches. The report also defines systems from a purpose and action-oriented perspective (Box 1.1).

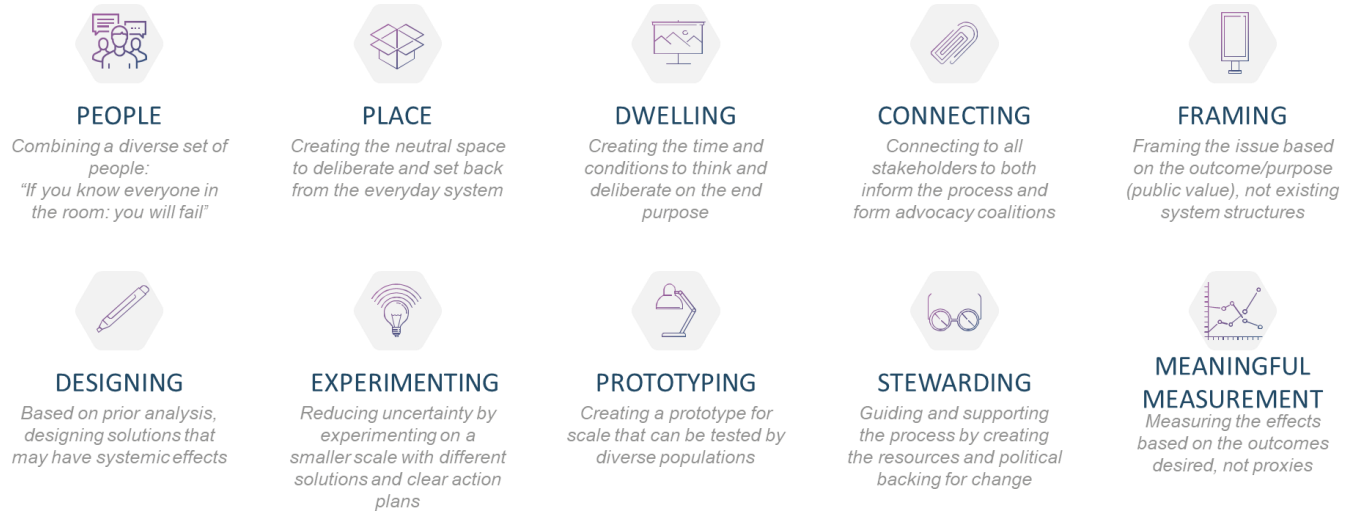
Box 1.1. Defining systems

There are many ways to define systems – geographical proximity (local, regional, national and international), production or markets (e.g. a sectoral system including all upstream and downstream producers and the characteristics of the markets they serve), or technological affinity (technological systems). The OECD (2015: 18) has defined systems as "the set of stakeholders who have to interact so that the system as a whole fulfils a specific function (or purpose)". However, this definition may be somewhat misleading, as public policy systems include not only stakeholders, but also regulations, organisational routines, cultural norms and so on. As public policy systems are generally outcome oriented, the OECD (2017) report applied the purposeful systems definition produced by Ackoff and Emery (1972), where the system is bounded and created to achieve its goal(s) and its purpose. Hence, elements of the system are operationalised based on their connection to the goal of the system.

Source: (OECD, 2017, p. 17[1])

The initial research conducted by the OECD found only a few well-documented cases of systems approaches in the public sector (OECD, 2017[1]). The small number may indicate that governments in-source systems capabilities and, thus, tend to rely heavily on outside consultants and designers to lead and instigate systems-level changes. Only in recent years has there been renewed interest in applying system approaches, such as design, more rigorously in the public sector. Furthermore, while the OECD's previous work on system changes has focused on societal issues, less attention has been paid to the transformation needed in core traditional government roles such as procurement systems. In most examples of public sector system thinking work, these issues are often addressed at the organisational level, but rarely at the system level where opportunity and value can truly be unlocked. This report seeks to apply OPSI's system thinking methodology to internal systems that operate the machinery of government. To this end, OPSI has developed specific tactics (Figure 1.1) that draw on systems thinking methodologies, problem-framing tools, design thinking and other supporting material.

Figure 1.1. Tactics for system change



Source: Based on OECD, 2017.

The systems analysis offered in this report starts by defining the purpose of the system or framing the problem that needs a response, rather than examining an established legal recommendation or best practise within a policy field. The idea is to understand the aims and goals of the system and how to make them actionable. This means concentrating on contextual issues first – why a system is not performing – and then on the techno-legal frameworks that form part of the functioning of the system, but may not be its main influencers. Defining policy problems is usually understood as a two-stage process: the first stage defines the nature of the problem and the second stage identifies its scope (Peters, 2005[7]). "Problem frames" are in essence "sense-making devices" (Brugnach and Ingram, 2012[8]), however they also make problems dependent on context and cognitive comprehension. This means that stakeholders employing a systems approach must first define the purpose of change – what is the effect that the systems strives towards – and then determine how well the system is delivering towards that purpose (scope of the problem).

This approach helps to set crosscutting priorities to work across existing silos. Systems approaches also empower civil servants to go beyond their traditional remits and apply different methods pragmatically *in situ*. This can be described as a *bottom-up* or *co-creative approach* to systems change. The starting point is not rooted in existing frameworks, but rather in the behaviours and outcomes the systems produce. Once the problems are framed, they can be scoped (i.e. what causes the issues to manifest and how they can be changed with specific purposes in mind). Two aspects of particular interest here are the *sensibility* of the system (the interconnectedness that give the living system its characteristics), and *feedback loops* – enforcing mechanisms that enforce or push back on developments and at times produce unintended consequences (Ison and Shelley, 2016[9]).

In the case of problem scoping, different systems thinking methods – both qualitative and quantitative – can be applied. The choice depends on the aims and characteristics of the system: Is it possible to understand the system through qualitative analysis or is quantitative modelling is needed to make sense of the data? With the latter there is always a trade-off between the contextual characteristics and depth of data versus simplification and the ability to capture outcomes at scale. The choice of systems analysis methods should be made based on the problem at hand. As such, special attention should be paid to the specificities of the procurement system.

The complexity challenge of procurement

Modern public administrations are becoming increasingly complex, complicated and technical. This includes the field of public procurement. Various factors influence the procurement process all of which are interlinked and interdependent. These include organisational elements, policy, operational factors and the quality of contractual processes, as well as individual behaviour and practices (see (Sönnichsen and Clement, 2019[10]) for an overview of systemic factors influencing strategic procurement in the field of green and sustainable development).

Accordingly, size, strategy, culture, risk management and top-level management characteristics can considerably influence how procurement is used and to what ends. Operational tools include procurement process and value prioritisation tools, calculation and criteria-setting tools, standards, standardisation and legal aspects, and supplier selection – all of which can influence the outcomes and effectiveness of procurement systems. The quality of contracts alone can be highly dependent on available capacity, the negotiation process and existing cross-sectoral collaborations, not to mention individual motivation, beliefs and awareness. Other factors include processual limitations, such as delays in the system, communication patterns in and across units, and the possibility of standardisation (see (Barrad, Valverde and Gagnon, 2018[11]) for an example of applying systems dynamics to procurement operations). Additionally, a variety of players are involved with public procurement systems often with competing and sometimes contradictory interest and roles (Edler et al., 2005[12]). These include the leadership of the organisation, the finance

department, the staff responsible for technology or services, internal users of technologies or services, the legal department, oversight bodies and procurement officials to name but a few. In each case, their motivations, awareness and capacities to engage with the procurement system may differ depending on the context and institutional setting.

Sitting between individual-organisational and institutional processes are numerous "adaptive processes" where combinations of factors start to influence procurement behaviour. These include:

- small-group adaptation processes (between members of purchasing groups or between supplier groups)
- adaptation processes within organisations that can manifest themselves, for example, as intra-organisational resistance to new types of procurement or problems in co-ordinating activities
- external adaptation processes between organisations such as isomorphic pressure (e.g. following EU best practises) and priorities emanating from the local context (Guenther et al., 2013[13]).

All of these factors can influence procurement outcomes. For example, risk aversion is characteristic to procurement systems (Rolfstam, 2012[14]) at the individual and the organisational level, as the risk and failures are usually attributed to procurement officials, while other actors are credited with project successes (Yeow and J., 2012[15]). Risks – perceived or real – may arise, for example, from technology or the difficulty of articulating demand, especially when multiple buyers are involved (Hommen and Rolfstam, 2009[16]). Further categories of risks include organisational, societal, market and financial threats. Some international organisations have envisioned systemic ways to assess the administrative capacities of their stakeholders (see Table 1.1), but these usually focus on the macro (structural) level, or inputs or outputs of the procurement systems, but not their interdependencies.

Table 1.1. Administrative capacity frameworks

	← More structural	More contingent →	
Author	Background	Inputs	Outputs
IDRC, Lusthaus et al. (1995) IADB, Lusthaus et al. (2002)	External environment: admin/legal, technological, political, economic, social and cultural factors	Organisational motivation, organisational capacity	Organisational performance
USAID, Brown (2001)	System-level variables	Organisation level, human resource level, individual level variables	
CAF Resource Centre (2013)		Capacity enablers: leadership, strategy and planning, people, partnerships and resources, processes	Citizen-oriented results, people results, social responsibility results, performance results.
World Bank, Verheijen (2007)	Systems level	Policy and people levels	
UNDP (2008)	Environment	Organisations, individuals	
OECD-Sigma (2014)	Strategic framework	Capacity for policy development and co-ordination, human resource management, quality of accountability, public financial management	Service delivery
Lodge and Wegrich (2014b)	Governance	Capacity to deliver, regulate, co-ordinate and analyse	
Hammerschmid, Stimac	Administrative	Administrative	Administrative

and Wegrich (2014)	management capacity, organisational culture	management capacity: strategic management, human resources, leadership, co-ordination	management capacity: performance orientation
Bloom et al (2013) Bloom et al (2015)		Operations: policies and processes, monitoring capacity, target setting capacity, people management capacity	

Source: (Cingolani and Fazekas, 2017[17]). References in the "Authors" column can be found in this source.

All of these different factors influence procurement systems. To change the system, all of the above need to be engaged at different levels (in small groups within organisations as well as between organisations). For example, the more complex projects become, the more they start to depend on negotiated or agile procedures. Conversely, the more corrupt the procurement environment, the greater the likelihood that complex projects will be systematically crowded out both intra-organisationally and within organisations (Baldi et al., 2016[18]).

These complex interdependencies within procurement systems cannot be addressed easily; however, the OECD has done much to tackle these issues. In 2015, the OECD adopted the *Recommendation of the Council on Public Procurement.* The Recommendation covered core issues of all public sector procurement systems and included clear recommendations to improve the system (Box 1.2). It was the result of collaboration across policy communities within and outside the OECD, demonstrating the multi-disciplinary nature of procurement. The Recommendation supports a comprehensive and integrated approach to the procurement cycle and reflects the growing interest in transforming public procurement into a strategic policy lever for government. Substantial progress has been made in implementing the Recommendation (OECD, 2019[19]), and a series of thorough country reviews have followed (OECD, 2019[20]; OECD, 2017[21]; OECD, 2017[22]) accompanied by an evaluation (OECD, 2019[23]). For the latter, the OECD carried out a survey in 2018 on implementation in 34 countries, spanning a range of topics relevant to the 12 integrated principles of the Recommendation. The work showed that countries were transforming their systems at a fast pace, especially in terms of reforming their frameworks to advance complementary policy objectives, and becoming more supportive of strategic procurement. However, systemic evaluation of procurement outcomes remains a challenge in most OECD countries. To achieve real transformation in the procurement system, different interventions needed to align systematically.

Box 1.2. 2015 Recommendation of the Council on Public Procurement

The essential role of efficient and effective public procurement

The 2015 Recommendation recognises that the efficient and effective public procurement of goods, services and works is vital to the core purposes of government, including infrastructure investment and the delivery of essential services to citizens. Public procurement thus constitutes a key economic activity, albeit one that is particularly vulnerable to mismanagement, fraud and corruption. Efforts to enhance good governance and effective management of public resources are key in this regard.

Recommendations

Countries adhering to the Recommendation committed to:

1. Ensure an adequate degree of **transparency** of the public procurement system in all stages of the procurement cycle.

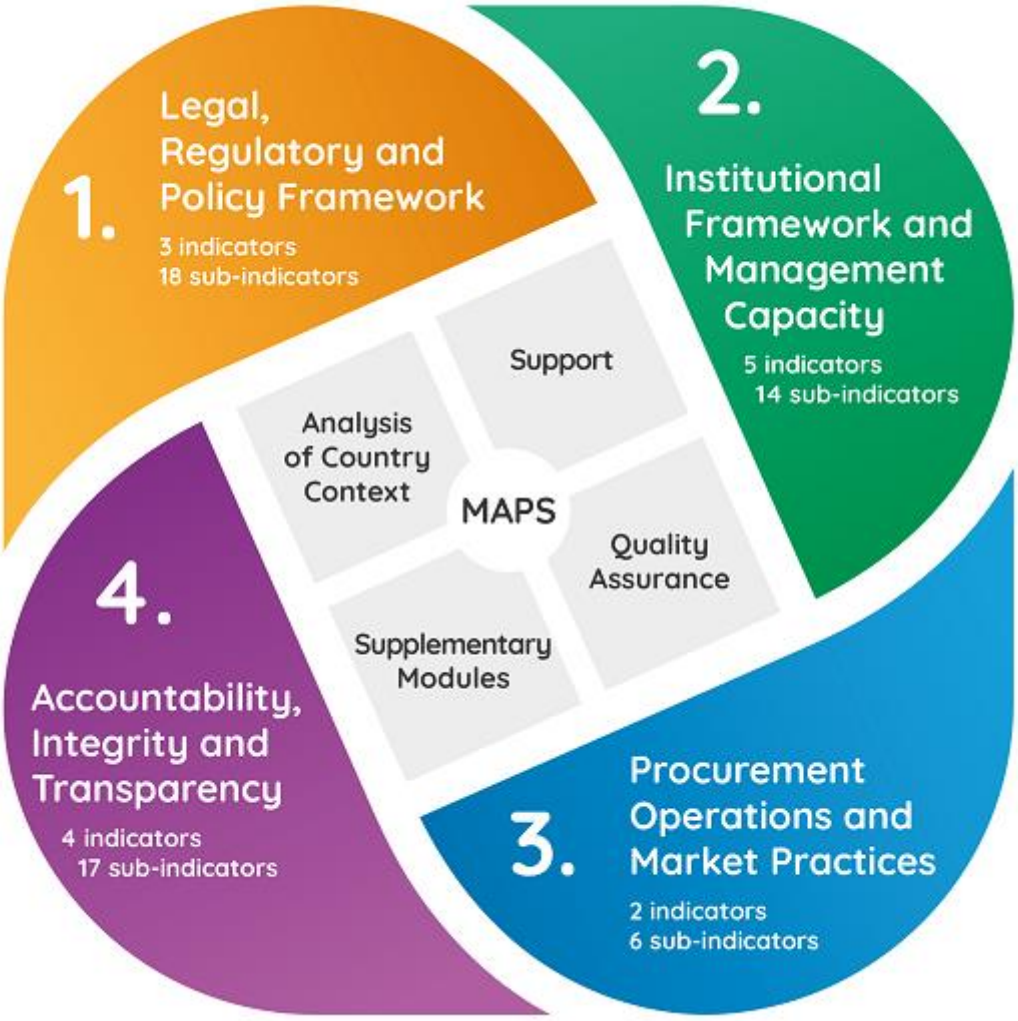
2. Preserve the **integrity** of the public procurement system through general standards and procurement-specific safeguards.
3. Facilitate **access** to procurement opportunities for potential competitors of all sizes.
4. Recognise that any use of the public procurement system to pursue secondary policy objectives should be **balanced** against the primary procurement objective.
5. Foster transparent and effective stakeholder **participation.**
6. Develop processes to drive **efficiency** throughout the public procurement cycle in satisfying the needs of the government and its citizens.
7. Improve the public procurement system by harnessing the use of digital technologies to support appropriate **e-procurement** innovation throughout the procurement cycle.
8. Develop a procurement workforce with the **capacity** to continually deliver value for money efficiently and effectively.
9. Drive performance improvements through **evaluation** of the effectiveness of the public procurement system from individual procurements to the system as a whole, at all levels of government where feasible and appropriate.
10. Integrate **risk management** strategies for mapping, detection and mitigation throughout the public procurement cycle.
11. Apply oversight and control mechanisms to support **accountability** throughout the public procurement cycle, including appropriate complaint and sanctions processes.
12. Support **integration** of public procurement into overall public finance management, budgeting and services delivery processes.

The 12 principles included in the OECD Recommendation (transparency, integrity, access, balance, participation, efficiency, e-procurement, capacity, evaluation, risk management, accountability and integration) reflect the critical role that governance of public procurement must play in achieving and advancing public policy objectives.

Sources: 2015 Recommendation of the Council on Public Procurement. Adopted on 18/02/2015. C(2015)2, C/M(2015)4.

In order to facilitate learning between countries and support the transformation of procurement systems, the OECD has invested in the development of a public procurement toolbox (OECD, 2019[24]). The toolbox aims to provide practical guidance and concrete examples to governments on how to adhere to the recommendations above in complex environments. The guidance and examples are based on country cases and organised around the 12 principles (Box 1.2). As mentioned above, the OECD supports the implementation of the principles through assessment (OECD, 2019[25]; OECD, 2017[26]; OECD, 2019[27]). This work could also draw on the Methodology for Assessing Procurement Systems (MAPS) tool which assesses public procurement systems in their entirety. MAPS was elaborated by the World Bank and the Development Assistance Committee (DAC), but has been recently thoroughly upgraded under the co-ordination of the OECD (OECD, 2019[19]). It is mainly used by development banks, bilateral development agencies and partner countries to assess their procurement systems (Figure 1.2). MAPS uses comprehensive sets of indicators to analyse procurement systems, and is, thus, very useful for outlining gaps in the strategic requirements and capacities of procurement systems. However, the methodology does not outline the interdependencies between behavioural and organisational factors or the change management processes needed to transform procurement systems.

Figure 1.2. The MAPS Analytical Framework



Source: www.mapsinitiative.org.

Here, it is important to note that small changes in complex systems can cause cascading effects due to the high level of interdependencies. Public procurement systems rely on both internal and external stakeholders, creating numerous interlinkages in addition to all the other complex factors outlined above (Loosemore and Cheung, 2015[28]). For this reason, any approach that relies on single interventions or recommendations will not be effective. Accordingly, this report adopts a scenario approach to discuss different systemic options to upgrading the system (Chapter 6).

Differentiating between innovative procurement and procuring innovation

Procurement can be used for spurring innovation in substantive policy areas (e.g. as a form of demand-based innovation policy (Edler and Georghiou, 2007[29])), but also as a subject for innovative practices themselves. The former is referred to as public procurement of innovation (PPI); the latter is termed "innovative procurement". The OECD published a comprehensive report on PPI in 2017 (OECD, 2017[30]). In general terms, PPI relates to purchasing activities carried out by public agencies that lead to innovation (Rolfstam, 2012[14]). It involves setting the right level of ambition and building capacity inside the public

sector, as well as opening doors for innovators (e.g. by reducing administrative burdens, adjusting selection criteria, using lots, etc.) and attracting innovation. The European Commission has issued various guidance documents to delineate this area (Box 1.3). Innovative procurement concentrates on the procurement system itself, incorporating innovative approaches into the procurement process. These include innovative tools and methods (e.g. for use in data analysis, needs assessment, market consultation, cost projections, etc.) and organisational solutions to the public procurement system both online and offline.

Arguably, PPI is very difficult, if not impossible, without innovative procurement. For example, PPI often necessitates procedures involving negotiation (e.g. EU procurement rules allow for competitive procedures with negotiation and competitive dialogue). These cannot be implanted meaningfully, however, without the right functional or performance criteria, and appropriate award criteria, in terms of quality, outcomes or other characteristics. This may also involve prototyping, design contests and challenges in prior phases to make the process successful, requiring procurement authorities to change and innovative their systems internally to work in new ways.

Box 1.3. Public procurement of innovation: Guidance in the European Union

Definition

Directive 2014/24/EU defines the public procurement of innovation as: "the implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations inter alia with the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth."

European Commission Guidance on Public Procurement of Innovation

Innovation can have multiple meanings. As such, the European Commission's guidance adopts the wide-ranging view that the Public Procurement of Innovation involves either buying the process of innovation and/or buying the outcomes of innovation.

The main sources of EU-level guidance on public procurement of innovation include:

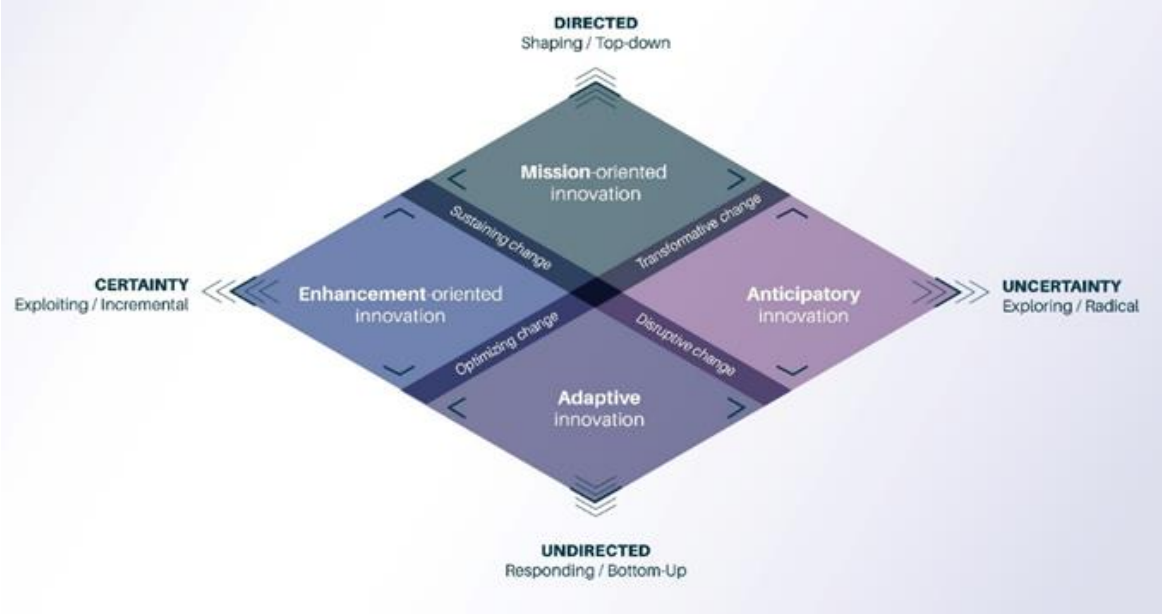
- Public Procurement of Innovation Guidance, www.innovation-procurement.org/about-ppi/guidance
- Public procurement as a driver of innovation in SMEs and public services, https://publications.europa.eu/en/publication-detail/-/publication/f5fd4d90-a7ac-11e5-b528-01aa75ed71a1
- European Assistance For Innovative Procurement (EAFIP) toolkit, http://eafip.eu/toolkit
- Public procurement of innovative products and services, https://ec.europa.eu/growth/industry/innovation/policy/public-procurement_en
- Funding & tender opportunities, http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/innovation-procurement_en.htm.

The European Commission has co-financed the creation of an online platform for sharing experiences of innovation procurement: www.innovation-procurement.org.

Source: (European Commission, 2018[31]).

The public sector needs to cultivate divergent capabilities in order to use procurement to create demand for innovation, but also to innovate the procurement system itself. For example, OPSI has proposed a model for public sector innovation based on the level of uncertainty and directionality of (desired) change (Figure 1.3). The model defines four different facets: enhancement-oriented innovation, mission-oriented innovation, adaptive innovation and anticipatory innovation. These different facets all require divergent strategies and working methods to be successful. Systems thinking works best in the context of purpose-driven change, when the goals and problems are known or can be collectively defined (OECD, 2017[1]). Hence, PPI can drive the mission, but this requires the capacity to delineate missions and develop external partnerships. Anticipatory innovation requires knowledge and experience of procuring research and development (e.g. pre-commercial procurement, innovation partnerships, etc.), while adaptive innovation focuses on developing user perspectives, which can be captured by design, challenges and hackathons leading over time to concrete procurements. Enhancement-oriented innovation can be used to actively tweak and develop the procurement system itself.

Figure 1.3. Public sector innovation facets model



Note: The model was elaborated as part of the work of OPSI.
Source: OECD.

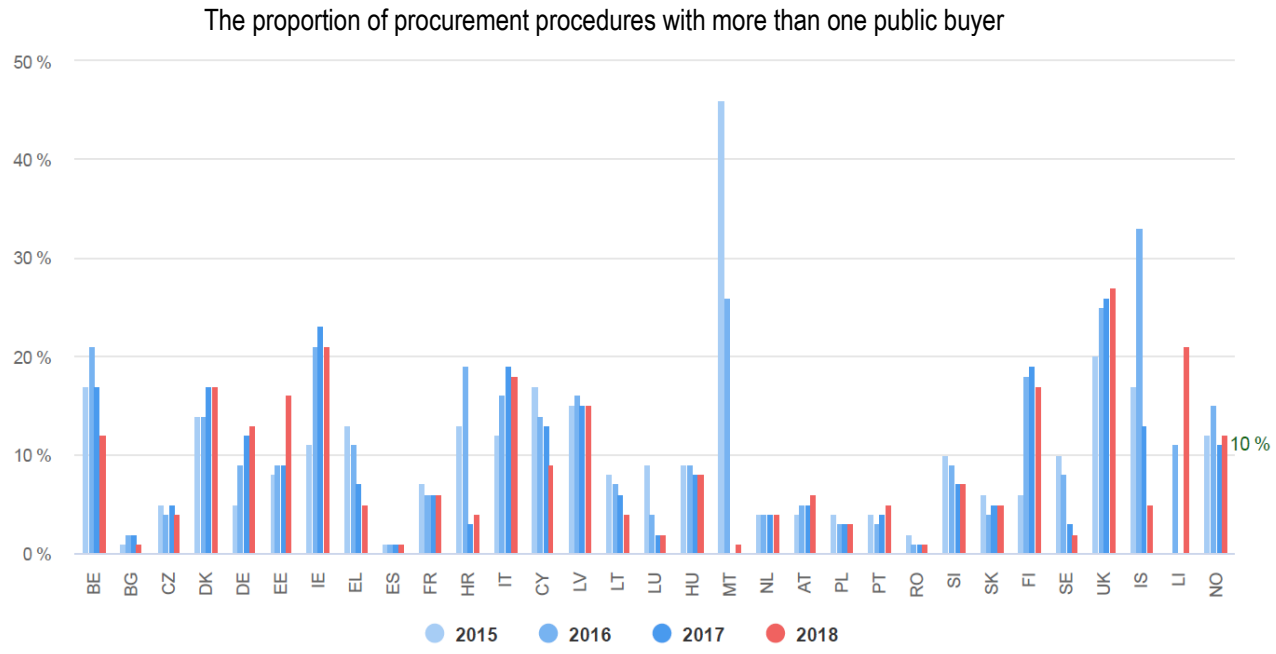
However, innovating the procurement system or undertaking PPI is far from easy (Amann and Essig, 2015[32]). It is generally a costly and time-consuming process which requires intensive co-ordination among stakeholders and continuous evaluation and learning (Lember, Kalvet and Kattel, 2011[33]). Challenges in setting up systems for PPI include reducing risk aversion, creating new forms of co-ordination, improving skills and capacity, encouraging public purchasers to dialogue with suppliers, and enhancing data collection and the monitoring of results (OECD, 2017[30]). All these challenges interact with the complexities of the procurement systems outlined above.

Need for systems change in the Slovenian public procurement system

Since 2015, Slovenia has worked to reform its procurement system and its ambitious efforts have produced results. According to the 2019 *Governance at a Glance* report, Slovenia has become one of the main OECD countries to make information about the procurement process widely available to the public. Since

2018, tender notices, evaluation criteria, award notices, contract text and bidding documents have all been publicly available (OECD, 2019[19]). Slovenia has also achieved solid participation among SMEs, which in 2018 accounted for 78% of contractors for public awards (European Commission, 2019[34]). However, the Slovenian procurement system tends to operate in a rigid manner, as well as facing other challenges. For instance, the share of negotiated procedures without prior publication amounted to 24% (European Commission, 2018[35]) – one of the highest scores in the European Union – signalling that there is still room for improvement in opening of procurement markets. In addition, the proportion of co-operative procurement (proportion of procurement procedures with more than one public buyer) is low, and there are still a high number of single bidder tenders (European Commission, 2019[34]). The latter is due, in part, to the small size of the country, the size of bids and economic development cycles. Low uptake of the most economically advantageous tender (MEAT) criteria[1] and the high proportion of procedures without prior publication may also contribute to these challenges.

Figure 1.4. Co-operative procurement



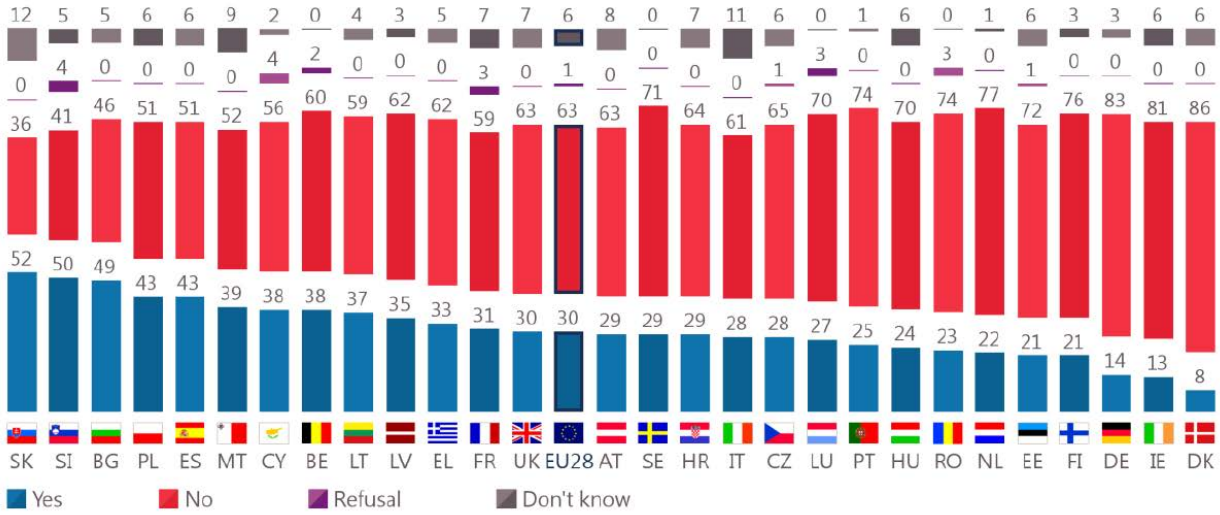
Note: Although not all types of purchase are suitable for joint procurement, excessively low rates suggest lost opportunities.
Source: (European Commission, 2019[34])

In addition, public perception of corruption within the public procurement system is relatively high, which also corresponds with the low and falling levels of trust in government discussed in Chapter 2. In Slovenia, 89% of respondents said that corruption was widespread in their country in 2017, compared to an average of 68% for all EU member states (European Commission, 2017[36]). Perceptions of corruption are also prevalent among the business community, where half of Slovenian businesses surveyed believe that corruption has prevented them from winning a public tender or a public procurement contract (Director General for Communications, 2019[37]). This rate is the second highest in the European Union, behind only Slovakia (see Figure 1.5), and has increased from 44% in 2017 and 37% in 2015 (European Commission, 2017[36]). In Slovenia, a majority of companies believe that "widespread" problems with the public procurement system include the creation of tailor-made specifications for particular companies (80%), collusive bidding (79%), the involvement of bidders in the design of specifications (73%), conflicts of interest in the evaluation of bids (66%) and abuse of negotiated procedures (62%), among others (Director General for Communications, 2019[37]). Hence, regardless of Slovenia's efforts to improve transparency, citizens and businesses still have low levels of trust in the public procurement system. It is important to

note, however, that these perceptions may not align with the reality. In other words, the potential exists for *perceived* levels of corruption to be significantly higher than *actual* corruption in Slovenia.

Figure 1.5. Corruption in public procurement

In the last three years, do you think that corruption has prevented you or your company from winning a public tender or a public procurement contact?



Note: The amounts listed are percentages.
Source: (Director General for Communications, 2019[37]).

Slovenia's system also lacks concrete award criteria related to innovative goods and services (OECD, 2019[23]). It is generally agreed that use of innovative procurement methods is low and innovation in the system is not occurring at the levels necessary, despite recommendations from the European Commission, the OECD and best practises across the world. These recommendations and guidance documents are helping to create a foundation for improving the procurement system, but the challenge now is finding ways to accelerate that change.

Chapter 3 of this report describes major developments and influential events in the public procurement system in detail. The analysis shows that Slovenia has undertaken major efforts to improve the procurement system in accordance with international standards. Invariably, these efforts have concentrated on the legal framework of public procurement in Slovenia and efforts to digitalise connected processes. However, the persistent issues outlined above remain a challenge. To address these, the government must look past traditional interventions to identify the factors holding back the use of innovative methods and solutions in the system beyond regulation and techno-administrative solutions.

Consequently, this work seeks to explore how system thinking can be used to create a consensus and increased appetite for reforming the public sector procurement system in Slovenia. It explores the complexity, history, ambition and opportunities for transformation in the current system. In addition, the final chapter explores some potential scenarios that match the level of ambition within the system to the level of transformation, and identifies potential issues and results (Chapter 6). The Ministry of Public Administration of Slovenia, the steward of the procurement system, seeks to champion this transformational change and help create the necessary space for new approaches and ideas within a rigid, legal-based system.

For this report, the OECD team examined the structure of the system, but focused more on internal interactions, behaviours and drivers. Slovenia has already undertaken significant work to ensure that the

necessary system elements to produce innovative results are in place, but has focused less on the institutional drivers responsible for producing a system that lacks innovative procurement. By understanding the interlinkages and drivers, this approach seeks to identify the appropriate levers to unlock and transform the system, rather than ensuring the elements are functioning independently. Thus, the systems approach of this report involved the following steps:

- Delineating the initial problem frame with key stakeholders within the procurement system
- Performing a desktop analysis of reform trajectories and path-dependencies within the procurement system
- Interviewing key stakeholders about the interlinkages and lived experience of the system
- Conducting an initial systems analysis of interconnected aspects of the procurement system and validating the findings with stakeholders (creating a common problem frame for the Slovenian public procurement system)
- Creating a common understanding of the procurement process and its aims, and co-designing solutions with stakeholders (identifying the scale and scope of problems)
- Developing and co-designing change scenarios for the procurement system and stress testing them with stakeholders in Slovenia (the scenarios help to ascertain how the system may react in practise to the recommendations and to identify which cascading issues new solutions may unearth within the system)
- Establishing feedback loops to enable active monitoring and evaluation of the system, when solutions are implemented and changed on the ground.

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Note

[1] The MEAT criteria are based on costs and encompass other aspects using a "best price-quality ratio" (e.g. quality of product, organisation, qualification and experience of the supplier, delivery time and conditions, etc.). Tender/solicitation documents available to bidders typically define award criteria, including how they are combined and the relative weight allocated. Percentage or points systems for evaluation criteria can include environmental and social factors (i.e. secondary policy objectives).

2 Procurement as a critical function in government

For governments to achieve their goals, they must have access to the right capabilities, capacities, services and products. These are often provided internally by civil servants but in many cases need to be obtained from the private sector through public procurement processes. This chapter outlines the critical function of procurement beyond the value of money spent, and makes the case for procurement as a strategic tool with a focus on Slovenia.

To achieve their missions, governments must have access to the right capabilities, capacities and products. These are often provided internally by civil servants but in many cases need to be obtained from the private sector through public procurement processes. The primary objective of public procurement is to deliver goods and services necessary to accomplish government missions in a timely, economical and efficient manner. However, its impacts are not restricted to the public sector alone. The role of government as a purchaser has the power to influence or even create markets, and has the potential to become a key tool to leverage innovation both inside and outside the public sector (OECD, 2017). The realisation of broader policy objectives (e.g. promoting innovation, sustainability, social inclusiveness, and supporting small and medium-sized enterprises (SMEs)) forms an increasingly important part of public procurement strategies for governments – a point highlighted in the OECD Recommendation on Public Procurement (OECD, 2015[1]).

At the same time, public procurement activities are executed with taxpayer money, which makes it a sensitive domain that must be carried out efficiently and to high standards in order to safeguard the public interest. The critical nature of public procurement, coupled with the need to ensure integrity, leads to significant tensions and challenges in realising its transformative potential. This section seeks to explore the ways in which procurement is integral to achieving the mission of government, as well as the challenges often faced in doing so. It also seeks to describe the purposes of procurement in the Slovenian context, as explained to the OECD by the individuals representing different aspects of the public procurement ecosystem in Slovenia.

Integral contributions of public procurement

The importance of procurement in government cannot be overstated. In many ways, constitutes the lifeblood of government programmes and services. Even simple programmes and products require access to some level of financial support, and the availability and nature of such funding and the ability to use it to obtain needed goods and services can determine the eventual success or failure of government actions. The way money flows through government, and outwards towards government partners in industry and civil society, has a tremendous impact on current system and the ability of well civil servants to do their jobs, on the capacity of governments to serve their people and on the performance of economies.

As procurement is critical to almost all government functions, the contributions made by public procurement can be viewed through many different lenses. Recent OECD (2019[2]) work has highlighted citizen well-being as a binding goal for the various aims of public procurement. The value achieved from public procurement in many countries can directly impact the well-being of citizens, which in turn affects a plethora of issues, including their ability to contribute to economic development. For instance, when used strategically, procurement can improve significantly the life of citizens through agile and high-quality public services, such as health care and education. Similarly, it could work as an enabler for job creation, social inclusion, innovation and building trust in public institutions (OECD, 2019[2]). As a core and transversal activity of government, public procurement affects directly on all dimensions of citizens' lives at the macro and micro level.

In OECD interviews and workshops, public leaders, civil servants, and representatives from industry and civil society positioned citizen well-being as a key objective of public procurement in Slovenia. The OECD Framework for Measuring Well-Being and Progress[1] identifies a number of core issues that affect well-being and help to sustain well-being over time. The sections below discuss the ways in which public procurement intersects with these areas.

Human capital

One of the largest areas impacted by procurement is "human capital" – the skills and health status of citizens. In practical terms, this translates into health and education services provided by governments. Health expenditures alone account for the largest share of public procurement spending, amounting to around 30% in OECD countries (34% for Slovenia), with education coming in third at 12% (13% for Slovenia) (OECD, 2019[3]).[2] Efficient and effective public procurement in the health sector contributes to higher quality health care and better medical equipment, which in turn leads to higher life expectancy (and higher levels of citizens living longer in good health). It is estimated that more efficient spending of existing funds could increase health life expectancy by 1.4 years (McKinsey & Company, 2017[4]). These gains could also translate into lower health care expenses and higher labour force participation, which lead directly to economic gains (OECD, 2019[2]).

Additionally, the health system is dependent on procurement for medicines, products and services, a critical relationship that can affect the lives of citizens. Government needs to have a trusted system in place that has the ability to procure things quickly, safely and as necessary. For a small country like Slovenia, the challenge is greater as the majority of needs around health originate from outside their own borders.

The need for procurement in areas with large, complex and interconnected systems, such as health and education, is critical to the functioning of government. In many cases, the government lacks the necessary and often emergent skills sets and has to partner with the private sector to obtain and utilise them. As government begins to grapple with issues that require changes to the people management of government, it needs an efficient and effective way to obtain these skills for critical services. Box 2.1 provides an overview of challenges that the United Kingdom has faced with health procurement and some of the steps taken to address them.

Box 2.1. The United Kingdom's procurement development programme

The United Kingdom operates a National Health Service (NHS) that is provided free at the point of need to all citizens. The NHS was founded in 1948 and is funded primarily from public taxation. Each UK country (England, Scotland, Wales and Northern Ireland) manages its own healthcare arrangements. Over the 2014/15 financial year, the NHS in England had a budget of GBP 110 billion that served a population of 53.5 million people.

The purchasing power of the NHS is greater than any other UK organisation, but it has long been unable to harness that power. A perception exists that anyone in any NHS organisation can buy anything at any time at any price. However, in practice there is substantial variation across the NHS with many examples of different solutions to the same problem and different prices being paid for the same product. The NHS has acknowledged that such an approach does not make good business sense and that reform is needed to improve the quality of care while maximising value for money.

To radically improve its procurement capability, in 2013 the NHS issued a public strategy entitled "Better procurement, better value, better care: A procurement development programme for the NHS". The aim of the strategy is to establish a modern, effective and efficient procurement capability – among the best in the world – that truly delivers taxpayer value, supports innovation, stimulates growth and, most importantly, delivers the highest quality patient care. The strategy focuses on four key initiatives:

1. A series of interventions to deliver immediate efficiency and productivity gains
2. Actions to improve data, information and transparency
3. An initiative to fundamentally rethink clinical engagement in the procurement of high-value medical devices and the subsequent relationship with the device industry, initially focusing on

orthopaedic implants by improving outcomes at reduced cost through clinical procurement review partnerships

4. The creation of a new national "enabling function" to support leadership and build better capability throughout the system, but primarily focused on trusts capability and how they work with procurement partners.

Through implementation of this strategy, the NHS identified the potential to save GBP 500 million by embracing better procurement.

Source (OECD, 2016[5]),

Economic capital and efficiencies

Public procurement has a vast impact on economic development. On average, public procurement accounts for 29% of public expenditures and 12% of the gross domestic product (GDP) in OECD countries (OECD, 2019[2]) (Figure 2.1). The World Trade Organization (WTO) estimates that the share of public procurement in GDP globally is between 10% and 15% (Djankov, Saliola and Islam, 2016[6]). Within the European Union, over 250 000 public authorities spend around 14% of GDP on the purchase of services, works and supplies.[3]

Likewise, government is the main buyer of services such as education, health, social services, transportation and infrastructure – all of which are major pillars of GDP and economic growth in any economy. The governments of OECD countries are responsible on average for 70% of final consumption expenditure on health goods and services, as well as 84% of final consumption expenditure on education, as recorded in national accounts (OECD, 2019[2]).

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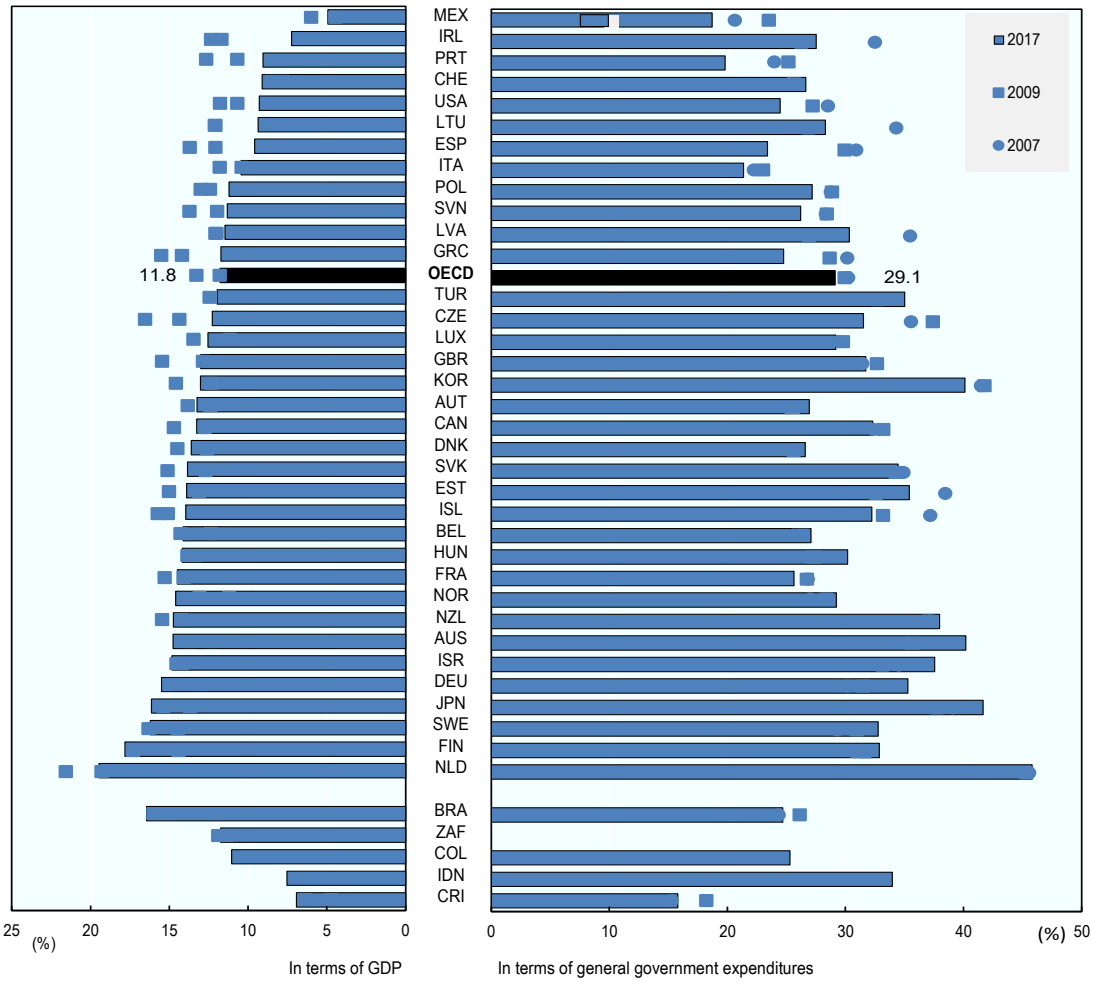
Because procurement constitutes such a large component of GDP, finding ways to make the procurement process more efficient – often the objective of innovative procurement actions – can result in better value for money and significant savings for governments. A 1% saving in procurement expenditures might represent EUR 43 billion per year in OECD countries (OECD, 2019[2]). Better management of procurement in the EU context can also lead to significant savings in public budgets and more investment. For example, an efficiency gain of 10% could yield savings of EUR 200 billion per year, without cutting the level of service offered to European citizens. Procurement also has a major impact on EU structural and investment funds, almost half of which are spent via public contracts. Good contracting helps to obtain the best value for money (European Commission, 2017[7]) and the savings can be used for a variety of governmental priorities, such as investing in underfunded policy areas, support for innovative programmes and services, or reducing income taxes, which can result in even higher GDP through increased consumption (Vogel, 2009[8]; OECD, 2019[2]). Table 2.1 presents different types of savings indicators that governments can use as a baseline for current performance and to set performance goals. Box 2.2 provides an example of how New Zealand has achieved and measured savings through all government contracts.

Figure 2.1. General government procurement spending as a percentage of GDP and total government expenditures



Note: OECD National Accounts Statistics (database). Data for Australia are based on a combination of government finance statistics and national accounts data provided by the Australian Bureau of Statistics.
Source: (OECD, 2019[3])

Table 2.1. Savings and input indicators

	Savings and input indicators
Price savings	Difference between prices obtained through procurement and a reference price (average price of bids, maximal allocated budget, prices established through market research/budget intelligence tools)
Cost and time of the procurement process	Time taken (and any associated overt costs, not including employee salaries) by government personnel, including non-procurement roles, to undertake procurement activity
E-procurement inputs	Direct costs for purchasing, upgrading or maintaining e-procurement system, personnel costs associated with system management and maintenance
E-procurement time savings	Assessment of time taken for contracting authorities and businesses to conduct tender procedures with and without the use of different digital procurement functions
Cost and time reduction resulting from process simplifications	Measurement of time taken by government and business personnel to complete tender procedures both before and after efforts to simplify processes (e.g. use of model contracts)

Sources: OECD (2019[9]) based on OECD (2019[10]; 2018[11]; OECD, 2016[12]).

Box 2.2. Calculating savings from All-of-Government contracts in New Zealand

All-of-Government (AoG) contracts exploit the collective purchasing power of the New Zealand government by establishing single supply agreements for selected common goods and services. Before the government initiates a tender, the central purchasing body, New Zealand Government Procurement (NZGP), investigates the feasibility of the contract and the benefits that can be derived.

Savings from AoG contracts are reported to the cabinet along with a rolling forecast of expected savings from existing and emerging AoG contracts. The basis for the savings methodology is the calculation of the price differential between the amount an individual contracting authority could realistically expect to pay a supplier (the baseline market price) and the benefits of an aggregated AoG contract price for the same item. Suppliers provide data with a total savings amount calculated according to the value of spending in the contract.

When establishing a new AoG category or reviewing an existing AoG category, the baseline market price is determined for each product group as part of the market analysis process. This process can draw on a number of sources including a Request For Information (RFI) process, a review of existing contracted rates, general experience and knowledge of the market, and discussions with suppliers. To better reflect price discounts being achieved in the market, NZGP places contracting authorities into tiers using different parameters according to the product or service. For example, the IT Hardware category may determine agency size according to the number of employees, and the Motor Vehicles category may determine agency size based on the size of their fleet.

The savings methodology gives indicative savings only. Some types of saving or other forms of value are not reported, such as:

- avoidance of the cost of tendering
- pricing certainty
- standard terms and conditions
- reduction in legal service fees
- consolidated invoicing
- enhanced reporting
- ease of process and transitioning
- ability to escalate performance and supply issues for resolution.

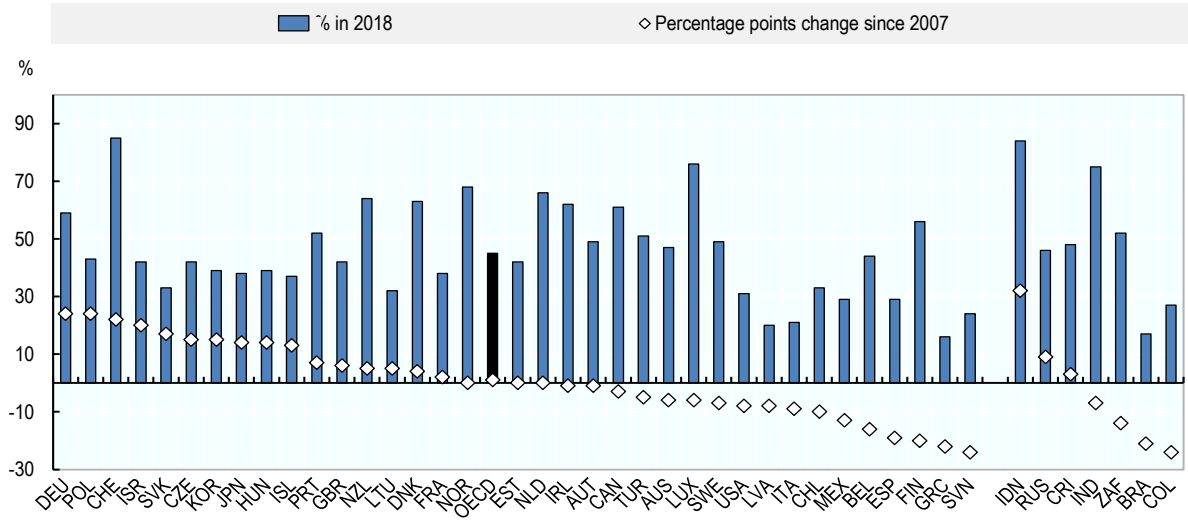
Source: New Zealand Government Procurement, 2015, Standard Reporting Methodologies: All-of-Government Contracts.

Efficient procurement can also generate more employment opportunities. An efficient procurement policy can stimulate competition between companies, incentivise innovation and, as a result, enable corporations to provide employment to citizens. Public procurement is also a key way trusts capability to boost market potential for SMEs. It can serve to open new markets for these businesses and also level the playing field as they compete with larger established corporations. To facilitate this process, governments need to do more to develop small businesses (Zeng, Xie and Tam, 2010[13]) by dedicating investments to engage SMEs for public contracts (Preuss, 2011[14]). Slovenia has recognised the importance of public procurement in this area and has developed procurement strategies and policies designed to support SMEs (OECD, 2019[3]). Finally, efficient procurement can remove barriers to entry for international, cross-border procurements – a benefit of particular importance to Slovenia due to its small size. This outcome is among the best ways to stimulate competition and to obtain better choice in terms of quality and price (European Commission, 2017[15]).

Social capital and trust

Trust is defined as a person's belief that another person or institution will act consistently with their expectations of positive behaviour (OECD, 2017[16]). Institutional trust is the basis upon which the legitimacy of governments is built and is key for ensuring compliance laws and regulations. It is essential for implementing reforms and ensuring the capacity of governments to govern without resorting to force. There is consensus in the academic literature that trust influences the relationship between citizens and governments, and has an impact on the outcomes of public policy (OECD, 2017[17]). As seen in Figure 2.2, trust levels in OECD countries in 2018 are on average at 45%, a value similar to 2007 (pre financial crisis) levels. This represents a positive trend overall for OECD countries; however, Slovenia has struggled in this area. In 2007, rates of trust in government in Slovenia were at 48%, but by 2018 they had fallen to 24%, representing a decline of 24 percentage points over the last decade.

Figure 2.2. Confidence in national government, 2007 and 2018



Source: Gallup World Poll, 2018

The benefits of a well-functioning public procurement system are not limited to achieving a healthy economy – they have a direct correlation with citizen trust. The professionalism and integrity with which public procurers manage tender processes and contracts influences the overall reputation of the Civil Service, as does the quality of the resulting products and services. This in turn affects the trust of citizens in their government. Public procurement as a government activity is often highly visible to citizens, and therefore contributes to citizen perceptions about government. However, it is also a process that is vulnerable to corruption (see the discussion in Chapter 1) and other issues that can have negative impacts on trust. Integrity and transparency in public procurement procedures are thus crucial pillars in building societal trust. Tools and methods such as e-procurement and open contracting address this specific concern by broadening the number of suppliers and ensuring that citizens can access real-time information about ongoing procurement processes. Trust also then feeds back directly into economic capital, as it influences the overall investment climate in a country (OECD, 2019[10]).

Ukraine's ProZorro eProcurement system serves as an innovative example of how the country is seeking to build trust through transparent procurements (see Box 2.3).

Box 2.3. ProZorro eProcurement System

Prior to instituting procurement reform, Ukraine used a non-transparent paper procedure. This system enabled abuses by government officials, was difficult and inconvenient for suppliers, and failed to provide opportunities for public and professional oversight. Due to corruption and limited competition, the country lost (equivalent) USD 2 billion of a public procurement budget of USD 11 billion per year.

The country determined that a comprehensive electronic procurement system for all tenders could significantly improve both access to and the integrity of public contracting, as well as increase the transparency of procurements. The ProZorro team created a digital system for interactions between state-owned central databases and commercial areas. The code system is completely open and freely available for download and re-use.

The main principle of the eProcurement system is "everyone can see everything". After an auction ends, all information about submitted proposals is available to all participants, including the decisions of the tender commission and all qualification documents. In addition, monitoring tools and intelligence modules (bi.prozorro.org and bipro.prozorro.org) provide a wide range of functions and enable deep analysis and monitoring of public procurement.

The ProZorro network is founded on collaboration between businesses, the state and civil society, with each actor performing a unique set of functions. The arrangement ensures independence and creates a system of mutual checks and balances. This partnership aims to promote positive change while maintaining a high level of trust among the principal stakeholders on a sustainable, long-term basis.

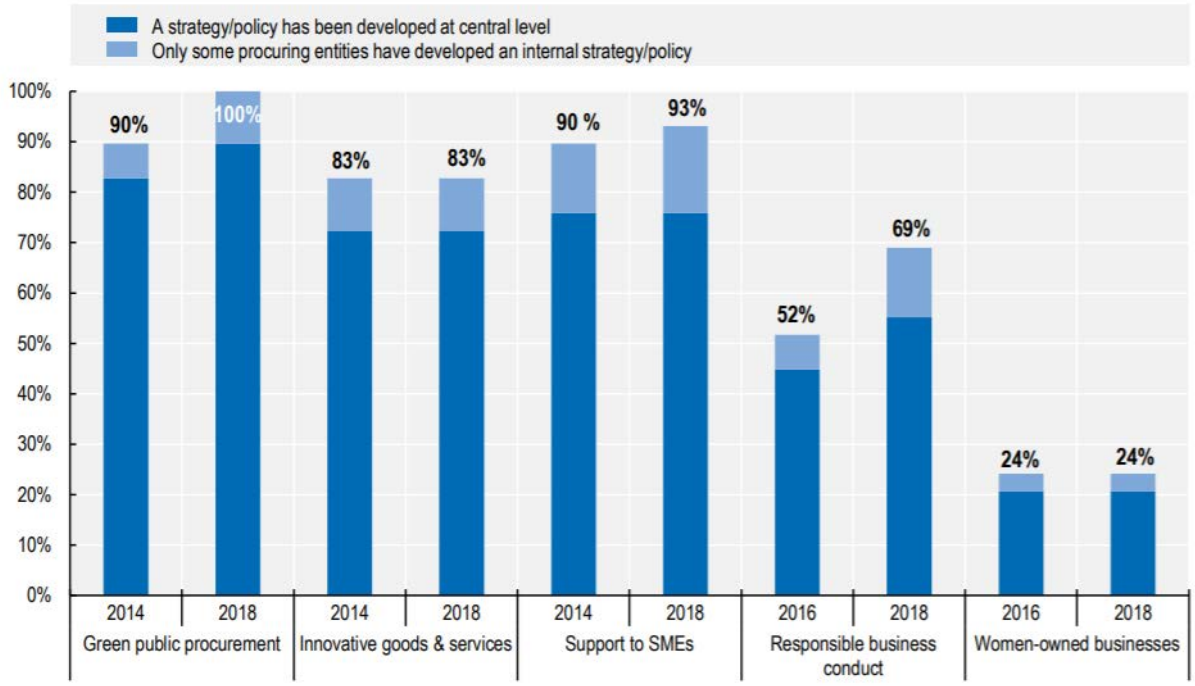
In two years of operation, ProZorro has saved USD 1.9 billion in budget funds. The network is able to control procurement and track whether public agencies are using taxpayer money efficiently and transparently.

Source: https://oecd-opsi.org/innovations/eprocurement-system-prozorro.

Natural capital

In addition to affecting the economy and the population of a country, public procurement can also have a positive environmental impact. Creating demand for environmentally responsible procurement in government – better known as "green procurement" – helps to reduce environmental impacts and create new markets that contribute to the conservation of natural resources (OECD, 2019[2]). With regard to the environment, strategic public procurement can also reduce carbon dioxide (CO_2) emissions, thereby contributing to the safeguarding of natural resources on which future health and well-being depend (OECD, 2019[10]). Green procurement has gathered momentum in recent years, with all OECD countries now having strategies for its promotion in place (see Figure 2.3).

Figure 2.3. Existence of a strategy/policy to pursue secondary policy objectives in public procurement



Source: (OECD, 2019[9]).

General challenges and tensions

While it is clear that efficient and effective procurement systems can produce a number of positive contributions, governments often face a number of foundational challenges as a result of the complex environments in which they operate. In particular, the OECD Public Procurement Toolbox[4] has determined that governments can:

- be **prone to corruption risks**, because of the magnitude of the projects or the amount of government spending related to specific sectors
- **lack competition**, for instance in the energy and the health sectors
- **have inadequate cost recovery,** for example in infrastructure projects
- witness **important variation in prices**, in particular in the health sector.

Because of the volume of spending it represents, well-governed public procurement can and must play a major role in fostering public sector efficiency and establishing citizens' trust (OECD, 2015[1]). In seeking to address these challenges and promote accountability, integrity and effectiveness in procurement processes, governments often enact arduous procedures regulated by long and complex legal frameworks, which may limit the capacity for innovative ideas to be implemented, or even considered. While the strict procedures surrounding public sector procurement aim to protect public money, they often generate perverse incentives, delay processes and could ultimately compromise the quality of service delivery. Such complex public procurement systems and processes represent a major hurdle to SME participation in public procurement markets, as such companies are disproportionately affected by these factors, due to limited financial, technical and administrative capacities (OECD, 2019[3]).

The behaviour of civil servants is framed by these same incentives, resulting in low risk-taking and lack of innovative practices to boost and strategise procurement activity. For instance, a large obstacle to achieving public procurement outcomes related to innovation, environment and sustainability is the use of the lowest price as the sole criterion for awarding tenders. The use of award criteria that take into account dimensions such as maintenance and exploitation costs along the lifecycle favours goods and products with better environmental performance, while also encouraging innovation (OECD, 2019[3]). This was a recurrent problem in the Slovenian procurement system.

In addition to the challenges and tensions classically associated with public procurement, OPSI has identified a number of issues that hinder the ability of governments to take innovative or systems approaches to procurement (OECD, 2017[16]):

- **Competing priorities across government**. The institutions, rules and processes that structure and manage financial resources in government have been developed to meet many, and sometimes competing, objectives. Regulations are usually designed, first and foremost, to ensure transparency and reduce the potential for corruption. Attempts to innovate procurement functions usually involve negotiating complex webs of rules and regulations that may not be straightforward or immediately apparent and often lack the necessary flexibility for public procurement.
- **Working through the complexities of government**. Government bureaucracies are usually among the largest organisations and employers in any given country. The size of their budgets means that implementing even relatively simple reform in these areas can require significant effort, time and resources. The size of government also makes it hard for any particular function to possess a broad overview of the system as a whole, as each segment works to ensure its own operations. Taking time to step back and view government management and procurement systems as a whole, from the perspective of innovation, rarely forms part of an organisation's job description.
- **Evaluating innovation is difficult**. Challenges exist related to realising the benefits of procurement. Governments are not very good at measuring their own internal operations and understanding their costs. Procurement systems are situated significantly "upstream" of the impacts that governments create, which makes it difficult to assess how changing them will lead directly to impact on the ground.

Public sector organisations generally use some form of fixed price contract in which time, cost and scope of activity are fixed in the procurement process. This usually means that the supplier takes the brunt of the risk at the outset, while changing activities based on feedback and "learning by doing" becomes very difficult later on. This dynamic is exemplified in software development (Book, Gruhn and Striemer, 2012[18]; OECD, 2019[19]).

Such traditional procurement approaches work best when there is a very clear sense of the need *and* the outcomes being sought. When trying to innovate or achieve a systems approach, this is not always feasible. Even where there is a clear sense of the need, it may be hard to imagine or envisage the outcomes and progress is rarely linear. Indeed, too much certainty around outcomes can lock in particular pathways and limit options for experimentation or reframing of the issue (OECD, 2017[20]).

Along these lines, procurement can become increasingly difficult for governments operating in fast-changing environments, especially in fields such as technology. In general, traditional procurement practices in the public sector limit open-ended processes, which can make the use of iterative, agile methodologies very difficult (OECD, 2017[21]). Many also face considerable churn in the market place or concerns about reliability and consistency. When faced with such issues, a direct approach to the market may not be the most appropriate course of action. Such increasingly dynamic environments call for innovative approaches in procurement. For instance, it may be necessary to break the procurement process down into discreet steps in order, first, to gauge the capabilities of potential suppliers and test the framing of the problem, and then move through a series of steps that leave other options open if a particular

option is no longer deemed feasible or suitable (OECD, 2017[20]). Innovative approaches to procurement can help governments overcome the challenges and tensions discussed here. Doing so is critical to achieving a systems approach, as research has identified complicated procurement systems that limit experimentation as a key characteristic linked with systems failure in government (Chapman, 2002[22]; OECD, 2017[21]).

Slovenia is impacted by many of these issues (or the perception of them), but also has significant potential to leverage innovative approaches to procurement. Much of the rest of this report focuses specifically on the Slovenian context, including views on the purpose of procurement, as well as a number of country-specific foundational challenges and systems dilemmas.

The purpose of procurement as defined in Slovenia

Public procurement systems play a critical role in the machinery of governments, the products and services that citizens receive from government, and the macro economy. In such a far-reaching system, some outcomes and activities are likely prioritised and more critical. In order to apply systems thinking to the Slovenian procurement system, it is critical to understand how success is framed within the system.

Through the co-design and co-creation project which formed the basis for this report, the OECD worked with system actors across the system to determine the key purposes and drivers of procurement in Slovenia. In analysing any system, it is critical to make explicit the overall purpose and ambitions. Having all actors understand the purpose of the system and share common goals creates a shared anchor, whereby all actors can determine if policies, laws and behaviours are having a positive effect.

Additionally, it allows for a more nuanced view of the trade-offs and tensions within the system. For example, a new law that creates additional layers of approval may increase trust and reduce corruption within the system. However, these new additional layers will also likely slow down processes and may reduce the ability of procurement to help the government fulfil its needs. Changes must therefore not be made in isolation but instead analysed in relation to the various purposes of the system to ensure overall proper functioning. These tensions and trade-offs are explored in greater detail in Chapter 3.

For the Slovenian public procurement system, the OECD worked with actors over several days in a co-creation workshop to define five key purposes of procurement, covered below. The purposes are broad and include both an internal (functioning of government) and external (societal goals) perspectives.

Each goal and purpose of public procurement is unique and discussed separately. However, it is important to keep in mind that they often have strong interlinkages. Complex goals will often seek to achieve a combination of these core purposes. For example, in Germany, the government launched Energiewende, a transformational strategy to create a low-carbon, nuclear-free economy. The project served as an intersection for various government goals such as social impact, crowding in resources, driving the economy and supporting the creation of new markets. This example highlights the need to think about these purposes and their related goals from a system-wide perspective. Real systemic change will likely not occur if changes are made with only a single purpose in mind. In fact, such an approach is likely to produce unintended effects throughout the larger system, shifting problems from one area to another.

Legitimacy and trust in the process

As stated in the previous section, trust and legitimacy in the government and its ability to execute its responsibilities without corruption is critical – a point that becomes even more important when the scale of public procurement is taken into account. In fact, establishing and maintaining legitimacy and trust in the procurement process is the overarching driver for reforms and the procurement process in Slovenia

In the Slovenian context, OECD interviews and workshops focused on the key characteristics of a legitimate and trusted repeatable process. Establishing an explicit and repeatable process allowed all actors within the system to understand the procurement lifecycle, while standardisation allowed for easier identification of illicit actors and corruption. In terms of establishing trust within the system, three characteristics emerged: 1) the process was carried out with integrity, 2) the rule of law was maintained and 3) there is transparency in the system.

These three pillars create a strong foundation for a trusted process within the system. However, specific outcomes and expectations within the system also help build legitimacy. As public procurement accounts for over 10% of Slovenian GDP and uses taxpayer funds, the process must ensure that the system prioritises maximising value and acts as a good steward of taxpayers' money.

Lastly, discussion took place around the question of "burden". While a certain level of burden is needed and accepted within the system to ensure it is a trusted process, the question is where the burden resides. The idea emerged from workshops that a fair system ensures that the burden of the system is equal for actors inside and outside the system.

Because of Slovenia's dedicated efforts to achieving a transparent and trustworthy process, the country was recognised in the OECD 2019 *Government at a Glance* for its transparency (see Box 2.4).

Box 2.4. Recognition of Slovenia for transparency and mitigating conflict of interest

OECD's *Government at a Glance 2019* states that "Slovenia stands out as one of the OECD countries that makes the most information about the procurement process available to the public. In addition to the tender notice, the evaluation criteria, the award notice and the contract text, the bidding documents are also made publicly available since 2018."

In addition to transparent data, Slovenia is one of 13 countries that has put in place all four key mechanisms to prevent and manage conflicts of interest among public procurement officials:

1. The regulatory framework includes a definition of a conflict of interest for public procurement officials.
2. Public procurement officials have to declare their private interests.
3. Public procurement officials have to declare "no conflict of interest" or notify the competent authority in the event of a potential conflict of interest.
4. There are limitations on the participation of certain public officials and political appointees in public procurement opportunities.

Source: www.oecd.org/gov/gov-at-a-glance-2019-slovenia.pdf.

Getting needs fulfilled

Creating a trusted process supports legitimacy, but the system still needs to be able to achieve the desired expected outcome. Ultimately, for a system to be recognised as functional, it needs to be able to produce the desired end results. In the case of procurement, this means that the products or services procured must meet the stated needs.

A functioning system is therefore not just a matter of maintaining integrity and ensuring a well-defined process; it is also essential that the process outcomes, whether products or services, meet the requirements of end users (government or citizens). As one participant noted, "in the end, procurement is

about buying stuff… and if we cannot buy the right stuff, then it really does not matter if we have the best process in the world."

Crowding in resources

As with many governments, the Government of Slovenia has skills gaps in certain areas, as well as a need for new ideas and solutions. Long-term aims include human resource management strategies and boosting innovation capacity within government, but often the needs are more immediate and respond to new challenges, crises or problems. In order to respond properly to these needs in a timely fashion, the public sector has to procure skills, ideas and solutions from the private sector.

The government will also need to engage new, unique and diverse voices to help resolve current and future challenges. These voices may be representatives of academia, industry, the third sector or private citizens. Procurement provides a path to allow these voices to test, share, collaborate and compete in a marketplace that helps improve government.

Slovenia has already taken an active role in this regard through its participation in the international project Public Procurement of Innovative Solutions (PPI2Innovate) (see Box 2.5).

Box 2.5. The PPI2Innovate project

The PPI2Innovate project uses capacity building to boost usage of public procurement innovation in Central Europe. The project ran from 1 June 2016 until 31 May 2019 as part of the EU-funded programme "Interreg CENTRAL EUROPE".

PPI2Innovate consists of a consortium of ten partners from six central European countries (Croatia, Czech Republic, Hungary, Italy, Poland and Slovenia), with eight associated partners. The project aims to build regional capacities in public procurement innovation, change attitudes towards public procurement innovation, strengthen linkages among relevant stakeholders in regional innovation systems and, consequently, boost the usage of public procurement innovation in Central Europe.

The main outputs of the project are three thematic PPI2Innovate tools: Smart Health, Smart Energy and Smart ICT. These will be fully customised to the six national institutional frameworks and translated into each national language.

In addition, six action plans for the operation of Competence Centres, due to be established by networking partners, cover Croatia (BICRO), Czech Republic (DEX Innovation Centre), Hungary (the Central Transdanubian Regional Innovation Agency, CTRIA), Italy (the University of Torino, UNITO) the regional level in Poland (RARR) and the national level in Slovenia (ICT Technology Network Institute). Other activities include:

- A central European network of PPI2Innovate Competence Centres
- Training of new members of the PPI network
- PPI pilots in the energy, health and ICT sectors in Hungary (Somogy County), Italy (Piedmont Region), Poland (Lubin) and Slovenia (Ministry of Public Administration)
- Various workshops for contracting authorities organised by project partners.

Source: (OECD, 2019[19]).

Driving the economy

As stated earlier in this chapter, government has the ability to create and enhance markets. As public procurement represents more than 10% of Slovenia's GDP, it has the ability to affect dramatically the country's private sector ecosystem. As the economist Mariana Mazzucato (2011[23]) explains in her book, *The Entrepreneurial State*, governments have created markets and helped to drive the economy since the earliest days of their existence. In the United States, for example, the government's mission to land on the moon spurred other innovations both inside government and in the private sector. Many of those innovations subsequently served as the foundation for later innovations.

This relationship between government innovation and the private sector also speaks to the ability of government to not only signal to the market, but also to help mitigate some of the risks of innovation from the private sector. In this regard, the public sector has a history of various procurement and funding strategies to spur innovation in the private sector.

The Government of Slovenia has recognised the importance of driving the economy through its procurement practices. Slovenia, like most OECD countries, has specific strategies in place to support SMEs through public procurement (Figure 2.3). It also takes steps to ensure that the private sector is considered when developing new laws and regulations that may impact industry (see Box 2.6).

Box 2.6. Crowdsourcing the impacts of alternative policy proposals on SMEs

SME Test is an innovative web-based tool that enables the public (citizens, business entities, and economic and other interest groups) to quantify the impact of alternative policy proposals on SMEs, in addition to substantiating their comments and recommendations regarding public policy proposals.

The application calculates the costs and benefits of various alternative options proposed to resolve a specific policy problem. Although SME Test essentially applies a standard cost model (SCM) methodology, it also helps identify the qualitative effects of proposed public policies, as well as other compliance costs (e.g. direct financial costs and costs of additional investments). The application is linked to the public records, obviating the need for users to obtain information on individual parameters to calculate costs and benefits (e.g. population).

The user first identifies the various alternatives presented to address the policy problem and assigns to them the related obligations with which the stakeholders (to whom the regulation refers) will have to comply. For each obligation, the user enters the parameters necessary for the calculation; the system then calculates the predicted costs or benefits. It is important to note that SME Test can make calculations for new obligations, but also assess the impacts of amended or abolished obligations.

The public can access the tool through the eDemocracy portal, which enables citizens to actively co-operate and take part in the decision-making process. It allows users (citizens, NGOs, etc.) to influence the drafting of regulations by expressing opinions and submitting proposals and comments on regulation drafts, both to the drafters and the final decision makers. The eDemocracy portal thus enables the publication of regulatory documents that are in the process of development.

Source: https://oecd-opsi.org/innovations/crowdsourcing-alternative-policy-proposals-impacts-on-smes-small-and-medium-enterprises.

Social goals

While any procurement strategies have an impact on the shape of the economy, they also help shape and support social goals and goals from other policy areas. For example, most OECD countries, including Slovenia, have developed strategies at the central level to support green procurement, while some have developed strategies for other societal goals, such as supporting women-owned businesses (see Figure 2.3). This is a clear example of using procurement to help affect change and signal the government's desire to drive social change. By developing new requirements and integrating them into public procurement, the government can make contribute to major societal goals that help improve quality of life.

Australia's Social Procurement Framework provides an international example of a country seeking to build a foundation for social goals through public procurement (Box 2.7).

Box 2.7. Social Procurement Framework (Victoria, Australia)

The state government of Victoria, Australia (VIC) has put together a number of tools and resources to help facilitate public procurements, from both a buyer and supplier perspective. For instance, the VIC Buyer's Guide to Procurement is a digital resource that walks public procurement officials though tasks such as identifying needs, evaluating risks, analysing the market, weighing options and developing procurement strategies. Conversely, Supplying to Government explains how the government procures services or products, how to become a known entity to government, how to find opportunities and how to submit a bid.

One of its procurement policies includes a Social Procurement Framework and a series of guides for implementing the policy. Social procurement refers to the use of buying power by organisations to generate social value above and beyond the value of the goods, services or construction being procured. In the VIC government context, social value means the benefits that accrue to all Victorians when the government uses public procurement to support social and sustainable outcomes.

The Framework has built-in provisions for "direct" and "indirect" government purchasing.

- Direct refers to the purchase of goods, services or construction (by government) from Victorian social enterprise, Aboriginal businesses and other social benefit suppliers, including Victorian Australian Disability Enterprises.
- Indirect refers to the use of the invitation-to-supply process and clauses in contracts with the private sector to seek social and sustainable outcomes for Victorians.

Victoria's Social Procurement Framework seeks to support the expansion and standardisation of social procurement practice across all government procurement activities through both direct and indirect methods.

Source: https://buyingfor.vic.gov.au/social-procurement-victorian-government-approach.

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Notes

[1] www.oecd.org/statistics/measuring-well-being-and-progress.htm.

[2] Economic affairs ranks second at 16% for OECD countries (21% for Slovenia).

[3] https://ec.europa.eu/info/policies/public-procurement_en.

[4] www.oecd.org/governance/procurement/toolbox/principlestools/complexenvironments.

3 System analysis of the public procurement system

This section outlines the procurement system as it is understood today by the civil servants in Slovenia. It includes a discussion on legal reforms that have set the formal agenda, but it mainly focuses on the behaviours of public actors and is based on their lived experiences and realities. The section also touches on issues that have created systemic challenges that need to be tackled.

Systems analysis examines the functioning of a system and the various elements that affect the behaviours of the actors inside. Rather than analysing the laws, regulations and policies that drive the system, the OECD takes a more holistic perspective to determine how the various purposes, stakeholders, rules and intervening factors relate to one other.

The OECD's previous work on systems has given rise to the observation that while policy and laws are critical factors, perceptions, relationships and an absence of perspective often have an equal or greater effect. Two dominant factors that influenced the procurement system were the media (which drove the narrative with politicians and citizens) and procurement reforms. However, as this chapter explores, the laws provide opportunities for innovation within the system that are often ignored, and confusion persists about what is allowed. Additionally, the purpose of procurement, explored in Chapter 2, is not reflected strongly in the various reforms or media stories. Instead, there is a focus on eliminating corruption, streamlining the process and transparency. Accordingly, the procurement system pulls actors in different directions. So what does the system actually look like today?

Mapping the system as it currently functions

This section seeks to provide insights into how the system functions today. Through missions and interviews in Slovenia, the OECD developed an understanding of current system operations, including: the purpose of public procurement as defined by system actors, the key goals of effective public procurement, the main systems dilemmas and trade-offs connected to the afore-mentioned purpose, the key stakeholders, and intervening factors within the system that facilitate outcomes.

This chapter unpacks some of the key connections that help actualise and explain the various relationships and behaviours of the system. According to the OECD's system analysis, these relationships centre around the legal framework, dilemmas within the system, foundational challenges, and the engagement and interactions between actors within and outside government.

This view was then validated through multiple co-design workshops. The goal of conducting this activity is not to create value judgements regarding the system as it operates today; rather, the aim of this exercise is to create a shared understanding of the system and how it operates today. This will allow the actors concerned to reflect on the system and determine if it is operating as desired. It will also provide a more holistic approach to allow these actors to identify areas and levers for innovation.

Major procurement reforms in Slovenia and their relationship with politics and the media

The Slovenian procurement system is rooted in law; therefore, it is important to understand the main principles and objectives of the laws themselves. Through workshops and interviews, the OECD observed that the main lever for improving the procurement system in Slovenia was legal reform. Much of the early discussion of the project centred around what is legally permitted and where the law grants explicit permissions to conduct certain activities. An understanding of the law, the major reforms and how they both interact with the system is therefore critical to the analysis. This section focuses on the evolution of the law and major reforms. The ways in which they interact with the system, primarily through oversight organisations, such as the National Review Commission and auditors, are explored later in this chapter.

The foundation of the Slovenian procurement system was the first public procurement law, issued in 1997. This law was replaced in 2000 and then amended extensively through legislation in 2004 to align with EU procurement standards. This section provides a brief history of the various major procurement reforms and also focuses on major news stories shaping the system today. In total, six major procurement reforms have taken place between Slovenia's accession to the European Union and the writing of this report. As the OECD discovered during interviews, reform is viewed as the only legitimate path towards resolving problems within the system – a mindset that has led to quite frequent reforms.

In August 2006, Slovenia underwent its first major reform after joining the European Union. The reform focused on aligning and harmonising national public procurement rules with the procurement directives of the European Commission. The resulting law introduced better payment discipline between contractors and subcontracts. Additionally, it attempted to reduce some administrative barriers, such as:

- the introduction of a simple system for the publication of contracts above and below the European threshold through the public procurement portal
- a uniform simplified procurement procedure below European thresholds, with the possibility to negotiate
- the introduction of the ability to complete missing elements in the tender offer that are not crucial for consideration.

The reform opened up new avenues to procure goods and services. Additionally, the flexibility to allow for sustainable development as part of a procurement strategy enabled procurement to serve as a market signal for social priorities. While the 2006 reform focused on alignment with the European Union, there remained a need to address corruption, cartels and unfair business practices, all of which were highlighted in the media (see Box 3.1).

Box 3.1. The role of the media in driving reforms

According to stakeholders within the Slovenian procurement system, the media has been a major driver of reform in Slovenia, promoting a narrative regarding the ethics and efficiency of procurement through various news stories. These stories have increased political pressure to reform the system and centred attention on reducing corruption and increasing transparency.

One such example is the “floppy disk affair” of 2001. The state Highway Company (DARS) selected a construction contractor for the Podmilj tunnel, and the company provided a yellow floppy disk containing its bid and pricing information. However, the floppy disk presented at the subsequent public opening of tenders was pink, indicating clearly that the contractor had modified the information in the offer to secure an advantage during the selection process. At the request of the State Audit Committee, the bidding company lost the contract.

The floppy disk affair represented a turning point in the construction of the state highway network, and shed a light on controversial practices in the construction business. It exposed how the three largest construction companies acted as a cartel enabling them to win 90% of all public works contracts. The cartel negotiated with each other to increase prices and prevent other contractors from applying for tenders. Bribery also helped to secure contracts. One company leader was even quoted as saying that despite offering the lowest price, they could be paid as much as they wanted through annexes to the contract.

This story formed part of wider media exposure designed to reduce corruption and cartels, and informed the 2006 procurement reform.

Sources: OECD interviews and https://siol.net/siol-plus/kolumne/alenka-bratusek-ima-tezavo-z-gradbenimi-baroni-2-0-komentar-503474.

A subsequent 2007 reform sought to correct some of the systemic issues and restore legitimacy to the system by increasing transparency and reducing corruption. The reform attempted to strike a balance between increasing transparency to reduce corruption and reducing burdens that internal and external stakeholders faced during the procurement process. The changes in the procurement system focused almost exclusively on creating trust in the procurement process itself and providing guidance to increase clarity around practices that affected legitimacy.

The 2009 reform focused more on issues that directly affected businesses, crowding-in resources and getting needs fulfilled. It established the foundation for the price vs. value debate in the procurement system, which is still ongoing. Specifically, this time period saw extensive debate about the role of public procurement in driving social behaviour. This involved a discussion about social values, such as green procurement, as well as ethical and desired behaviours from industry itself, such as addressing issues with subcontracting that existed within the system.

Overall, the creation of this reform helped to establish greater financial discipline across the system, and opened up new opportunities across the multiple facets of procurement. However, the 2009 reform, as with its predecessors, ultimately increased the burden on both government and industry during the procurement process.

This pattern continued with the next reform in 2011. While some innovations within the procurement process sought to provide new opportunities and flexibility, most focused on increasing the burden to reduce corruption and unwanted behaviours in the system. Motivated by contractors attempting to avoid rules, especially regarding payments to subcontractors, the 2011 reform sought to close certain loopholes, and empower contracting authorities with more flexibility and more responsibility.

Throughout the OECD's time in Slovenia, it became apparent that political decisions and reforms are driven frequently by construction issues involving schools, hospitals, tunnels and others. Box 3.2 highlights the influence of the construction sector in particular on the reforms in Slovenia.

Box 3.2. Construction as a major influence on reform

Stakeholders in Slovenia noted that some of the largest, most complex and expensive procurements were found in the construction sector. Errors within these procurements have been amplified by the media, have political implications and can lead directly to reforms, such as legal changes affecting subcontractors, cartels and transparency.

The construction of the Markovec tunnel provides one example of these issues. In 2004, a request was made for over EUR 23 million to cover unforeseen work, delaying the project by over three years. Prime Minister Miro Cerar highlighted the issues at the opening in June 2015: "We have been waiting for this tunnel for a long time. The proceedings were delayed by problems with the legislation as well as the bankruptcies of the companies. The government is aware of the legislative problem, and will make changes accordingly, so that the next construction of a 5-km long section does not take ten years."

While legislation was indeed an issue, the bankruptcy of an electrical equipment company resulted in a lengthy revision of the tender. The total cost of all the combined challenges during construction was higher than that of a Slovenian competitor.

Another construction issue relates to the Karavanke tunnel and has been ongoing since 2015. The original tunnel opened to traffic on 1 June 1991 and stretches over 7.9 km, 4.4 km of which lies in Austrian territory and 3.4 km in Slovenian. The tunnel is managed jointly by the Austrian motorway operator ASFiNAG and the Slovenian company DARS, and is used on average by 10,859 vehicles per day. Preparatory works for the construction of the second pipe of the tunnel began in 2015, with drilling

work foreseen to start in 2022 and a target date of early 2024 for carrying vehicles. The existing pipe will be renovated and the smooth passage of traffic in both pipes is planned for the beginning of 2026.

Construction work on the Austrian side started in September 2019 and is proceeding as planned. After initial preparatory work, ASFiNAG issued a public tender for the work at the end of 2017 – the same time as DARS, the Slovenian motorway operator. However, there have been delays in construction on the Slovenian side. At the end of July 2019, Slovenian DARS selected a Turkish company for the construction of the second tube of the Karavanke tunnel. Their bid of EUR 89.3 million (excluding VAT) was significantly cheaper than the other eight bids. Following the selection of the Turkish contractor, however, the process was halted by three non-selected contractors who filed audit claims.

As of November 2019, the State Audit Committee has rejected the fourth appeal from non-selected companies, but work has still not begun on the Slovenian side of the tunnel.

Sources: OECD interviews, https://siol.net/avtomoto/reportaze/predor-markovec-koncno-odprt-olajsanje-odgovornih-dvomi-domacinov-98500, https://siol.net/posel-danes/novice/avstrijci-zaceli-z-gradnjo-druge-cevi-predora-karavanke-478173.

One important thing to note about the 2011 reform is that, due to austerity measures, this reform actually eliminated the exam and qualifications required to be a procurement officer in the government. Instead, these requirements were replaced by a call for training. This decision was made in response to the shortage of available trained officials to conduct the necessary procurements. However, this de-professionalisation of procurement officials also had negative affects throughout the system in terms of capabilities, empowerment and trust within the system.

The macro and micro-economic environment was also an important motivational factor in many of the changes. An increased focus on competition created more flexibility to ensure local industry remained able to access and compete, and obtain fair pay for work.

In 2014, the 13th Government of Slovenia released its coalition co-operation agreement (Government of Slovenia, 2014[1]). The system was aligned for the first time with EU standards, and procurement was cited as a priority in four different sections:

- *Information society*. Help optimise procurement through greater centralisation, transparency and information systems.
- *Public finance*: Simplify the procurement system, train strong buying professionals and introduce performance criteria that avoid price seeking as the sole criteria for procurement. Additionally, advocate for greater joint procurement in the areas of healthcare, education and IT.
- *Environment and space*: Create new standards for environmental protection and green procurement requirements.
- *Health*: Establish transparent and uniform joint procurement processes to promote greater inclusion and higher standardisation in the health sector.

Alongside these priorities, the coalition agreement also listed numerous projects that would help achieve these goals. Unlike previous laws that ended up increasing burdens on both industry and contracting officials, the 2014 law sought to increase procurement efficiency. Introducing mandatory joint public procurements, increasing the value for simplified procurements and creating exemptions to the standstill period in certain situations, enhanced the capability to getting needs fulfilled quickly, drive more economic activity and reduce burden.

The subsequent 2015 law built on the 2014 EU Directives and focused on the social aspects of the coalition agreement. It simplified procedures, increased flexibility and improved economic efficiency, while introducing sustainability, environmental factors, and social and innovative procurement. The law also

considered the social aspects and costs of procurement over the entire lifespan. The integration of these aspects and the principle of sustainability into public procurement is expected to increase the shares of green, social and innovative public procurement and promote greater economic efficiency.

In addition, the 2015 law provided an information-based foundation for the implementation of electronic public procurement in all phases, as called for by the European Directives. This innovation was designed to help reduce the burden for both contractors and providers.

While the procurement system, as defined by law, seemed to create a flexible and trusted system that could improve outcomes, signal social changes and drive the economy, the external view of the system was focused on a handful of expensive and political issues, such as the Markovec tunnel.

In 2018, the 14th Government of Slovenia released its coalition agreement (Government of Slovenia, 2018[2]). However, despite all the alterations to the law, there was an absence of behavioural change within the system. The agreement re-emphasised many of the previous coalition values within the procurement system, namely: the need for a high level of transparency, the use of criteria other than the lowest price, a focus on protecting the environment, and protection and respect for labour rights.

Lastly, on 1 January 2018, Slovenia renewed the Green Public Procurement Regulation. This regulation was created to set forth the conditions for green procurement. Examples of environmental requirements and criteria for green procurement, which are in many aspects similar to the environmental requirements of the previous regulation, were created or updated, and became more flexible and non-binding, giving contracting authorities greater choice as to how to achieve the required target for a particular subject.

The 2014 and 2015 reforms helped to build much of the present public procurement system in Slovenia. However, despite the necessary flexibilities and clarity in the system, innovative procurement remained nascent. Meanwhile, capacity building and best practice documents created by the Ministry of Public Administration did little to increase new procurement practices.

System stewardship and the legal framework

System stewardship refers to the individual or group responsible for steering a system towards certain outcomes. In the case of the Slovenian procurement system, the Directorate for Public Procurement within the Public Administration has the role of system steward. The responsible team drafts reforms and laws related to procurement, conducts procurement for the Public Administration as well as centralised procurements (e.g. utilities) across government, collaborates with industry associations, staffs a help desk for procurement officials and conducts training across the procurement system.

Interviews conducted for this report revealed that this small team often has to balance multiple priorities and emergencies. This has created a situation where diffusion and learning within the system occur through individual relationships rather than systemically across the system. As law and precedence exert a strong influence on the behaviours of actors in the system, the team also attempts to create space for testing new tools and methods. The team hopes that by acting as a proving ground for innovation, even without a mandate, others will see the benefits and adopt new and innovative solutions to better deliver public value through the procurement system.

Aside from conducting procurement, the Directorate is also initiating reforms. However, reforms are a time-intensive and lengthy process, and, as the previous chapter showed, there have been an average of almost one reform every two years since Slovenia joined the European Union in 2004.

As system stewards, the team has worked to build better procurement practices across the system. The team attempts to organise yearly roundtables with other procurement officials, although there is a perception that these take place only during reform efforts. Additionally, the team has partnered with industry associations related to construction and buying to create good practice guidance, although industry representatives had found limited evidence of the use of these documents.

The complexity of procurement rules is not just limited to Slovenia. While Slovenia continues to evolve its own procurement system, there has also been a substantial increase in EU Directives that need to be understood and interpreted within a country's procurement system.

While system actors viewed the Slovenian procurement system as overly complex, there was very little interest, demand or stated need for further major reforms, even if those reforms helped further simplify the process. While complexity was an issue, the OECD observed that no individuals interviewed for this project cited the law as an impediment to innovative, flexible or effective procurement strategies and methods. There was an understanding that procurement reform will always be needed as new challenges arise, but that the law provides the necessary framework for meeting the purposes of procurement and allowing space to do things differently. Individuals reflected that the process could be simpler, but overall, stakeholders did not view the law as a key contributor to current challenges within the system.

Intergovernmental Influences

In the case of a complex, large bureaucracy such as the public sector, engagement on the part of actors is not limited to the laws and policies within a specific system (i.e., procurement-specific laws and policies). Public procurement officials interviewed for this report discussed the influence that budget and finance processes and laws have on procurement priorities, timelines, and approaches. For instance, since the approved budget covers only two years at the national level and one year for local government, all procurement actions must be planned and executed within that time period, in spite of the fact that many procurement processes take significantly longer. Interviewees also noted the influence of non-procurement related governmental processes and tasks in creating an environment where only limited time is available for strategic planning. Because procurement is seen as a time-intensive and lengthy process, procurement officials working in such environments are forced to rapidly create procurement strategies that prioritise award speed above all else. This may also explain why innovation procurement and pre-commercial procurement are uncommon, as these procedures usually take more than two years to complete.

Oversight organisations that serve to enforce the rules and ensure procurement is fair and unbiased also play a large role in the system. According to OECD missions, research and interviews, oversight organisations such as the Court of Audits, the Revision Commission, the Competition Commission and the Corruption Commission have the greatest effect on the system. These organisations are responsible for issuing findings that set new standards, some of which may appear contradictory. Indeed, many stakeholders cited a disconnect between procurement law and the interpretations of oversight organisations. However, as oversight organisations are responsible for final rulings during disputes, their decisions become a form of unwritten law driving behaviour across the system.

Outside government pressures

One factor relatively not yet touched on in this report is the role of actors in the business sector. Competition is key to better outcomes, better value and a mature procurement system. However, for a small country such as Slovenia, lack of competition can be a threat to effective procurement.

In a smaller economy, fluctuations within business engagement can have a more dramatic effect on public procurement competition. As the macro-economy shrinks, businesses seek more steady and stable government contracts; however, as the macro-conditions improve, businesses look for new (and perceived easier) means to obtain revenue. Interviews also highlighted a countrywide trend towards smaller companies with a perceived lack of incentive to grow. As a result, these small businesses often do not bid outside of their own municipality.

Additionally, there is a perception among Slovenian businesses that the government is concerned more with pricing and less with value. Those engaged in the procurement process perceive a lack of expertise among government buyers, while those less engaged view the government market as difficult to penetrate

and more favourable towards those with existing strong relationships. This results in a business environment with few new entrants, a “race to the bottom” culture regarding price without consideration for outcomes, and a lack of formal or informal engagements with industry outside of the procurement process.

Finally, external factors are strongly related to corruption. As per the previous section, many procurement reforms, aside from those necessary to transpose EU Directives, were driven by media stories depicting some form of corruption. While this has contributed to a less efficient system, it also greatly affects behaviours within the system. Media stories that involve seemingly topic-specific areas such as medicine or construction can have ripple effects on all aspects of procurement.

Behaviour and culture

Despite the stated goals and purpose of procurement, intergovernmental influences, outside pressures and oversight organisations have shaped a system focused on following a specific process – one that defines success in terms of awarding contracts quickly on the basis of the lowest possible price, and avoiding any innovative activity that could delay the process. Overall, the OECD observed that procurement seems to be treated less as a strategic asset to achieve better results, and more as a means to an end where speed, the absence of risk and low prices are the primary concerns.

Even though innovative approaches are not required for every single procurement process, but rather target specific product categories (e.g. ICT, health, infrastructure, etc.), innovative solutions are still perceived as risky and slower than regular procurement. Furthermore, there are no incentives to conduct procurement processes with increased risk. Doing new things implies necessary learning and mistakes, however the time constraints and demands made on procurement officials undermine the willingness to use any innovative approach that may slow down a process, even if it means better results. This applies not only to the use of methods besides open procurement, but also to testing out different methodologies for assessing value beyond price or procurement of innovation.

As mentioned earlier in the report, the Slovenian procurement system is based heavily on the respect of law. The written law is seen to grant permission to conduct certain activities; without a law these activities would be considered impermissible. In such a system, doing new things may be perceived not only as difficult, but illegal. The challenge is that in addition to slowing down procurement, innovation may also undermine the entire process, potentially resulting in the need to restart the entire activity.

In the end, challenges and rulings that cause delays are considered failures within the procurement community. When the OECD asked procurement and programme officials what success looked like, the most common answers were: 1) a fast awarding process, 2) a lack of appeals or legal challenges, and 3) dismissal of any appeal or legal challenge, if lodged.

In one case, the procurement office defined success in terms of achieving its procurement plan on time and spending its budget.

These issues, combined with other pressures within the system, create a risk-averse environment that focuses on speed over value. Doing new things is not actively encouraged or discouraged, but instead is rarely even considered. Instead, procurement officers seek paths to simplified procurement below thresholds to increase speed and limit complexity.

There is also little thought about the specific outcomes that procurement is supposed to achieve. Moreover, the prevailing “hand-off” culture between programme staff (e.g., requirements developer) and procurement officials involves limited feedback loops and learning. Even within the procurement community itself, there was little evidence of learning or engaging with each other to share knowledge.

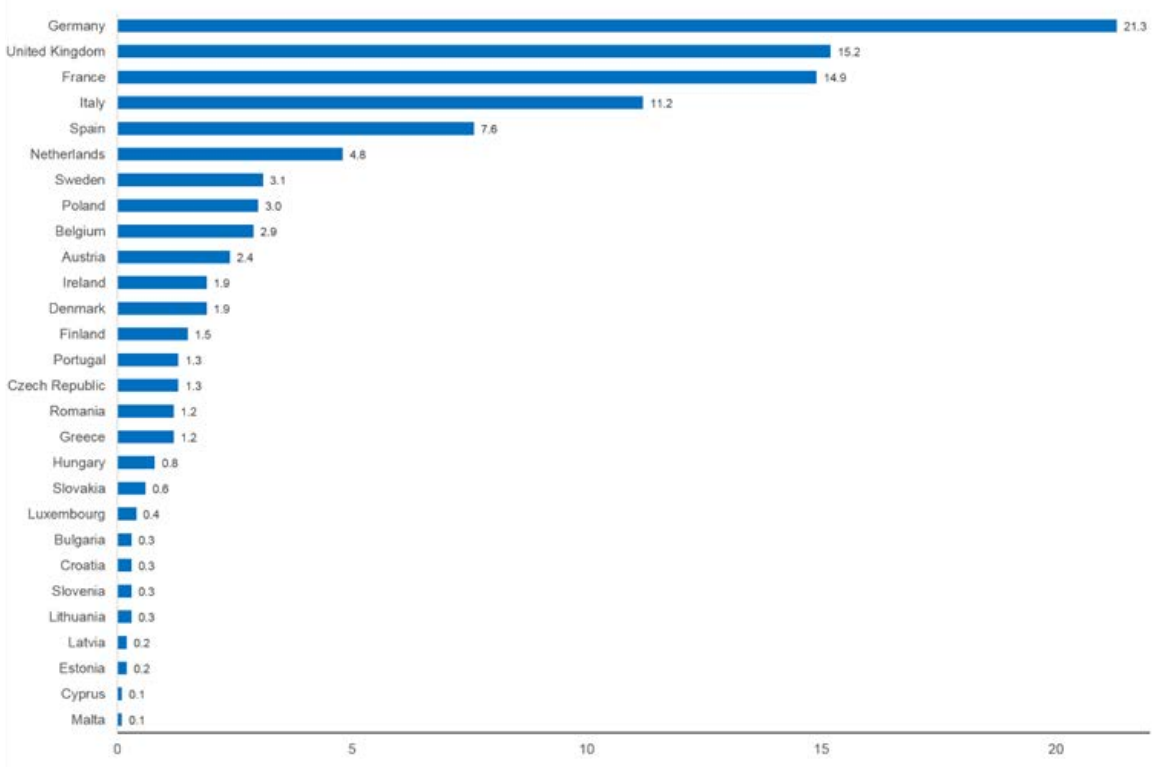
Foundational challenges

Any system has certain fundamental challenges that cannot be solved over the short term, and are unlikely to be resolved in the long term. However, such macro-challenges should be defined explicitly in order to better understand how they alter specific challenges within the system. Many of these fundamental challenges are driven by macro-economics, politics, competition and sustainability issues.

Economic challenges

In 2017, Slovenia had the 6th smallest share of GDP in the European Union (Figure 3.1). As a small country, the challenges that its procurement system faces differ from those of larger countries.

Figure 3.1. Share of procurement in EU GDP total, 2017 (%)



Source: Eurostat.

Slovenian officials told the OECD that the size of the market significantly limits competition. This is supported by European Commission work that indicates a likelihood of lower competition for contracts from domestically located firms in small countries (European Commission, 2017[3]). The Slovenian market alone is unlikely to be able to provide the broad range of products, services and innovative solutions necessary to meet the societal challenges the government is trying to address. Additionally, the small size of the market serves to discourage large, multi-national companies from setting up operations that could bring innovative solutions to the public sector. For example, the OECD's missions found that many of the major innovative technology providers have little or no presence in Slovenia.

Even with this dynamic, public procurement still has a significant influence on the market, accounting for 10.01% of GDP in 2018 (Ministry of Public Administration of Slovenia, 2019). At present, the Slovenian

government is trying to determine how to properly allocate such a large percentage of GDP. A balance needs to be found between supporting the Slovenian market, upholding the overarching principles of non-discrimination and equal treatment embedded in EU treaties, and creating a competitive environment that will allow the public sector to procure the greatest value while meeting its needs.

This does not mean that such tensions are a constant presence or that solutions provided within the Slovenian market represent the best value. However, as Slovenia continues to seek innovative solutions, it may need to look outside its borders for major innovation investments. Because the public sector has the ability to drive investment, serve as a market signal and support Slovenian economic growth, it is important to keep a watchful eye on this balance and tension.

Disparity of knowledge and experience

In many governments there seems to exist a strong desire to have a strong cohort of professional experts across each core function of government. As procurement is a core function vital to the success of government, public sectors are continually seeking a strong community able to recruit, train, retain and reward procurement talent. This is a never-ending challenge within the system.

According to the OECD interview with Slovenia's Chamber of Purchasers, developing strong buyers in the private sector requires knowledge of a specific subject matter, time, training, relationships and experience, and the process often takes over two years. However, government faces many challenges that do not affect the private sector:

- Existing relationships with certain companies present a risk of appearing corrupt.
- The diversity of products and services required provides little time for the government procurement specialist to build up the necessary expertise.
- Little time or budget is allocated to learning due to high workloads and fiscal austerity.
- The procurement expert is not required or expected to have specific knowledge of the products or services they are procuring.

There are also challenges around retention and career paths within procurement in the Slovenian system. Procurement is perceived as a job characterised by political pressure, stress and limited flexibility or demand for creativity. Procurement officials in Slovenia do not feel empowered and often find themselves in no-win situations trying to balance the needs of the government with a very strict interpretation of the procurement process. During workshops with the OECD, participants report that this dynamic created a disengaged cohort of procurement specialists that often eventually left their job for a new challenge.

Even when individuals do stay in procurement positions, there appears little upward trajectory with clear career paths. Expertise in procurement is valued but does not lead directly to career advancement. Instead, many of the best procurement officials leave the procurement field to seek new opportunities, with few new experts, either through recruitment or training, available to fill the void.

As discussed earlier in relation to system stewards, capacity building and dissemination of best practices within the procurement system is minimal. The Public Administration has created best practice documents, but these have enjoyed limited application – although it is unclear if this is due to lack of awareness or no real appetite for recommendations that differ from current procurement methods.

Procurement officials are not alone in this challenge. The OECD has observed these same challenges in many specific and specialised professions in the public sector. A profession needs a strong community that is able to recruit, build and retain the necessary experts. But even if expert development systems are mature, there will always be a tension between building the future and executing today. Systems must attempt to balance both of these functions and seek creative ways to make the system more resilient.

Centralisation versus decentralisation

The debate around whether to centralise or decentralise functions spans government functions including procurement, ICT, budgeting and others. In Slovenia, discussion focused on how to strike the right balance between centralising procurement programmes, practices and activities at the centre of government (CoG) and respecting the autonomy and contextual awareness of non-CoG ministries and sub-national procurement authorities. The idea of centralised procurement was discussed as a means to drive down costs, reduce repetitive activities, and become smarter buyers in medicine, technology, schools and utilities.

Slovenia has not created a “perfect formula” to determine when to centralise procurement. The idea of centralising procurement was discussed primarily as a method to use economies of scale to drive down costs, while saving time on conducting multiple unnecessary procurements. However, as the Competition Commission in Slovenia noted, this approach can also have unintentional adverse effects.

As an example, if there are four major providers of a product needed by every school in Slovenia, because each school procures this product individually, the market will be sufficiently decentralised to allow all four providers to succeed. If purchasing becomes centralised, the cost per product will likely decrease over the short term due to the size of the procurement through a single provider. However, this situation could drive the other providers out of business, resulting in higher prices the next time the product is needed, due to lack of competition. This hypothetical scenario simplifies many factors, but it helps to illustrate the potential trade-offs that a small market like Slovenia must consider.

This issue has already been realised in the construction and education sectors, and is likely to continue. Because of the size of the public procurement market, centralising procurement can dramatically reduce immediate costs, but could have adverse long-term effects on the system.

One approach discussed in OECD workshops for dealing with this challenge was to focus CoG efforts and expertise on building repositories and other resources that others can leverage to make procurement easier and more consistent across the public sector.

The traditional approach to developing government policy guidance, such as guidance on conducting public procurements, involves a central team of skilled civil servants drafting the policy and guidance based on their knowledge, experience and research. It also generally involves getting input from other stakeholders in government, and maybe conducting a public consultation. At the end of the process, the policy and guidance are published, typically in PDF form, for government agencies to follow. However, sometimes the policy and guidance has flaws or gaps that become apparent, and there is little or no ability to make adjustments as implementation evolves and the context changes. The traditional approach also limits iterative learning based on experiences that accumulate during implementation.

Openness of the procurement process

The hierarchy of procurement procedures represents a trade-off between the amount of competition versus a more targeted approach. Procurement procedures in general, thus, canvas open procedures, restricted tenders and direct awards. The more open the process, the more the process enables new entrants such as start-ups and SMEs to engage, thus encouraging wide participation. Open procedures can include processes such as competitive dialogue and phases. However, they also require significant investment of time and resources on the part of procurement officials. As procurement becomes more targeted, more specific strategic exceptions can be made. This may also mean that (based on thorough market research) specific partners for the procurement process can be selected that match the needs the procurement processes are trying to meet. The ability to do this well depends on the ability of procurement authorities to perform market research and identify qualified and capable suppliers up front. However, it may provide a disincentive for suppliers to submit competitively priced bids. At the same time, it can speed up

procurement processes in the case of specialised goods and services, in limited supply market conditions, emergencies and so on.

Public scrutiny and accountability versus risk avoidance

Creating a transparent process is critical to ensuring fairness within the system and building public trust. Public scrutiny is a pillar of democracy and should therefore be actively encouraged. However, public scrutiny can also dramatically shape the perceptions of the system.

As stated in the purposes of procurement, being stewards of taxpayer funds is a core tenant of a strong and effective process. While the Slovenian government performs thousands of procurements a year, the public's perceptions are generally shaped by a select few that are generally political, complex or both, and therefore have a high likelihood of creating negative perceptions, such as corruption or lack of competence (see Box 3.3). This perception not only influences public opinion, but also encourages procurement officials and authorities to avoid mistakes. This is, of course, a positive outcome, but an associated side-effect is that it discourages officials from taking any risks and creates disincentives to explore innovative working methods.

Box 3.3. Renovation of the Brdo Protocol Hotel

The renovation of the Brdo Protocol Hotel is considered a critical project for Slovenia in the light of its forthcoming Presidency of the European Union in July 2021. The project is valued at EUR 26.2 million with work projected to take 20 months. Accordingly, the renovation will need to begin soon to ensure completion on time. However, the State Audit Committee partially granted the audit request of the construction company and cancelled part of the tender.

Bids were supposed to be open in June 2019, but were delayed due to the requested review of the tender documentation that claimed the conditions were unlawful and disproportionate. The National Audit Commission also found that some of the requirements violated the Public Procurement Act. These challenges would have caused unnecessary burden during the reference process and also limited the ability for companies to subcontract.

With over 150 questions from bidders and the changing of the tender documentation three times, there was a prevailing perception that the government was unsure what it needed, was ill prepared to undertake the project, and lacked the necessary skills to tender appropriately for the contract.

Sources: OECD interviews; (Sta, 2019[4]).

In Slovenia, the depiction of the procurement system in the media has created an antagonistic relationship with government in a context where communication is already limited and information flows are scarce. While there will always be tension between public oversight and the government, it is the responsibility of both parties to create trusted relationships. These relationships may change and shift over time, but the goal should be to ensure that the right information is available and the proper training for public oversight groups is available in order to correctly interpret the information.

Defining the dilemmas that shape the system

While the above challenges are unlikely to be fully resolved, there are unique dilemmas within every system that prevent it from operating optimally. These dilemmas are due to system pressures and challenges that drive behaviours which may be suboptimal. In most cases, these dilemmas are also implicit. They may be

hidden in phrases such as “this is how we have always done things.” Because these challenges are not explicit and behavioural, they also are often the hardest to resolve, especially in a legalistic system that seeks explicit permission from the law.

Through interviews, observations, workshops, co-design and co-creation, the OECD has defined seven core trade-offs and dilemmas within the system. While these dilemmas may be interconnected, they each lead to different behaviours and actions within the system. The remainder of this chapter explores these trade-offs and dilemmas.

Strategic versus tactical

As procurement is rarely viewed as a strategic activity in Slovenia, it is not surprising that most of the time, effort and priorities within the procurement system are tactically focused. With limited capacity, procurement officials restrict themselves to awarding a contract and then moving onto the next one. There is little time to consider or test innovative methods; instead, the key question is which of the two readily acceptable procurement paths are available: an open procurement or simplified procedure. Procurement organisations only display evidence of a more strategic approach during the preparation of yearly plans, but even then they have limited time to create the plan or space for testing or new thinking.

Instead, strategic thinking is the responsibility of the Directorate of Public Procurement. This body has served as a model for new procurement techniques, centralised procurement and reforming the system. Much of the strategic thinking and effort within the Directorate concerns reforming the law; however, existing laws appears to already grant much of the space and innovative thinking that the system desires, but is not currently undertaking.

The Directorate has also attempted to drive new and better procurement by partnering with industry on guidelines and standards. But there is little evidence that these standards are being used across the system. They have also partnered with the Association of Purchasers to learn how to strengthen their ability to purchase, but participation has waned as other priorities have intervened.

Taking all of these factors together, the system is not actively testing or trying new things, and strategic thinking is not occurring at the levels necessary across the system. Instead, procurements are focused on cost rather than value. The OECD found evidence of cost accounting for over 80% of weighting in some cases and interviews could not provide examples of when the lowest cost (besides extreme outliers) was not selected due to other factors.

This problem is not limited to the purview of procurement specialists. Even during the requirement stage, there is limited time to understand the market and develop requirements that can determine value beyond price. In such contexts, price becomes the default measure.

Yet, there is a strong desire for procurement to improve, to have the space to try new things, and to reduce the burden inside and outside government. The OECD’s efforts to bring together system actors were rewarded by a high level of engagement and no lack of new ideas for improving the system. The question is therefore not how to come up with new ideas, but rather how to make time to think and act more strategically.

Fragmentation versus connectedness

The Slovenian procurement system currently operates in a fragmented manner, both in terms of how the actors within the procurement system operate and learn, as well as how the process is conducted. This fragmentation leads to tactical thinking, less focus on the mission and outcomes, limited learning and spreading of good practices, and reduced understanding of how the system works.

For this report, the OECD conducted multiple workshops with actors across the system to help co-design challenges and solutions. During these workshops, members of oversight organisations and procurement

specialists raised differences of opinions, asked questions and even exchanged contact information with a promise to continue the conversation. While interviewees were keen to correct negative perceptions held by those outside the system, system actors also discussed their own incorrect perceptions of other actors within the system. This became most clear during an activity where OECD asked the system actors to map out the entire lifecycle of a procurement process. This task required a collective effort and involved misconceptions and misunderstanding throughout the process.

With such a small community, this came as a surprise to the OECD. If the experts within key system organisations are not connected, learning and strategic thinking can be difficult to achieve. In such a context with no systemic approach to learning and development, sharing and learning are confined to an individual's office and network. While the Directorate of Public Procurement has made some effort in this regard, learning cannot only happen in a top-down manner; it must be continuous and occur across the system horizontally and from the bottom up. Other procurement systems also function in a similar manner and have integrated new processes to minimise risks (Box 3.4).

Box 3.4. A decentralised procurement system (Germany)

The public procurement system in Germany is highly decentralised with 30 000 Contracting Authorities at all governmental levels, performing about 2.4 million procurement procedures annually. Out of all procurement activities, 58% happen at the municipal level, 30% at the level of the federal states and only 12% at the federal level.

Even though the German system is highly decentralised, specific solutions are developed at the central level:

- Prevention of corruption through mandatory training sessions and workshops, in addition to functional solutions such as designating a Corruption Prevention Officer and rotation of employees.
- Promotion of sustainability through a dedicated strategy and a Competence Centre for Sustainable Public Procurement which proposes good practices, technical assistance, and training sessions. This helps lead to horizontal integration of knowledge and skills at the federal level and vertical integration at the state level, and promotes networking among administrations and with NGOS and science.
- Promotion of innovation with the KOINNO centre of excellence, an innovation award and participation in the Initiative for a European Competence Network of Innovative Procurement.
- Centralisation of IT procurement in a single point of contact at federal level through a Central office with a project to develop a central e-Procurement portal.

A decentralised procurement system requires a differentiated approach to aggregation at different levels consisting of central purchasing bodies (CPBs) at central level along with a tendency to perform joint procurement at the local level. Together with the Coordination Unit - Government Purchasing Authority of the Ministry of Internal Affairs (Kaufhaus des Bundes), there are four central purchasing bodies at federal level, which, in terms of professionalisation, provide the following benefits for buyers: 1) specialised know-how and training, 2) standard technical solutions for the federal administration, 3) e-procurement, and 4) price reductions due to higher purchase quantities and favourable contract conditions.

Finally, practical advice is provided to contracting authorities and companies by the Joint Service Bodies of the Chambers of Commerce and Crafts (Auftragsberatungsstellen) at the federal state level.

Sources: www.bmwi.de/Navigation/EN/Home/home.html; www.koinno-bmwi.de.

Fragmentation is also prevalent during specific procurement processes. In both the open and simplified procurement process, there is a clear split in roles and responsibilities that leads to a hand-off mentality. During interviews, procurement officials discussed the clear separation of roles, with project managers responsible for the requirements and market understanding, and procurement officials responsible for executing the procurement process once requirements were done.

This hand-off mentality showed evidence of ignoring key reflections during the process. Rather than a collective effort that served to educate the procurement officials in the product or service being purchased, as well as the programme, in order to better understand the process, there was a lack of insight or empathy for the other side of the process. When the results of the process (time, outcomes, process or selection) were sub-optimal, there was evidence of finger pointing. Procurement officials and industry cited lack of good requirements, but programme officials cited a lack of understanding from the procurement officials of what the programme was attempting to procure.

Legal versus behavioural

Procurement systems generally take two forms: legal-based or principle-based. Legal-based procurement systems rely on the law to grant permission for specific activities. Anything not declared as permissive within the law is, therefore, not permissible. Principle-based systems focus on core principles that outline the broad behaviours, ethics and principles that should guide officials.

Slovenia has a strong legal-based system with little tolerance for mistakes. The OECD's analysis of the law found clear signals for new thinking, new techniques and creativity, yet these are still missing. This could be due in part to the tactical dilemma outlined above, but there is also a perception that some things are not allowed due to confusion around the appeals process.

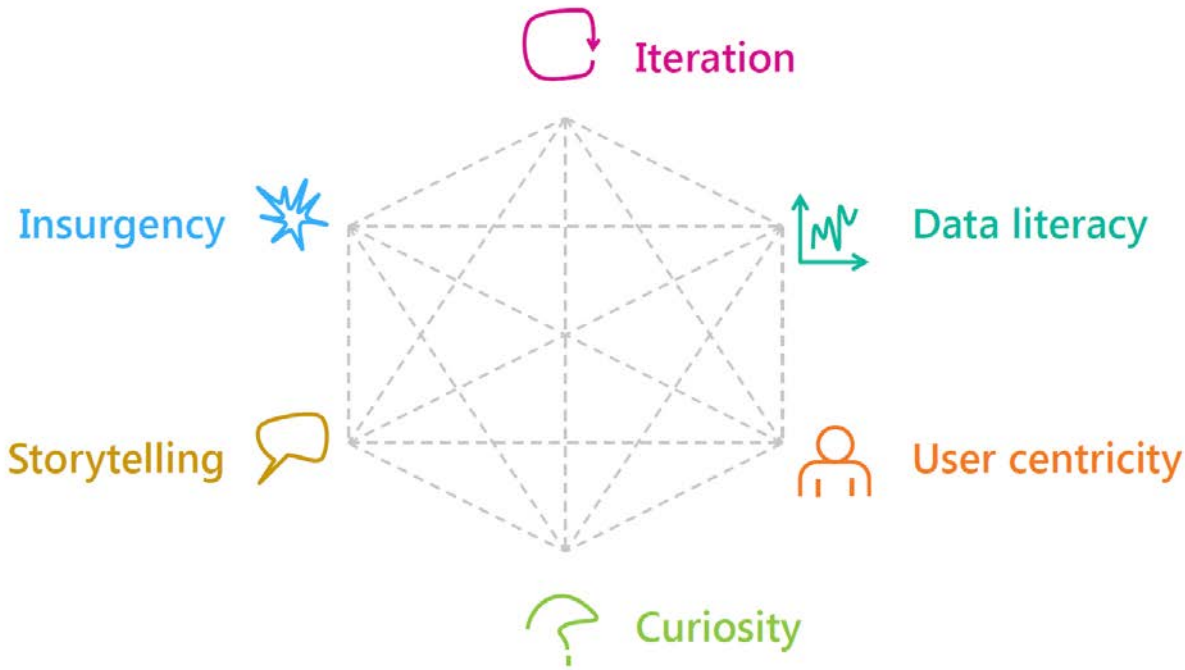
This perception stems from the perceived inconsistency of rulings in the Review Commission. This was an issue specifically identified by the interviewed stakeholders and workshop participants. As procurement officials view the Review Commission as relatively unpredictable and there is little tolerance for when things go wrong, there is a lack of ambition for new behaviours and activities. It is widely believed that the Review Commission and the Audit Commission take an overly legalistic view which squashes new ways of working, especially if they do not work the first time.

This issue became particularly evident during a conversation about sandboxes at an OECD workshop. What would a procurement sandbox look like? Would it be legal? If it was challenged or audited, how would those issues be resolved? While there are no clear answers to these questions as of this report, there was a strong demand for a safe space to try new things not explicitly permitted in law. This signalled an interest to test principle-based systems where certain failures would be reframed as learning opportunities for improvement, rather than evidence that something does not work and should not be attempted again.

User-centred versus process-driven

The OECD has identified six core skills for innovation, one of which is user-centricity (Figure 3.2). By understanding the end-users and designing a system that aims to achieve certain outcomes, systems become more effective, more responsive and more user-centred. However, the Slovenian procurement system has rarely adopted a user-centred process.

Figure 3.2. OECD core skills for public sector innovation



Source: OPSI, 2019

As a legal-based system, the majority of efforts have traditionally added barriers and burden for users rather than reducing them. One example that emerged during research was the various procurement systems with which users need to engage to effectively conduct e-procurements. As of this report, both procurement officials and providers need to interact with two separate systems for different parts of the process. In some cases, the same information needs to be input into each system, as there is no connectivity between the systems. These issues should soon be resolved by the introduction of a new system which will merge the two other systems. Two examples of the inclusion of user-centred processes in public procurement are outlined in Box 3.5.

Overall, there is a lack of feedback loops within organisations and ministries and across and outside government. In the absence of these loops, it is difficult to create an iterative improvement process that focuses on achieving the necessary legal requirements and reducing unnecessary burdens within the system. When the focus of a system becomes the proper execution of a repeatable process, there is less time to reflect and consider whether the process is achieving the strategic goals and expected outcomes.

Box 3.5. Examples of user-centred processes in public procurement

The Mystery Shopper Service (United Kingdom)

The Mystery Shopper Service was launched in 2011 as part of a range of measures aimed at increasing and facilitating the participation of SMEs in public procurement. Its purpose is to provide public procurement suppliers with a structured channel at the central level that economic operators can use to report on the quality of the contracting authorities' practices and escalate issues they may have experienced when participating in a procurement procedure.

In particular, the Mystery Shopper Service helps to detect practices that are not friendly to SMEs, provides recommendations to contracting authorities/entities and monitors their implementation.

In addition to educating contracting authorities through the provision of recommendations, the service conducts on-the-spot checks to verify whether a contracting authority previously investigated is properly applying the recommended measures. The Mystery Shopper Service also proactively verifies that contracting authorities use practices that are compliant with the various procurement policy notes prepared by the Crown Commercial Service and aimed at facilitating SME participation in procurement.

To make use of the Mystery Shopper Service, an economic operator needs to send a request that is first analysed by the Mystery Shopper team. If the request is deemed eligible, it becomes a case for investigation. Once the investigation has started, and depending on the seriousness of the case and whether it is located at central or local level, the service will provide its help within two or three months.

Results of investigated cases are evaluated and published on the Mystery Shopper service webpage. Since its inception, the service received the highest number of cases during 2013 and 2014. Since then, the service has experienced a reduction in the number of cases. This could indicate that contracting authorities are changing their current practices toward economic operators and are using more SME-friendly practices.

Tallinn's smart port (Estonia)

In Estonia, Tallinn's smart port is used to tackle the challenge of managing increasing traffic to the Tallinn Port Authority in Estonia. The port authority wanted to purchase a new electronic check-in system for both passenger and cargo vehicles. The public buyer identified the port's needs by conducting 40 interviews with passengers, 6 interviews with drivers, 4 interviews with representatives of ferry operators, 2 interviews with stevedore service providers and 4 interviews with employees of the port. An assessment of these user needs allowed the buyer to procure an innovative solution that addresses the whole travel process for cars and lorries, from online pre-registration to check-in, as well as a fully automated traffic management process that directs vehicles onto the ship.

Sources: www.gov.uk/government/publications/mystery-shopper-scope-and-remit, www.portoftallinn.com/smart-port.

Perception versus reality

As discussed above, perceptions among businesses and the general public of corruption levels in Slovenia are among the highest in the European Union. Thus, it is entirely understandable that reducing corruption was the most-cited reason for reform, with corruption also cited as the cause of complicated processes and additional burden during the procurement process. During interviews, officials from media outlets stated that investigating potential corruption issues was one of their most important government-related stories to seek out, and that these stories influence the perceptions of audience members and readers. Meanwhile, industry believes that relationships are the most crucial factor in winning bids during the

procurement process. Such stories and issues, which often result from the largest and most complex procurements, create issues for the rest of the system. All of these perceptions exist within the Slovenian procurement system.

Yet, there is little evidence that actual rates of corruption live up to the very high perceptions of corruption. For example, a 2016 study from the European Parliament "The cost of non-Europe in the area of corruption" estimated that corruption in Slovenia accounted for EUR 40 million. While that may seem like a large number, it accounts for just 1% of the monies spent through public procurement in that year. Slovenian officials argue that the procurement processes in the country are simply too transparent to allow for significant corruption. The European Commission also reported that, "Slovenia has made important steps in fighting corruption and increasing transparency in recent years. Overall, it has sufficiently strong institutions to detect and highlight corruption… Slovenia's efforts in enhancing transparency have been remarkable and have been noticed by the international community (European Commission, 2020[5])." There will likely always be some form of corruption in the system, but framing reform around the perception of corruption generally increases the burden for actors both inside and outside the system.

There is also little evidence that the system is fighting to correct these perceptions, with the exception of layering on more anti-corruption reforms. The government seems to be doing little to combat these perceptions and build trust among influential actors within the system. Instead, there are anecdotal examples of the opposite, with tightening controls increasing the complexity of the procurement process. For example, top-level leadership is required to approve every step of the procurement process in the form of a signature for every non-simple procurement.

Allowing these perceptions to continue unchecked reduces the space to try new things and innovate, and creates a risk-averse culture. The government appears to have the necessary data to combat much of these perceptions, but may lack the requisite skills and abilities in terms of analysis and storytelling (another OPSI core innovation skill).

Isolated incentives versus aligned actions

In a fragmented system, procurement officials view success in terms of passing through the procedure with few delays, no appeals or no successful appeals. Incentives are related to implementing procurement plans and the ability to execute the procurement process. The OECD's analysis of the system found little evidence of shared incentives within the system focused on shared outcomes. Additionally, programme goals may implicitly be affected by procurement if the programme cannot procure the things it needs to succeed; however, such success measures rarely incorporate the procurement process.

Within the procurement process this dilemma manifests itself as a lack of ambition to try things outside the normal process. Because of the lack of incentives around the outcomes of the procurement, the discussion around price versus value remains relatively immature. The lowest price is seen as the safest and quickest route to award and, therefore, the lowest price that meets the minimum requirements of the tender is almost always selected.

These issues, combined with budget pressures, creates a tactical, output-focused culture that seeks the path of least resistance and lowest price, even if it means suboptimal outcomes. Aligning outcomes within the system and creating a partnership culture can be a challenge due to the time involved, but it can also create better outcomes and produce more public value related to the core purposes of procurement.

Scarcity versus need for resources

Procurement officials in Slovenia feel overworked and lack the support, expertise and time necessary to meet all of their challenges. This is not an abnormal feeling within public procurement systems or in government in general. Since the most recent recession, governments have sought austerity measures that have reduced capacity, limited training and asked the public sector to do more with less.

Because of this reality, Slovenia is lacking a strong cohort of experts, a pipeline of future procurement talent, and time to learn and develop. However, this challenge of time and money is common across all countries with which OPSI works. System actors need to start thinking more creatively about how to create space within the system to allow for new and different forms of thinking, to prioritise learning and to test new things.

This is not easy; it requires strong leadership and a will to seek opportunities for greater efficiencies within the system.

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4 Making room for change: Recommendations for Slovenia

This chapter explores key actions that Slovenia could pursue to reform their procurement system. Co-creation sessions with Slovenian officials and stakeholders gave rise to three priority actions: creating communities of practise, fostering collaboration between procurement officials and policy specialists, and creating room for innovation and experimentation. The OECD further recommends three additional actions that are grounded in global best practice to help address challenges that exist in Slovenia.

As part of the work for this report, officials from the OECD Observatory of Public Sector Innovation (OPSI) and the public procurement team, conducted over 50 interviews with a varied and diverse set of stakeholders. Among the interviewees were officials from many different ministries and offices of the central government, including an independent review commission, auditing bodies and anti-corruption officials; sub-national and local government officials and procurement authorities; representatives from the private sector and civil society; journalists; and a member of parliament.

The observations from these interviews were combined with OECD research and a body of work produced by the European Commission, to develop a series of initial findings. These findings were discussed, evaluated and validated in a series of workshops with the participation of diverse representatives from across the public procurement ecosystem. These workshops confirmed some of the key challenges in the procurement system, as discussed earlier in this report, and also identified core areas of opportunity for engaging in reforms. In the workshops, the OECD worked together with participants to co-create solutions that uniquely balanced a number of factors. In particular, the co-created solutions sought to:

- achieve change where ambition and support currently exist or could be rallied
- address areas where Slovenia has the most immediate opportunity to capitalise on elements of what participants agreed were the "purposes of public procurement" (Chapter 2)
- Focus on high-priority areas where innovation is most needed, as determined by the participants.

In addition, when co-created solutions identified by participants as "high priority" were considered against the identified purposes of innovation, discussed earlier in this report, the OECD noted the existence of a few gaps (e.g. they did not generally focus on the purpose of "driving the economy"). In addition, gaps emerged when comparisons were made to the tensions and dilemmas Slovenia faces in the context of global practice and European procurement strategy (e.g. the need to enhance professionalisation of the procurement workforce, which could help support all identified purposes).[1] Thus, in addition to the three priority action items identified through the co-creation process, this report provides additional action items that Slovenia could explore as objectives of future reform of its procurement system.

The OECD thus recommends six actions that could help ease Slovenia's foundational challenges and the systems dilemmas discussed in this report. The first three are priority actions, the last three are additional actions.

1. **Develop procurement communities of practice** in order to facilitate connections and the exchange of knowledge.
2. **Foster understanding and collaboration among technical experts, policy specialists and procurement officials**, in order to move beyond Slovenia's "hand-off mentality" where procurements are conducted in a siloed and linear manner without a strong focus on outcomes or user needs.
3. **Manage risk and create safe spaces for experimentation** to introduce new governance arrangements in relevant procurement process which would help procurement officials engage in experiments without fear.
4. **Enhance the professionalism of the procurement workforce** to remedy challenges associated with the current disparity of knowledge and experience across government, and to ensure all procurement officials are equipped with the capacities and opportunities to succeed.
5. **Establish pathways to facilitate the flow of innovation and new ideas** across government and bring innovation and new ideas into government from the outside.

6. **Take deliberate steps to drive the economy and enhance competition**, in order to more strategically leverage the 10% of GDP that Slovenia spends on public procurements, with a view to strengthening local companies and achieving a healthy market and improved outcomes.

The following section provides real-world examples of how other governments and stakeholders have sought to implement these actions and are working to achieve similar objectives. While the OECD is not necessarily recommending that Slovenia replicate these examples, these cases may provide inspiration or elements that could Slovenian officials could adapt to their own unique context.

1. Develop procurement communities of practice (priority action)

The highest priority item identified in the co-creation workshops was the need for procurement communities of practices and other networks, both formal and informal, to facilitate the exchange of knowledge. Indeed, throughout the course of the OECD's engagement with Slovenia for this project, the OECD team noted the lack of mechanisms to bring together officials to learn from one other. The participants themselves remarked that the workshops provided a rare opportunity for them to meet stakeholders from other parts of government, an experience they found valuable and would like to see repeated on a regular basis. While addressing this priority item could have cross-cutting benefits, it would clearly help address challenges associated with "fragmentation versus connectedness". The ability to share experiences and learning can also assist with the "legal versus behavioural" dilemma by increasing the visibility around potential actions.

Around the world, countries are increasingly setting up effective yet often relatively simple networks and communities of practice to help civil servants transcend bureaucratic silos and fragmented government structures. Such communities or networks help advance implementation in a consistent, unified manner. In fact, a recent OECD (2016[1]) survey found that that 63% of OECD countries (22 out of 35) have innovation networks in place across the Civil Service. Such a network in Slovenia could focus on innovative procurement, or all types of procurement, to help people connect and learn from one other.

These communities of practice and networks can take a number of different forms; for instance:

- They can be led from the Centre of Government (CoG), such as through the Ministry of Public Administration, or be more ground-up and employee-driven
- They can be formally structured with governance structures and set processes, or more informal, such as meetup groups
- They can be government-only or open to external parties from civil society and the private sector
- They can be fully virtual, in-person or a combination of the two.

Many such cases exist around the world that could help inspire Slovenia and provide examples of different approaches. Communities can be started up with little overhead costs; for example, the UK government has built a series of communities for civil servants hosted on Google Groups and through Slack Channels on a wide variety of topics, some of which touch on procurement.[2] In Canada, GCpedia and GCconnex provide connection points for individuals working in government (see Box 4.1), with different digital discussion groups focusing on a variety of subjects. Portugal's Common Knowledge Network provides more open collaboration opportunities by inviting non-governmental participants to join the community (Box 4.2); and in the Netherlands, a one-stop-shop for procurement officials takes the same approach for targeted areas of procurement (Box 4.3).

Box 4.1. GCpedia and GCconnex (Canada)

GCpedia

The Government of Canada has developed GCpedia, an open source government-wide wiki for collaboration and knowledge sharing. It allows federal employees to share files and post, comment and edit articles placed on GCpedia by their peers, helping to break down walls between departments that are traditionally siloed. While access is available only to those with a government e-mail address, limiting the possibility for third-party collaboration, the tens of thousands of active users within government are a testament to the collaborative power of the platform.

GCconnex

The Government of Canada also created GCconnex, an open source government-wide internal social media network, designed to help public servants build connections and collaborate. Users are able to connect with other public servants with similar interests or with skills that can help them become more productive in their work. The systems aims to foster a public sector culture of collaboration and to promote the creation of information that is streamlined, relevant, user-driven and integrated.

Sources: Government of Canada (2016), "GCTools: Re-imagined for you", www.canada.ca/en/treasury-board-secretariat/corporate/news/gctools-reimagined.html; Janelle (2009), "GCPedia a success, says Government of Canada CIO", https://techvibes.com/2009/10/06/gcpedia-a-success-says-government-of-canada-cio; GCConnex on GitHub: https://github.com/tbs-sct/gcconnex.

Box 4.2. Common Knowledge Network (Portugal)

The Common Knowledge Network is a collaborative network built by the Portuguese government to promote the sharing of best practice and information about modernisation, innovation and the simplification of public administration. Membership of the network is open to public bodies, central and local administrations, private entities and any citizen who wishes to participate. Participation involves presenting and describing a best practice and its results. The network aims to become a central reference point for the dissemination of good practices and lessons learned. It currently hosts over 500 examples of best practice documented from all levels of government.

The network also serves as a place to conduct debate on public policies and their implementation at local, regional and national levels, as well as for participatory decision making with interest groups or communities of practice. It works to strengthen relationships between the various stakeholders and co-ordinate information sharing.

Lastly, the network helps participating government organisations obtain a common perspective on the activities of public administration, with a view to standardising services and identifying similar quality standards in different services.

Source: www.rcc.gov.pt/Paginas/Home.aspx.

Box 4.3. A procurement one-stop shop (the Netherlands)

The Public Procurement Expertise Centre (PIANOo) of the Ministry of Economic Affairs operates a one-stop shop called the Dutch Public Procurement Expertise Centre, which centralises a large amount of information related to procurement and tendering. In fact, PIANOo is recognised as the main website for procurement and tendering in the public sector, gathering reliable, accruable and up-to-date information. Public procurement practitioners use the website to share information and good practices, although PIANOo also offers other information services such as a bi-weekly procurement e-newsletter, a weekly legal review and summary of case law, model templates and online tools. On average, each month the one-stop shop has 50 000 visits and around 13 500 downloads.

In addition, the platform provides direct access to the PIANOo forum, a community of 1 600 procurement professionals, and to TenderNed, the Dutch government's online tendering system. Available online material includes an innovation procurement toolbox, factsheets on various procurement subjects and sector-specific guidance, as well as a dedicated Q&A section.

Sources: https://ec.europa.eu/docsroom/documents/32184, www.pianoo.nl/en/public-procurement-netherlands.

In another example, the United States Federal Enterprise Data Resources portal (Box 4.4) serves as a hybrid community of practice and open, living policy guidelines to ensure that all stakeholders have access to the same uniform guidance. While this example focuses on open data, such a community for procurement could exist in Slovenia and help to ensure alignment across government and sectors. It could also provide all involved in procurement with the possibility to improve policy implementation, and the community with an opportunity to share ideas and build on each other's work.

Box 4.4. Federal Enterprise Data Resources (United States)

The Federal Enterprise Data Resources portal is a one-stop shop for resources related to federal data management. It serves as an online repository of policies, schema standards, tools, best practices and case studies to help government organisations implement national data strategy and policies. The portal replaced the Project Open Data site, which had similar functionality.

The portal is accessed via the code repository and social media platform GitHub, through which the White House co-ordinates and collaborates with government officials and the public to continually innovate around the implementation of US data strategy.

As a community resource, the portal facilitates adoption of federal data resources. Through GitHub, anyone – government employees, contractors, developers or the general public – can view, contribute and communicate through threaded discussions. Resources and staff are dedicated to collaborating and communicating with users, reviewing feedback and revising policy guidance based on feedback, as needed.

Source: https://resources.data.gov.

Beyond simply serving as a community, such an approach is unique in that it serves as a source of living policy guidance able to adapt and be iterated upon as the government and open data ecosystem grows, learns and evolve. The traditional approach to developing policy guidance often involves a central team of skilled civil servants drafting guidance based on their knowledge, experience and research. At the end of

the process the guidance is published, typically in PDF form, for government agencies to follow. However, sometimes the policy and guidance has flaws or gaps that become apparent, and there is little or no ability to make adjustments as implementation evolves and the context changes. The traditional approach also limits iterative learning based on experiences that accumulate during implementation.

The contexts in which governments operate today are complex and change in rapid and potentially unforeseeable ways. The traditional approach of issuing inflexible guidance increasingly is no longer suitable. The Federal Enterprise Data Resources portal is an example of an attempt to leverage a community to produce guidance for agencies that is iteratively refined and enhanced based on lessons learned. Models such as this and the other examples presented could allow Slovenian procurement officials from experienced teams to share their processes and templates, and help procurement officers from smaller authorities (e.g. schools) to access and re-use them. They also enable procurement officials to communicate and work from the same baseline of knowledge.

Governments are increasingly developing or otherwise supporting public sector and cross-sector communities of practices and collaboration networks within their countries. Momentum is also increasing for international collaboration communities. One such example is the informal and growing OneTeamGov Global community (Box 4.5), which Slovenian procurement officials could freely join. By participating in international dialogue at a future OneTeamGov Global event, or even forming a chapter or its own, the Slovenian Government could promote informal interactions and learn from others internationally.

Box 4.5. OneTeamGov Global

The OneTeamGov community "is made up of people who are passionate about public sector reform" with an emphasis on improving the services offered to citizens and the way in which they work.

Originating in the United Kingdom, One Team Gov has since expanded with individual chapters in multiple countries (e.g. Canada, Finland, Norway and Sweden). In addition to country-specific networks, the group has built the OneTeamGov Global platform to grow as an international community and bring together public sector reformers from around the world.

The main highlight and opportunity for participants to interact and collaborate is an annual OneTeamGov Global "unconference" (participant-driven events without an agenda). This international event brings together hundreds of people from numerous countries to engage on a wider variety of topics, including procurement.

Sources: www.oneteamgov.uk/mission, www.oneteamgov.uk/global, https://oecd-opsi.org/one-team-gov-global-event, https://twitter.com/hashtag/OneTeamGovGlobal.

Communities and networks can also be very informal. Box 4.6 presents *#ProcurementHour*, an example of a highly informal procurement community of practice in the United Kingdom. The Government of Slovenia could engage in a similar open communications community, or could encourage ground-up communities, by making civil servants aware that such open dialogue is acceptable and even encouraged. By leveraging Twitter instead of a proprietary or closed solution, #ProcurementHour operates in a space with an existing broad base of users. This reduces the hurdles associated with enticing users to use a system with which they are not familiar. Because the dialogue is open, non-governmental actors can also participate in the discussion, enabling questions to be addressed and resolved, and government, industry and civil society to operate on the same page.

Box 4.6. #ProcurementHour (United Kingdom)

The concept of #ProcurementHour was created by agile procurement expert David Kershaw and senior local government procurement official Mark Culley. It is designed to be a public and open space where procurement officials and stakeholders from all sectors can come together to exchange thoughts and answer questions on any topic related to procurement. At a specific date and time, people converge on Twitter, using the hashtag #ProcurementHour, to discuss specific procurement themes.

The founders explained their motivation in an interview with industry magazine *Supply Management*. Culley stated that, "The biggest problem I see in procurement at the moment is everyone's a boss of somebody and we're trying to move that out of the way and reduce the hierarchy so people feel free to ask questions." Co-originator Kershaw added, "Especially in the public sector we talk about open, fair and transparent procurement but if I say to my colleagues, 'Do you have a Twitter account or a blog talking about your procurement', the answer is, 'Oh no we don't do that because it's locked in a cupboard'. Well how is that "open"? Surely you should use the Internet to be more open."

#ProcurementHour is held every two weeks, with a different theme for each session. Potential themes envisioned include relationship management, market engagement, data analysis and legal aspects.

Sources: www.cips.org/en/supply-management/news/2019/july/time-has-come-for-procurementhour, https://twitter.com/hashtag/ProcurementHour.

2. Foster understanding and collaboration between technical experts, policy specialists and procurement officials (priority action)

A second key theme throughout the OECD interviews was the disconnect between technical and programme staff, who have specific expertise in their policy and managing domains, and procurement officials, who are responsible for procuring goods and services for these domains. This is a core aspect of the "fragmentation versus connectedness" systems dilemma (see Chapter 3), with interviewees and workshop participants commonly referring to a "hand-off mentality", where procurements are conducted in a siloed and linear manner. Programme staff spend time developing their requirements, and then give the file to procurement officials to execute the procurement process. Interviewees and workshop participants reported little communication between these groups, and noted that each operated with a different set of objectives and a different vision of what constitutes "success". Challenges in this area also contributed significantly to the "strategic versus tactical" dilemma (Chapter 3), as staff involved in procurement often move from one procurement to the next without broader strategic considerations.

Developing procurement communities of practices, as discussed above, would likely assist in relieving some of this tension, as long as the community is designed through engagement with both technical and procurement officials and guided by higher-level strategic principles. However, participants in the co-creation workshop stated that additional, targeted actions were needed to bridge the gap between these groups and to help change the dynamics of the "hand-off" culture.

Instead of structuring procurement processes around separate, disconnected linear processes, with different types of people associated with each step, Slovenia could move towards a model where multi-disciplinary teams work together from the beginning of the procurement process through to the end, with each having shared goals. Such goals could be communicated at team, organisational and broader strategic levels. This approach would mean including both programme officials and procurement officials from the outset, as well as other potentially relevant stakeholders.

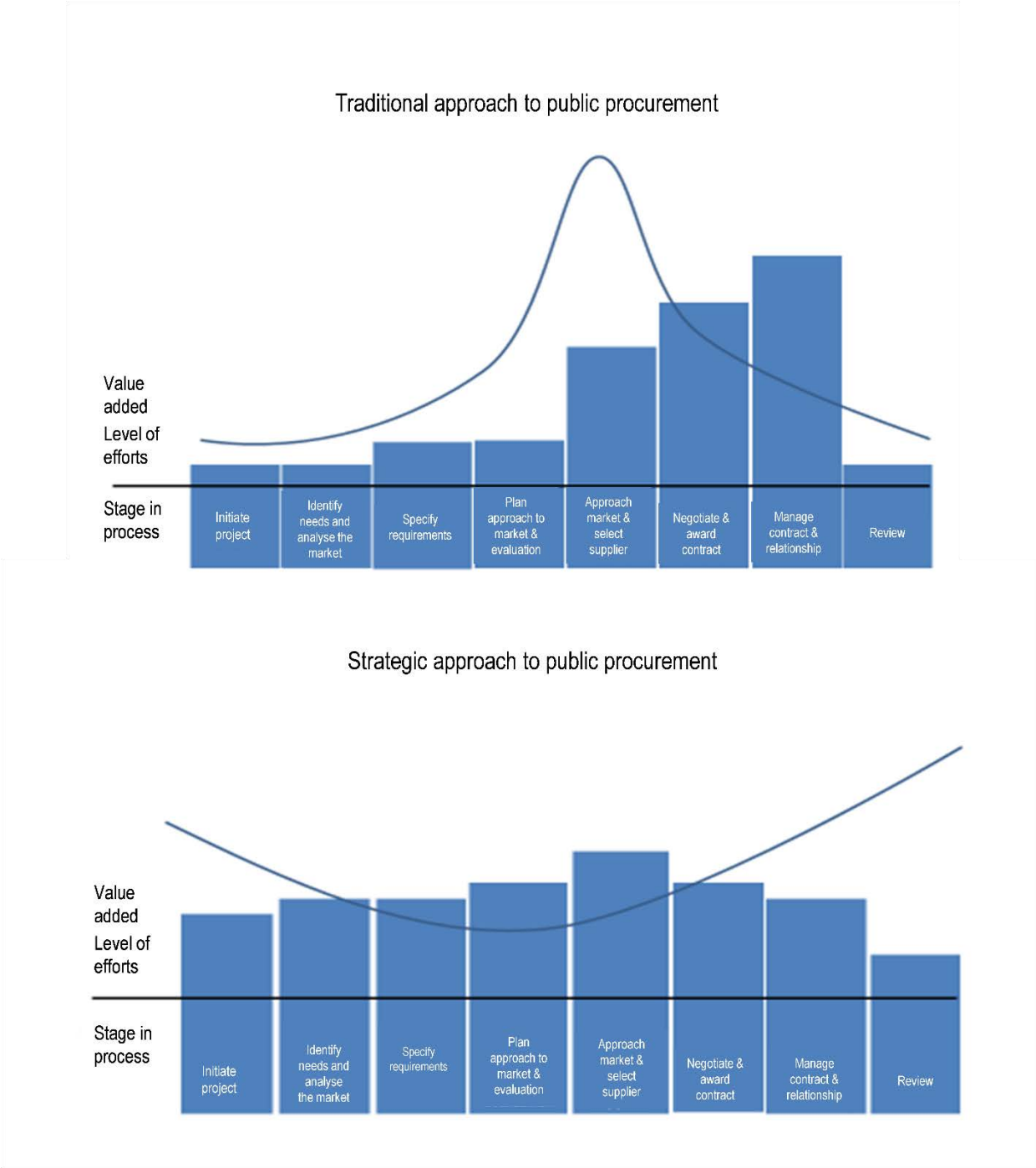
OPSI (2019[2]) research has shown that multi-disciplinarity is one of the most critical factors for the success of projects, especially those where innovative or different approaches are used, or projects involving technology. As Slovenia seeks to leverage procurement approaches that move beyond traditional procurement processes, this will become even more important. OPSI has recommended that, at the outset of any project, governments should convene a group consisting of the skilled individuals necessary to make the process a success. Such individuals could include policy analysts and advisors, field experts, user-experience designers, software developers, attorneys and, of course, procurement officials. While their level of engagement may vary throughout the lifecycle of a project, they should have the ability to become involved and provide feedback throughout the process, from design and initial requirement gathering through to implementation and evaluation.

The OECD recently published an ICT commissioning playbook that emphasises this point. It states that in order "to design user-driven procurement processes and contracts, public sector organisations should form multidisciplinary teams with a set of different capabilities. Teams should ideally include procurement and commercial capabilities as well as user-centred service design and agile delivery capabilities, from the beginning of the commissioning process."[3] The playbook also calls for government teams to "set the context", in order to understand how things fit together in a more strategic way. Although this playbook was drafted with ICT in mind, these particular approaches are applicable for all procurement activities.

Shifting to more strategic procurement practices further emphasises the need for multi-disciplinary collaboration. As procurement becomes more of a strategic tool, the focal point of action across the lifecycle of the approach shifts. As a result of this change, effort is greater at the pre-tendering and contract execution phase, including planning, research and analysis, than at the contract management phase (Figure 4.1). This means that procurement officers will need to work together with content matter experts and policy experts beforehand, to ensure that any research and preparation respects the rules of procurement, but also allows for exploration and thorough canvasing of possibilities.

Governments are increasingly recognising the importance of multi-disciplinarity to achieving success in mission outcomes and a more strategic approach. The example of the Service Innovation Lab in New Zealand shows how the government has developed mechanisms for multi-disciplinary experimentation (Box 4.7). Meanwhile, the city of Ghent, Belgium views collaboration with multi-disciplinary actors and experts as a core component of its integrated procurement strategies (Box 4.8). Finally, Data61 (Box 4.9) provides an intensive example of how Australia is promoting multi-disciplinarity around the topic of Artificial Intelligence. However, significant improvement can be achieved through much simpler mechanisms, for example, by encouraging programme staff and procurement officials to work together from the early design stages through to implementation on the basis of broad strategic aims.

Figure 4.1. Approaches to Procurement



Sources:(OECD, 2017[3]; OECD, 2019[4]).

Box 4.7. The Service Innovation Lab (New Zealand)

The Service Innovation Lab is an all-of-government neutral space that enables public sector organisations to collaborate on innovations in order to facilitate public access to government services. It serves as a design and development lab to experiment, drive and enable systemic change in government for the benefit of society, focused on the needs of the user. The Lab also works to direct public funding towards systemic improvements, horizontal efforts around shared goals, high-value reusable components and actionable innovation for all participating public sector organisations.

The Service Innovation Lab collaborates with agencies and partners across New Zealand to promote greater innovation throughout the public service. Importantly, it reinforces the importance of multi-disciplinarity and ensures that there is a skilled and multi-disciplinary core team at the centre of every project. The Lab provides an example of cross-agency, multi-disciplinary teams working to experiment, address systemic barriers to innovation and prototype new approaches to integrated service delivery designed around user needs. It therefore offers an example of how governments can bring together diverse actors in order to adopt an agile and adaptive approach to systemic innovation.

Sources: https://oecd-opsi.org/innovations/the-service-innovation-lab, https://trends.oecd-opsi.org.

Box 4.8. Integrated strategies for strategic procurement (Ghent, Belgium)

The city of Ghent has developed different strategies that are combined and translated into real-life procurement, thus enabling municipal authorities to use its purchasing power to make changes simultaneously on several fronts. Together with internal and external experts, stakeholders and citizens, the city's leading political coalition developed an ambitious mission statement, which was converted into different strategies and plans, including a procurement strategy.

The integrated strategies implemented by the municipality rely on support at the political level and require a long-term vision and awareness of the bargaining power of public procurement practitioners, together with the necessary room for trial and error.

Another important element has been collaboration with experts belonging to different functions and professions within the municipal government, as well as partners outside the city government in academia and professional organisations, as well as other local authorities across the European Union.

Implementation of these integrated strategies also demands co-operation with economic operators and other stakeholders through market consultation, in order to better translate the goals embedded in the strategy into practical matters.

Finally, the integrated strategies include building up expertise on particular subject matters (i.e. food procurement strategy for local schools) or grouping similar topics so that practitioners can acquire specialised knowledge and skills.

Source: https://stad.gent/smartcity-en.

Box 4.9. Multi-disciplinarity at Data61 (Australia)

Data61 is a "data innovation network" with "porous boundaries" designed to allow multi-disciplinary members of the network from various backgrounds to lend their expertise to different projects and programmes, including those concerning Artificial Intelligence. In an interview with *The Mandarin*, Data61 CEO Adrian Turner stated that the model enabled the organisation "to tackle larger-scale, multi-disciplinary work in a way that we couldn't if it was just us and our employees."

Through collaboration agreements, Data61 has grown to become a combined network of 1 100 individuals, including experts from 32 universities, as well as civil servants. Turner emphasises "that raw technical capabilities must be combined with domain expertise in whatever sector they are applied, such as government, health, or agriculture". The expertise convened includes those who understand and can execute on procurement.

Sources: www.themandarin.com.au/112035-license-to-operate-differently-—-how-data61-achieves-large-scale-digital-innovation-with-porous-boundaries-and-multi-disciplinary-teams.

Using a multi-disciplinary approach could help Slovenia move away from a hand-off culture and ease tensions associated with the country's "strategic versus tactical" systems dilemma. However, additional measured may be needed to align goals and measures of success among programme staff and procurement officials. In interviews and workshops, procurement officials stated that success, for them, was defined simply in terms of completing the procedure and/or obtaining the lowest price. Obtaining the optimal solution that best suits the mission and strategic goals was generally not a consideration. Building multi-disciplinary teams therefore also requires aligning the goals and incentives for all team members.

Australia has sought to align goals and incentives by introducing a Procurement Awards for Excellence programme at the national level (Box 4.10). While focusing on procurement, the awards also emphasise positive outcomes delivered through procurement, and not simply outputs related to completing procedures and obtaining a low price. Awards and other forms of recognition could help Slovenia to raise the profile of public procurement officers and also highlight good and innovative practices in the field.

Box 4.10. Procurement Awards for Excellence (Australia)

The Government of Australia established the inaugural Commonwealth Procurement Awards for Excellence in 2019 to recognise leadership and commitment to excellence in procurement. The awards are a new initiative, and provide an opportunity to recognise the positive outcomes delivered to citizens, businesses and the Australian Government through procurement. The nominations period lasted about five weeks and covered four categories:

1. *Building entity capability*. This category recognises leadership or excellence in building procurement capability to ensure that all procurements deliver value for money.
2. *Delivering innovation through procurement*. This category recognises innovation in delivering an innovative outcome through procurement.
3. *Engaging with risk*. This category recognises excellence in engaging with and managing risk in procurement, with a focus on identifying, managing and appropriately apportioning risk to deliver value for money.
4. *Engaging with small and medium enterprises.* This category recognises strategies or approaches that maximise the potential for SMEs to engage and participate in procurement.

A panel of judges from inside and outside the public sector was convened to evaluate nominations. The judges used a set of category-specific criteria to evaluate the nominations. Shortlisted nominees were given an opportunity to give a 10-minute presentation to the panel, which then selected the winners.

A government information pack stated that, "The Awards program will help promote the important role procurement plays in delivering services and outcomes for government, citizens and the business community; develop case-studies to showcase the commitment to excellence and achieving value for money outcomes demonstrated by entities; and build a community of highly engaged procurement professionals." It also outlined the following benefits of participating in the awards programme:

- raising the profile of procurement within entities
- lifting the capability of the procurement cohort
- contributing to activities aimed at showcasing better practice, effective private sector engagement, innovation and excellence in procurement.

The government announced the award winners in November 2019.

Source: www.finance.gov.au/procurement/cope-awards-nomination.

Finally, in addition to encouraging understanding and collaboration between programmatic and procurement roles, a number of governments have developed innovative human resources programmes to give individuals real-world experience of serving in different roles. Temporary movement of staff from one agency to another or from one position to another can help staff gain new experiences, provide access to new skills, build horizontal relationships and help build a broader understanding of their work and the work environment. It can also expose staff to different ways of approaching innovation. Offering procurement officials the chance to work in a programmatic role in Slovenia (or vice-versa), would give them the opportunity to learn more about and understand the values, strategic aims, principles and practices of other roles. Such an approach could take place within one organisation, or could be structured to allow people to experience work in other organisations in the public sector.

Slovenia already has some experience in engaging in innovative human resource programmes. The country's "Partnership for Change"[4] initiative represents an innovative practice, based on building a strong partnership between the business sector and public administration. The main objectives of the programme are to overcome the gap between these two worlds, enhance understanding about the different goals and views, establish knowledge transfer between organisations and build a strong partnership for addressing common challenges. Slovenia could perhaps develop a programme to better connect the technical and programmatic worlds with the world of procurement.

A number of government initiatives and models exist around the world that Slovenia could consider as it explores such a programme. Canada's Free Agents programme (Box 4.11) is an example of a large centralised effort. Slovenia could also pursue smaller and/or decentralised initiatives where employees are seconded to other roles temporarily.

Box 4.11. The Canada Free Agents programme

The Canada Free Agents (CFA) programme is a model for internal talent mobility that offers federal public servants the autonomy to select work that matches their skills and interests, and allows them to make contributions that they find meaningful across the Public Service. It also supports managers looking to rapidly and easily acquire top talent in emerging and core skills, in order to support short-term project needs.

Dozens of Free Agents exist today, mainly located in central government in Ottawa as well as regions across the country. If applicants are accepted into the CFA selection process, they find their first assignment and are then deployed to one of the three home departments that manage administration of the programme. Free Agents work on assignments across the Federal Public Service that vary in length (generally between 6-12 months) and organisation (100+ federal organisations) with all details outlined in an agreement. They have access to far-reaching networks with broad skillsets and opportunities for learning and development. They are supported by a Talent Manager who provides career advice and assists them in identifying assignments. After each assignment, Free Agents are eligible for promotions based on their experience on assignment. Not only does the programme offer flexible workforce mobilisation, it also serves as a way to share practices and expose the Public Service to new perspectives and knowledge within the organisation.

Source: OECD (2018), *The Innovation System of the Public Service of Canada*, OECD Publishing, Paris, https://doi.org/10.1787/9789264307735-en.

3. Manage risk and create safe spaces for experimentation (priority action)

One of the biggest challenges uncovered through the work for this report in Slovenia is a significant aversion to risk. Procurement officials – while often seeking to ensure "legitimacy and trust in the process" – tend to use traditional procurement processes that are well understood and minimise personal risk, even when these processes may be less likely to yield optimal results and other processes (e.g. pro-commercial procurement, innovation partnerships) are permitted. Risk avoidance is also the main reason why many procurement officials use price as the only real criterion when selecting a winning bid (see the section on the "strategic versus tactical" systems dilemma in Chapter 3). This behaviour reflects the tension between perception versus reality, with procurement officials habitually conducting procedures that *seem* safer and less likely to be perceived as corrupt, even though the end results may be less likely to succeed. Procurement officials, and Slovenia in general, are not alone here. Risk aversion is perhaps the most classic and commonly discussed challenge for public sector innovation.

As is common in risk-averse cultures, the OECD observed some inconsistency in what interviewees believed was permitted under procurement rules. What some believed to be allowed (e.g. challenge-based procurements), others believed to be forbidden or even illegal. Even those that believed innovative approaches to procurement were possible stated that few officials, if any, were conducting these types of procurement (see the section on the "legal versus behavioural" systems dilemma in Chapter 3 for a discussion of these types of perspectives). These challenges with regard to perceptions versus reality are well documented in research (Pykett et al., 2016[3]). However, the view that public servants are facing insurmountable barriers to policy change and innovation may not be entirely substantiated in reality. Research has found that a perceived lack of flexibility may be a more powerful barrier to taking initiatives than actual barriers in law or the lack of financial resources (de Jong, 2014[4]).

As a result of the challenges brought about by fear and risk aversion, the co-creation workshops identified a pressing need to create mechanisms to better understand and manage risk, including the creation of safe spaces to allow officials to experiment and try new approaches. Rather than changing procurement procedures themselves, which generally already include provisions for flexible and innovative practices, these mechanisms focus on communications, education, training, governance arrangements and creating exploratory spaces.

A number of governments have sought to manage problems associated with risk aversion by providing uniform guidance for all relevant stakeholders to help ensure the same baseline knowledge of what is and is not allowed, as well as tools and resources to undertake permitted agile and innovative processes. For example, the US government has issued the *TechFAR Handbook* to document existing flexibilities for agile procurement and show how they can be achieved (Box 4.12). In another example, the Australian government has developed ClauseBank to provide a repository of pre-vetted contract clauses that procurement officials can cut and paste (Box 4.13). Slovenia could develop such guidance and a repository for innovative and agile contract language, templates and tips on how to use them for use by communities of practice. The mechanism should also stimulate administrations testing new approaches to promote them to others. This could help fulfil procurement needs and crowd-in resources in more efficient and effective ways, as well as help to overcome challenges associated with several systems dilemmas by providing easy-to-access baseline knowledge.

Box 4.12. TechFAR Handbook (United States)

In government, digital service projects too often fail to meet user expectations or contain unused or unusable features. Several factors contribute to these outcomes, including the use of outdated practices and, in some cases, overly narrow interpretations of what is allowed by procurement and acquisitions regulations.

The *TechFAR Handbook* highlights flexibilities in the US Federal Acquisition Regulation (FAR), a 2 000-page document, and can help agencies enact procurement practices for goods and services in in an agile way that meets the human-centred principles laid out in the US Digital Services Playbook. TechFAR discusses relevant FAR authorities and includes practice tips, sample language and a compilation of FAR provisions relevant to agile software development. The handbook focuses particularly on how to use contractors to support an iterative, customer-driven software development process, as is routinely done in the private sector.

TechFAR acknowledges that successful procurement relies on the involvement of multiple stakeholders, including programme officials, IT specialists, procurement officials and agency legal counsel. It is designed to facilitate a common understanding among these stakeholders of the best ways to use acquisition authorities to make investments and to set common expectations and maximise the likelihood for success.

The US government also launched the TechFAR Hub to connect individuals conducting procurement and acquisition with those wishing to do so. The Hub forms part of a greater collaborative effort to create a cross-government community on this topic, and provides access to field guides, case studies and methods for collaboration.

While this particular example focuses on procuring goods and services related to technology, the underlying concept – providing centralised guidance to clarify what flexibilities exist in procurement rules – could be used for all types of procurements in Slovenia.

Sources: https://techfarhub.cio.gov, https://playbook.cio.gov, https://techfarhub.cio.gov.

Box 4.13. ClauseBank (Australia)

To help make procurement and contracting easier, more consistent and efficient, and less complex, the Government of Australia has developed ClauseBank, an evolving bank of standard terms and conditions established for use by procurement authorities in government contracts. ClauseBank includes pre-drafted contract terms that can be used within existing contract templates or in bespoke contracts by government entities. Because the clauses have already been vetted, no additional legal review is necessary if they are used without substantive changes.

At present, ClauseBank includes contract language for about 30 subject areas. It also provides additional guidance on how to use the language, relevant notes to help users understand the context and rationale for the clauses, and points of contact at the Department of Finance for questions.

Source: www.finance.gov.au/procurement/clausebank.

In another example, Chile is taking a co-creation approach to developing government procurement guidance that identifies potential opportunities for innovation based on the experience of procurement officials (Box 4.14).

Box 4.14. Human-centred collaboration for clarifying innovative procurement (Chile)

In Chile, the national procurement regulator, ChileCompra, is working with the Laboratorio de Gobierno to engage with procurement professionals on the development of new guidelines defining the space available for innovative procurement in existing regulations. The Laboratorio is co-ordinating human-centred design (a development method that helps to ensure a service will be easy to use for end users) workshops in three different government agencies to connect procurement practitioners with the central regulator. The workshops aim to gather insights into approaches to implementing regulations and to co-design new guidelines that make space for innovation.

Source: https://oe.cd/eig.

In addition to providing a common understanding and centralised guidance for achieving innovative procurement, governments can also create safe spaces for public officials to test innovative procurement approaches. Such small-scale experiments are generally already permitted within existing procurement procedures, and enable governments to mitigate potential risks associated with inadvertently breaking rules or even outright failure.

These types of safe spaces are most commonly manifested in the form of small groups of public servants dedicated to innovation. Common examples include innovation labs, incubators and digital service teams. There has been significant growth in these types of groups in recent years, partly in response to the increased complexity of public policy issues, which require new approaches and ways of working. They provide an alternative to governments investing time, money and social capital in large-scale policies and programmes that may fail to achieve the expected results. Innovation labs, for instance, are dedicated spaces for investigating and experimenting through trial and error to understand better what works in public service design and delivery. They often give birth to innovative projects or take the first step in scaling successful ones. As procurement is the lifeblood of government programmes and services, such groups

may have a strong focus on procurement, or even be entirely dedicated to public procurement efforts. The United States has made several efforts in this area (Box 4.15). Such spaces help procurement officials test different approaches in a controlled setting without the fear that any mistake made could diminish legitimacy and trust in the process. The knowledge and experience gained can help them more efficiently and effectively meet outcomes, which can enhance public and business trust in the system.

Box 4.15. US efforts to innovate procurement (United States)

Acquisition Innovation Labs

In 2016, the White House issued a government-wide policy instructing each federal government Chief Financial Officer to ensure it had in place an acquisition innovation lab to help agencies achieve better procurement results for taxpayers. The policy also encourages agencies to participate in pilot programmes to develop digital procurement abilities through hands-on coaching of multi-disciplinary teams.

Procurement Innovation Lab

The Procurement Innovation Lab (PIL) experiments with innovative acquisition techniques across the entire Department of Homeland Security (DHS). The Lab provides a safe space to test new ideas, share lessons learned and promote best practices. It fosters cultural changes that promote innovation and managed risk-taking through a continuous feedback cycle. It answers directly to the Chief Procurement Officer of the DHS.

Through its efforts, the Lab seeks to:

- lower the barriers to entry for small innovative, non-traditional contractors seeking to compete for DHS business opportunities
- shorten the time to award contracts
- increase the likelihood of successful outcomes by focusing on evaluation techniques that help obtain the most qualified vendors.

To ensure a systems-wide perspective, the Lab includes an innovation advocate from each division of the DHS.

The Lab also maintains a website with case studies, webinars, handbooks and an innovation resource library to help spread innovation throughout the DHS, as well as a dashboard presenting current PIL innovation projects.

Sources: www.dhs.gov/sites/default/files/publications/March%202016%20Memo.pdf, www.dhs.gov/pil.

In addition to innovation groups such as those discussed above, some governments have created special "sandboxes" that enable innovations to be tested in environments where certain rules are relaxed. For the most part, these have been regulatory sandboxes,[5] which allow businesses to test innovative products, services, business models and delivery mechanisms in a live environment. The sandbox framework also allows businesses to ask the government to waive or modify rules that have become unduly burdensome or are failing to achieve their objectives, sometimes on a limited or temporary basis. Governments are just starting to explore the use of sandboxes internally to create safe spaces where public sector organisations can try new things on a limited scale without the fear of breaking the rules. The results of such experiments enable governments to identify new ways of working within the rules, or to identify pain points and propose changes to rules in areas where the burden of compliance outweighs the potential benefit. Although there are few examples of public sector sandboxes, the concept does appear to be advancing, especially for

tech projects including AI (Box 4.16). With approval from parliament, other policy makers and potentially the European Commission, Slovenia could pilot similar sandboxes for experimentation. These could serve specifically to promote the use of innovative procurement processes, or focus on core programmatic mission goals, with procurement as a core factor for success.[6]

Box 4.16. Sandboxes for public sector Artificial Intelligence

Estonia

In July 2019, Estonia adopted the Estonian National AI Strategy ("Kratts" strategy). One aspect of this strategy is the development of pilot projects benefiting from more flexible public funding and the creation of sandboxes to test and develop public sector AI solutions and accelerate their uptake. These sandboxes would provide regulatory flexibility and temporary access to testing infrastructure resources (e.g. high-performance data processing). The strategy also emphasises the need for technological as well as regulatory sandboxes.

Lithuania

In April 2019, the Government of Lithuania published a national strategy to modernise and expand the current AI ecosystem in Lithuania and prepare the nation for a future with AI. A key recommendation is the development of a regulatory sandbox to allow the use and testing of AI systems in the public sector for a limited timeframe. This would allow developers to test products in a live environment and allow the public sector to determine which solutions can be fully integrated.

Finland

Finland's AuroraAI strategy calls for a regulatory sandbox to experiment with citizen-authorised data in a controlled way, and to explore whether any legislative changes are needed to achieve the full potential of the AuroraAI national public sector AI strategy.

Sources: https://e-estonia.com/estonia-accelerates-artificial-intelligence, www.riigikantselei.ee/sites/default/files/riigikantselei/strateegiaburoo/eesti_tehisintellekti_kasutuselevotu_eksperdiruhma_aruanne.pdf, http://kurklt.lt/wp-content/uploads/2018/09/StrategyIndesignpdf.pdf, https://vm.fi/documents/10623/1464506/AuroraAI+development+and+implementation+plan+2019%E2%80%932023.pdf.

4. Enhance the professionalism of the procurement workforce (additional action)

Professionalising the procurement workforce across Europe is one of the European Commission's top strategic procurement priorities. It involves clear and concrete action to transform public procurement into a powerful instrument in each EU country's economic policy toolbox, leading to substantial benefits in procurement outcomes (European Commission, 2017[5]). The priority is seen as so critical that in October 2017, the European Commission adopted a *Recommendation on the Professionalisation of Public Procurement*[7] to encourage EU countries to take steps to increase the professionalism of contracting authorities (see Box 4.17).

Box 4.17. EC Recommendation on the Professionalisation of Public Procurement

The EC Recommendation encourages the development and implementation of professionalisation policies in the Member States, by offering a reference framework for consideration. It focuses on three key areas, each with a number of underlying action items. These key areas and a selection of action items for Member States are given here. The complete Recommendation can be found at the link.

1. Defining the policy for the professionalism of public procurement
   - Develop and implement long-term professionalisation strategies for public procurement, tailored to their needs, resources and administrative structure.
   - Encourage and support contracting authorities in implementing the national professionalisation strategies, developing initiatives, and securing institutional architecture and co-operation.
2. Human Resource – improving training and career management
   - Identify the baseline skills and competences any public procurement practitioner should be trained in and possess, taking into account the multidisciplinary nature of procurement.
   - Develop appropriate training programmes – initial and lifelong – based on data and needs assessment, as well as on competence frameworks where available.
   - Develop and support the uptake by contracting authorities of sound human resources management, career planning and motivational schemes, in order to attract and retain qualified staff and encourage them to deliver quality procurements.
3. Systems – providing tools and methodologies
   - Encourage and support the development and uptake of accessible IT tools.
   - Support and promote integrity, at individual and institutional level.
   - Provide guidance to give legal certainty on EU and national law or requirements, and to facilitate strategic thinking, commercial judgment and intelligent/informed decision making.
   - Promote the exchange of good practice and peer learning.

Source: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017H1805.

Likewise, the OECD Recommendation on Public Procurement (OECD, 2015[6]), which all OECD member countries have adhered to, states that governments need to "develop a procurement workforce with the capacity to continually deliver value for money efficiently and effectively".

Despite its strategic importance, governments have struggled in this area. The most prominent weaknesses in public procurement systems are lack of capability in the workforce (defined as the skills-based ability for an individual, group or organisation to meet its obligations and objectives) and lack of capacity (defined as the ability to meet obligations and objectives based on existing administrative financial, human or infrastructure resources). Challenges facing public procurement practitioners include the transition from an ordering function to a more strategic one, increasingly complex rules, the multidisciplinary nature of the profession and the lack of professionalisation (OECD, 2017[7]).

A public procurement workforce with adequate capacity and capability is crucial for achieving the strategic objectives of government organisations. Professionals who possess a wide range of skills and competencies, including negotiation, project management and risk management skills, are necessary for the successful delivery of strategic procurement initiatives (OECD, 2017[8]). Moreover, the skillset required of procurement professionals needs to be flexible, as the contexts and priorities involved in their everyday

work are constantly changing. Many procurement professionals work in roles that demand high-level strategic, tactical and operational skills (OECD, 2013[9]).

The OECD has developed a checklist (OECD, 2016[10]) for the overall Recommendation, which also outlines steps that can be taken to build capacity (see Box 4.18). In addition, the European Commission has recently finalised a professional competency framework for civil servants, with a major sub-component dedicated to procurement professionalisation (see Box 4.19). These resources could assist Slovenia and other countries in strengthening procurement professionalization, which can be seen as a systemic, underlying factor hat significantly affect all other purposes of procurement identified by Slovenian officials.

Box 4.18. OECD checklist for supporting procurement capacities

The checklist provides three key steps that countries can take to strengthen their procurement capacity, each with sub-principles and a checklist of actions. The following text touches on the key steps, sub-principles and a selection of action items. The full checklist can be found at the link.

High professional standards for knowledge, practical implementation and integrity

- Develop a public procurement capacity strategy and action plan:
  - tackle both immediate and long-term issues
  - improve individual capabilities as well as the institution's capacities
  - develop a step-by-step roadmap with objectives and outputs.
- Develop a competency framework, job profiles and a certification system tailored to public procurement:
  - determine the specific functions, skills and competencies critical to achieving the agencies' missions and goals
  - cover legal, professional, technical and personal effectiveness knowledge and skills.
- Have a unit or team that covers the capacity-development needs of the public procurement workforce, able to:
  - identify current training needs and weaknesses
  - develop a certification system for the public procurement workforce.
- Develop and implement public procurement training on a regular basis:
  - design curriculums that cover specific procurement needs and consider the multi-disciplinary nature of procurement jobs
  - adjust the training programme based on feedback.
- Provide central advisory services or help desks to answer questions:
  - give advice or counselling on public procurement rules (for public/private sector parties, suppliers and the general public)
  - provide good practices/benchmarks and enable information sharing.
- Ensure that public procurement entities meet high integrity standards from the procurement workforce to handle ethical dilemmas:
  - foster a culture of integrity
  - provide a code of conduct on required integrity standards.

Attractive, competitive and merit-based career options for procurement officials

- Provide attractive career options for procurement officials:

- recognise public procurement as a strategic function
- create career paths with vertical and horizontal mobility and encourage staff exchanges between institutions and sectors.

- Provide competitive and merit-based career options for procurement officials:
  - ensure that appointments and promotions are competitive and based on performance and/or certification
  - conduct performance evaluations of staff on a regular and consistent basis.

Collaborative approaches with knowledge centres:

- Improve the capacity of procurement entities through collaborative approaches with knowledge centres (e.g. universities, think tanks and policy centres).
  - implement training or certification programmes through the education programmes offered at these centres
  - conduct joint research and communication on the results
  - hold joint seminars and workshops on public procurement.

Source: www.oecd.org/governance/procurement/toolbox/search/checklist-implementation-oecd-recommendation.pdf.

Box 4.19. EU Competency Framework for Public Procurement Professionals

The EC has developed a set of instruments that support administrations in their efforts to improve their administrative capacity for management of funds, by helping them to identify and address potential competency gaps.

The subject-specific Competency Framework for Public Procurement Officials aims to valorise the procurement profession as a strategic function and to make it fit for future challenges. This voluntary tool is provided by the EC to help contracting authorities, public procurement authorities and training organisations identify and address competencies that require strengthening. It can help self-assess individuals' skills and strengths, identify gaps and training needs, design and plan a personal development and career path, and improve performance. At the organisational level, the Competency Framework can be used to assess and enhance organisational and personnel performance, and to ensure a highly capable procurement function able to respond to an organisation's policy priorities.

The framework's Competency Matrix, which outlines competencies and skills that public procurement professionals should possess depending on their role (e.g. public procurement specialist, category specialist), includes 30 competencies grouped into two categories:

1. **Procurement-specific competencies** are necessary at each stage of the public procurement lifecycle.
2. **Professional competencies** are the soft skills that public procurement professionals should have in order to master procurement-specific competencies.

Within each category, competencies are further grouped into competency clusters, as shown below. These include different competencies (e.g. planning, innovation procurement, negotiations, market analysis, tender evaluation, ethics and compliance, collaboration, project management, etc.).

Figure 4.2. EU Competency Framework for Public Procurement Professionals

The Competency Matrix is structured around competency descriptions, which provide a detailed explanation of each competency, and proficiency-level descriptions, which set out the level of competency an individual should be able to demonstrate. The proficiency levels are: 1) basic, 2) intermediate, 3) advanced, and 4) expert. For each proficiency level, the Matrix describes the competencies an employee should possess.

The Competency Framework for Public Procurement Officials also includes:

- Implementation Guidance offering examples and cases for how the tools can be used
- a Self-Assessment Tool that public procurement professionals and organisations can use to assess their levels of proficiency and organisational maturity
- a Self-Assessment User Guide which explains the technical steps necessary to perform a self-assessment at individual or organisation level
- a Generic Training Curriculum which shows how public administrations can upskill their procurement professionals.

Figure 4.3. The Competency Framework for Public Procurement Officials

Source: https://ec.europa.eu/regional_policy/en/policy/how/improving-investment/competency, European Commission officials.

A number of governments have put in place projects, initiatives or resources to enhance the capabilities and capacities of their procurement staff. The European Commission has aggregated many of these and published a library of 90 examples of good practices and tools (European Commission, 2018[11]).[8] In addition, Box 4.20 provides an example of an innovative approach to professionalising the procurement of digital services from outside the European Union.

Box 4.20. Digital challenge for innovative procurement training (United States)

In an effort to become a smarter buyer of technology, the US government decided to train procurement specialists to understand the digital and IT marketplace, agile software development methodology, cloud hosting and user-centred design, among others, having determined that potentially all of the government's 6 500 acquisitions employees needed training on these subjects.

To achieve this objective, in 2015, the White House Office of Federal Procurement Policy (OFPP) and the US Digital Service (USDS) hosted a USD 360 000 challenge on Challenge.gov, a platform run by the federal government where government agencies can post challenges and offer prizes for solutions. Challenge.gov provides a Toolkit that includes information and resources to guide government employees working on challenges. It includes guidance on each challenge phase from preparation to execution, information on different types of challenges, case studies and a list of resources for more detailed guidance and support.

In this case, the challenge was for a vendor to develop a comprehensive training and development programme for procurement and acquisitions officials, to enable them to understand and apply strategic thinking, industry best practices, market place conditions and acquisition strategies to the procurement of digital services. Small amounts of money we provided to multiple vendors to design detailed concept programme proposals. On proposal was selected and the vendor was awarded a larger sum of USD 250 000 in milestone payments to fully develop and pilot their proposed programme with actual procurement officials.

As part of the pilot, 54 acquisitions and procurement employees have now been trained on new techniques. Graduates from the initial cohort, armed with new skills and capacities, are also helping to spread knowledge about best practices they learned from the course to other parts of their agencies.

While the training programme began as a pilot, it is now being scaled up and rolled out. Findings from the initial training cohorts also fed into the development of a new specialisation and certification programme for federal procurement officials. The White House has issued a deadline of 2022, by which date all digital service purchases over USD 7 million will require the expertise of a procurement officer trained through the programme.

Sources: www.usds.gov/report-to-congress/2017/fall/procurement, www.challenge.gov/toolkit, https://federalnewsnetwork.com/acquisition-policy/2018/05/ofpp-sets-2022-deadline-to-train-acquisition-workers-to-buy-digital-services, www.actiac.org/groups/proposed-digital-service-contracting-professional-training-and-development-program-challenge (mirror of original challenge).

Finally, some governments have also sought to professionalise external providers, such as SMEs, to equip them with the knowledge and resources necessary to better navigate procurement processes. Box 4.21 provides an example of such an initiative from Italy that was disseminated through the European Commission's good practice library. Such professionalisation outside government coupled with procurement professionals inside government could assist Slovenia in optimising the results of procurements and foster positive relationships across the procurement ecosystem.

Box 4.21. The CONSIP replication model for training (Italy)

In 2003, Italy launched a national initiative for the rationalisation of public administrations aiming at streamlining public procurement. As a result, the central purchasing body, Consip, partnered with a nationwide association of enterprises-suppliers to develop a network of dedicated training desks called "Sportelli in Rete". The overall purposes of the initiative are to:

- instruct suppliers in more optimal use of available eProcurement tools, to foster innovation and efficiency
- promote use of the eMarketplace tool MEPA among suppliers, especially SMEs
- increase the participation of SMEs in Consip's e-procurement activities, especially at the local and regional level.

The replication model of CONSIP consists of providing training to local associations of suppliers and subsequently allowing them to train local SMEs free of charge. In this context, geographical barriers no longer exist. Training helps to expand business opportunities for both contracting authorities and suppliers, thus contributing to the creation of a multiplication effect.

Italy has set up over 200 SME public procurement training bureaus within 11 supplier associations across the country. These bureaus play fundamental role as reference institutions recognised by local enterprises. The initiative has been popular and training attendance is high. More than 2 250 SMEs have been trained to date. The initiative has also transformed perceptions of Consip, which is now recognised as a body fostering business opportunities in a competitive and transparent environment.

Sources: https://ec.europa.eu/docsroom/documents/32184, www.oecd.org/governance/procurement/toolbox/search/supplier-training-desks-std-str-italy.pdf.

5. Establish pathways to facilitate the flow of innovation and new ideas (additional action)

OECD workshop participants co-generated ideas about sharing innovation and new ideas across government, and bringing innovation and new ideas into government from the outside. These ideas generally revolved around supporting experimentation, testing new ideas as part of the procurement process (e.g. prototyping and agile contracts), finding ways to bring attractive innovative companies into the process, and exploring alternatives to traditional procurement to bring good ideas into government. The participants agreed that such ideas were good, but stated that they were not prioritised at the top level. However, based on experience and its alignment with achieving the identified purposes of public procurement, the OECD believes that such ideas hold great promise and can represent new ways of thinking in the Slovenian public service. Doing so can help to ease tensions associated with several of the systems dilemmas discussed earlier in this report. Importantly, finding new ways to surface ideas and identify innovative companies could help improve the foundational economic challenges that Slovenia faces. For instance, building larger blanket contracts for procurement authorities to use, or holding competitive challenges, could increase competition – an issue with which the country has struggled.

One key approach to this challenge is to focus centre-of-government efforts and expertise on building rosters of, or conduits to, proven innovative companies that others in government can easily leverage to bring new approaches into the public sector. The centre of government may be particularly well placed to perform the work needed to clear a path for innovative companies. Box 4.22 provides an example of such an approach.

Box 4.22. Canada's centralised AI source list for the promotion of innovate procurement

The Government of Canada has created an AI Source List with 73 pre-approved suppliers "to provide Canada with responsible and effective AI services, solutions and products". This framework allows government agencies to expedite procurement from firms that have demonstrated a capability to provide quality AI goods and services. Approval of vendors occurred at the central level, and other government organisations are now able to access and rapidly hire pre-screened vendors.

The framework requires suppliers to demonstrate competence in AI ethics, as well as implementation and access to talent. Firms that responded to the "Invitation to Qualify" had to prove to an inter-disciplinary panel that they satisfied these requirements. The framework also has three bands with escalating requirements. The lowest band has less stringent requirements, making it easier for small start-ups to qualify, thereby driving innovation and creating a deeper market.

The framework supports mission-driven and iterative innovation by allowing agencies to commission multiple firms to develop early-stage services to address a problem. This enables effective information sharing and an agile approach, thereby mitigating the uncertainty of potentially disruptive approaches.

The process of establishing and maintaining this list of AI service providers also enables the government to establish longer-term relationships with private companies. Such dialogue facilitates the development of shared expectations and a mutual understanding of the potential challenges facing public sector organisations.

Sources: https://buyandsell.gc.ca/procurement-data/tender-notice/PW-EE-017-34526, https://buyandsell.gc.ca/cds/public/2018/09/21/5e886991ecc74498b76e3c59a6777cb6/ABES.PROD.PW__EE.B017.E33817.EBSU001.PDF.

In addition to bringing in companies with fresh ideas, Slovenia could benefit greatly from innovative methods of procurement. Throughout interviews and workshops, different officials emphasised that all requirements for procurements need to be made explicit up front before the tendering process. However, strict adherence to this belief can lock out interesting and innovative ideas, and for some products such as software, significantly increase the risk of failure. Interviewees and workshop participants also told the OECD that agile procurements rarely occurred. In the United States, agile contracting has been introduced recently (Box 4.23), but has not always been easy or without problems (Mergel, 2016[12]).

Box 4.23. Agile contracting in the United States

The introduction of agile contract formats has enabled the US government to create simple, effective contracts that take advantage of post-award agile methods to procurement. This work, led by the US Technology Transformation Services' Office of Acquisition, is focused on increasing the adoption of an agile contract format that changes the commissioning process approach. The new approach explains what suppliers are expected to do in regard to one specific project, instead of prescribing how they should do it.

The US government's 18F group has also experimented with building a pool of agile vendors. 18F created a Request for Quotation (RFQ) where vendors were evaluated based on a working prototype built by each vendor, instead of a narrative document. They ultimately awarded a contract to 17 vendors, both large and small, who were integrated into a "blanket purchasing agreement" (BPA) that allows other government agencies to hire these vendors more quickly and easily. While other agencies could leverage this BPA, 18F documented the development process in order to help other agencies understand how agile contracts can work and pursue similar efforts in their own context.

More information about this approach can be found in the *Agile Software Development Solicitation Guide*: https://18f.gsa.gov/2019/08/20/an-agile-software-development-solicitation-guide.

Sources: UK GDS (2018), *The ICT Commissioning Playbook, Government Digital Service*, London, https://playbook-ict-procurement.herokuapp.com (accessed on 25 September 2019); https://18f.gsa.gov/2018/07/26/what-we-learned-from-building-a-pool-of-agile-vendors.

Many governments have also completely flipped the way in which they obtain certain goods and services. In particular, many countries around the world have pursued challenges and competitions to help remedy challenges associated with a lack of fresh ideas. In these processes, instead of specific requirements being stated up-front, government officials articulate an end goal or outcome that they would like to achieve. External parties are then invited to propose their ideas for solutions that can achieve the goal. Canada's recent policy change (Box 4.24) shows how they took proactive action at a policy level to enable such processes. A number of examples of government challenges and competitions (both programmes and specific projects) are discussed in Box 4.25, Box 4.26 and Box 4.27.

Box 4.24. Canada's policy change to allow incentive-based funding

The Public Service of Canada has expressed an openness to doing things in new ways. A key example from a procedural viewpoint is a new policy on transfer payments, which opens up the ability for agencies to use incentive-based funding over a five-year pilot period.

The Treasury Board Secretariat is giving departments new options for distributing government grants and establishing contribution programmes that aim to resolve existing problems. The new TBS approach, entitled Generic Terms and Conditions, applies to all departments and agencies covered by the Treasury Board Policy on Transfer Payments. This policy enables agencies to use incentive-based funding, prizes/challenges and micro-funding over a five-year pilot. These tools will help the Government of Canada make the transition from funding based on tasks and activities to funding based on the achievement of concrete goals.

Source: Government of Canada (2018c), *Enabling the innovative use of Transfer Payments*, Ottawa, www.canada.ca/en/treasury-board-secretariat/services/innovation/enabling-innovative-use-transferpayments.html.

Box 4.25. Pitch Days (United States)

The United States Air Force launched an Air Force Pitch Day programme in 2019. Modelled after commercial investment pitch competitions (e.g. television's *Shark Tank*), the aim is to deliver a faster, smarter approach to competing for ideas in the accelerating technology ecosystem. The process represents a major departure from the lengthy procurement and contracting processes typically expected of the government. It focuses on rapidly awarding small business innovation research (SBIR) contracts to companies based on a simpler streamlined evaluation of proposals papers and in-person presentations. Such grants have special procurement rules to promote innovation under the 1982 Small Business Innovation Development Act,

The first Pitch Day was held in March 2019. In the weeks leading up to the event, Air Force contracting officials reviewed 417 submissions received during the 30-day application period and then invited 59 businesses to pitch their proposals in person. The Air Force subsequently awarded 51 contracts to different companies for a total value of almost USD 9 million. Each of the initial contracts was paid immediately using a government purchase card, with winning contractors being paid in an average of 15 minutes. More than 500 attendees from government, industry, academia, venture capital and investment communities participated in the Pitch Day, which was an open event. About 12 pitch days were held around the United States throughout 2019. Each focuses on a different topic, such as communications systems, space, aviation technology and Artificial Intelligence.

This concept is not limited to defence. The US General Services Administration (GSA) has created the Assisted Acquisition Services Express Programme to provide services to non-military agencies, in order to help them obtain ideas and proposals from the private sector for innovative solutions that may be a good fit for their missions. Special contracting authorities used by this programme can help provide a faster and more efficient route to obtaining innovative products and services in government. GSA helps to pay for the service by charging a fee to participating agencies.

Sources: www.afwerx.af.mil/stories/space-pitch-day.html, www.af.mil/News/Article-Display/Article/1779609/inaugural-air-force-pitch-day-new-contracts-new-partners, www.c4isrnet.com/battlefield-tech/space/2019/06/24/watch-this-space-air-force-announcing-pitch-days, www.govexec.com/management/2018/05/all-agencies-can-now-buy-innovative-tech-shark-tank-speed/148456.

Box 4.26. Scotland's CivTech

CivTech is the Scottish Government's challenge programme for innovation. Based on leading technology incubators, CivTech offers entrepreneurs the chance to compete in open challenges designed to identify new companies and increase innovation. By bringing together public sector expertise and private sector creativity, the programme pioneers a smarter, faster approach to public procurement. The objective is to harness entrepreneurial tech innovation and citizen engagement, improve public service delivery, create economic development opportunities and foster an entrepreneurial mindset within government.

CivTech sponsors define specific challenges and then invite the private sector to propose solutions. A handful of proposing teams are selected and given a small amount of funding (GBP 3 000) for three-week exploration sessions. One teams is then selected for a 15-week accelerator, which involves GBP 20 000 in funding and interaction with innovation centres and citizens. After the accelerator phase, minimum viable products (MVPs) are presented at a demo day, and the resulting product(s) are prepared to scale. Because CivTech is oriented around solving challenges, the process allows for the creation of solutions that the government was not aware existed.

With CivTech, Scotland aims to shift from closed prescriptive tendering to open challenge-based questions. In so doing, the government seeks to move away from traditional methods of procurement that favour larger supplier companies able to afford the time and money to navigate their way through the complex public procurement process, and open itself up to small, talented tech companies who are rarely engaged by the public sector.

The government has also launched the CivTech Academy, a structured, comprehensive programme designed to pass on the overall methodology and ethos of the CivTech Programme to partner organisations. The methodology includes the infrastructure, systems and operating principles that need to be put in place, and the knowledge and knowhow required to successfully operate them.

Sources: https://oecd-opsi.org/innovations/civtech-scotland, https://civtech.atlassian.net/wiki/spaces/C4/overview.

Box 4.27. GovTech Poland – engaging small and medium businesses for public contracts

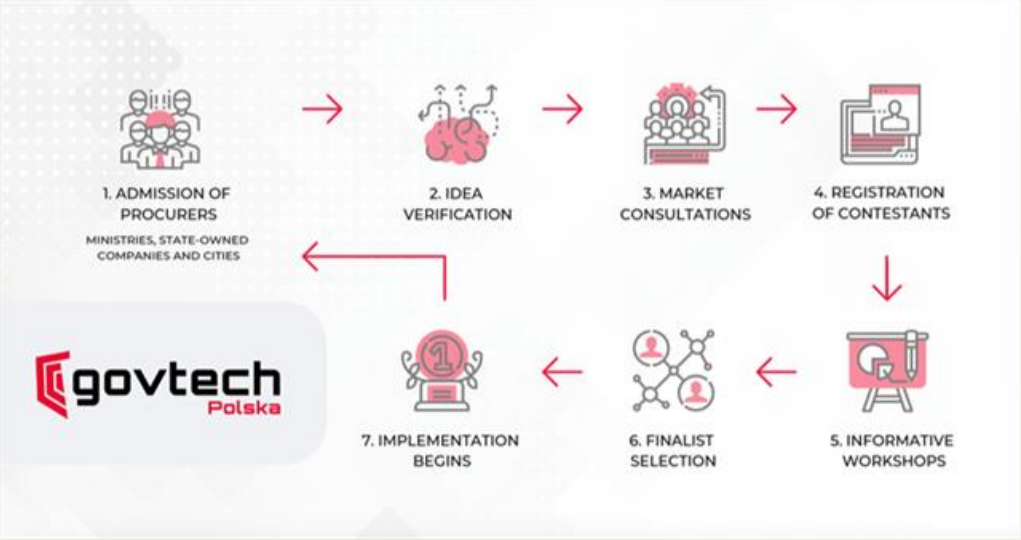
The Government of Poland has endeavoured to ensure that public policies are prepared in co-operation with stakeholders, in order to provide new invaluable inputs, innovative ideas and evidence about the problems as well as the solutions. It recognises, however, that not all stakeholders have the capacity, knowledge and resources to provide structured responses and suggestions to policy makers.

GovTech Poland is designed to respond to this issue. This challenge-based procurement model allows any business or citizen to pitch ideas to government, and encourages small businesses to bid on government projects, which may be inspired by the ideas received from citizens. Companies that pitch or can carry out the best ideas win a full implementation contract without the need for an additional tender. The model is designed to open up procurement to all creative individuals, and covers the entire process from identification to implementation.

Ideas are evaluated anonymously by a panel to mitigate potential biases. Participants then progress through competitive rounds designed to select the best projects. In the first round, they must develop minimum viable products (MVPs), then those who make it to the second level create functional prototypes. A small handful of winners is selected and awarded contracts for implementation.

The GovTech programme has already had a significant impact, by helping to address the common challenge of too few vendors bidding on a tender – an issue of particular relevance for the Slovenian context. In an interview with industry publication *GovInsider*, Justyna Orłowska, Director of GovTech Poland, noted that "usually there are just two or three [bids]", but the new process has increased this number to "about 50 on average, with a peak of 96" bids, giving the government more options and increasing the potential for positive outcomes. In addition, the majority of winners to date have come from companies with fewer than 250 employees, an outcome that is helping small and medium-size enterprises to break into the public procurement ecosystem.

Figure 4.4. GovTech Poland Programme



Sources: https://oecd-opsi.org/innovations/new-standard-for-engaging-sme-participation-in-open-public-contracts, https://govtech.gov.pl, https://govinsider.asia/innovation/govtech-poland-procurement-reform-hackathons-justyna-orlowska-antoni-rytel.

Besides bringing innovative ideas into government from external sources, it is also critical to enable ideas and innovative practices to flow and diffuse within the public sector. This can be greatly enabled through communities of practice and networks, as discussed as a priority item above. Formalised procedures focused on innovation diffusion can assist, with communities of practice perhaps serving as a vector for these mechanisms. See for example the intentional activities in Denmark around spreading learning and innovation (Box 4.28).

Box 4.28. Spreading Innovation (Denmark)

In order to break down bureaucratic silos and help governments create new ways of working, the Centre for Offentlig Innovation (COI) created the *Spreading Innovation* guide. Its aim is to support institutions and individuals in the process of replicating innovation in the public sector, and thereby reduce the risks and costs associated with innovation. COI designed the guide in three phases over the course of a year. The process involved over 100 people and enjoyed the support of an Advisory Board of handpicked practitioners and researchers.

- In the first phase, a team of researchers carried out a literature review of processes for the diffusion of innovation in government.
- In the second phase, the COI conducted field studies in 11 Danish municipalities involved in innovation in the area of welfare technology. Using observation techniques and approaches linked to behavioural economics and “nudge”, the COI endeavoured to answer the following question: What happens when institutions spread innovation?
- In the third phase, the main findings were tested in other contexts (e.g. business growth immigration services and child care), across all levels of government (central government, local authorities, hospitals, etc.) and even in non-governmental organisations working on welfare innovation.

The result of the process was *Spreading Innovation*, a guide deeply anchored in concrete experience and research. As a tool, it supports dialogue between sharers (teams who want to share an innovation) and re-users (teams that want to replicate an innovation). Although any interested sharer/re-user can download and use the guide independently, the COI firmly believes that personal relationships are essential for innovation and organises networking events to facilitate matching between potential sharers and re-users.

The guide gives an overview of an otherwise complex process. It is structured around six key steps to help government officials share and reuse an innovation (as shown in Appendix IV). For each of these steps, there is a checklist of proposed actions to take and questions in the form of dialogue tools to guide discussions between teams. This approach enables the *Spreading Innovation* guide to support the spreading of innovations in government, while respecting institutional conditions that may require reinvention or re-contextualisation of some aspects of innovation processes – for example, taking into account the complexities that can exist between municipal, regional and state workplaces.

Sources: www.oecd.org/gov/innovative-government/embracing-innovation-in-government.pdf, www.coi.dk/en/what-we-do/spreading-innovation.

6. Take intentional steps to drive the economy and enhance competition (additional action)

A number of ideas discussed during the interviews and workshops, although not prioritised like three of the items in this chapter, focused on driving the economy and enhancing competition. These generally involved encouraging companies to compete for tenders, reducing the burden and barriers to entry for SMEs, competing in international markets and attracting cross-border bids. Such actions can help drive the economy and also help ease one of Slovenia's foundational challenges discussed earlier in this report: economic challenges stemming from the size of its market. Taking action to bring in different and diverse types of companies is important for public sector innovation broadly. Because of its complexity, public procurement can favour incumbents with track records over "lean start-ups" that might actually have the relevant innovation know-how. How can the values of public procurement be aligned with the principles of agile and iterative processes? Initiatives are needed that help put the small and agile on a level playing field with the large and the incumbent, and help them participate in public procurement processes.

A number of countries around the world have developed innovative solutions to try to tackle similar challenges. For example, the government of New South Wales, Australia has piloted ways to help small companies break into the government market (Box 4.29).

Box 4.29. Pilot to help small businesses compete for public procurements (New South Wales, Australia)

The New South Wales (NSW) government has launched the Local Procurement Pilot to make it easier for small companies to break into the government procurement ecosystem. It provides tools to cut red tape and simplify the tendering and procurement process, thus streamlining the process to give small businesses a better chance at winning government contracts.

As part of the pilot, the NSW Government published *Doing Business with your Local Council: A Guide for Small Business Owners.* The guide discusses how to maximise chances for winning government contracts, including information on how to find out about opportunities, how to demonstrate capability and experience, and how to be environmentally sustainable.

The Local Procurement Pilot also includes a road map and other resources for councils to make it easier for small businesses to win contracts.

Sources: https://www.smallbusiness.nsw.gov.au/what-we-do/our-work/improving-local-procurement-opportunities, www.smallbusiness.nsw.gov.au/sites/default/files/2019-10/14860%20OSBC%20Local%20Govt%20Tender%20Guide%20web.pdf .

The United Kingdom has developed a digital marketplace to make it easier for businesses to engage with government and to help centralise common products and services, in order to take advantage of economies of scale. While many countries have developed digital marketplaces, the United Kingdom is unique in that theirs is "global" and open to use by other countries.

Slovenia could potentially benefit from developing a nationwide digital marketplace of its own for goods and services. Such goods and services would not necessarily need to be related to technology needs, such as in the UK example. To drive its economy, Slovenia could also consider allowing other countries, such as those in the region, to procure items from Slovenian vendors on the marketplace. To enhance competition and thereby help address challenges associated with the size of its market, Slovenia could invite cross-border listings from other countries or even explore the potential of participating as a buyer in the UK's Global Digital Marketplace (Box 4.30).

Box 4.30. Global Digital Marketplace (United Kingdom)

The UK Government Digital Service (GDS) launched the Digital Marketplace in 2014 as an online service designed to help public sector organisations find people and technology for digital projects. The aim was not only to help make it simpler, clearer, faster and more cost efficient for government to buy technology, but to also redefine the UK Government's relationship with the technology market. Suppliers must apply to sell services, and any public sector organisation can buy services or products using the Digital Marketplace. The Digital Marketplace offers an opportunity to support the growth of the UK's digital sectors, particularly for start-ups and scale-ups. Indeed, a contract from government can transform a small business, giving it credibility, income and the crucial first customer.

The Digital Marketplace has led to clear results. In 2009, fewer than 20 companies retained 80% of the UK's annual technology spending. As of 1 October 2018, almost 5 100 suppliers are available to the UK public sector through the Digital Marketplace, over 92% of which are SMEs.

Given the success of the Digital Marketplace, the United Kingdom is seeking to use its expertise to support other governments. The Global Digital Marketplace aims to help international governments make their procurement more transparent, thereby helping to prevent corruption and boost their digital, data and technology sectors. Its delivery model includes working in partnership with international and domestic technology service providers and educational institutions in host countries. Global Digital Marketplace project interventions include:

- *Ensuring plans are made before money is spent*. This involves planning, business case development and spending controls, including associated codes of practice.
- *Designing procurements and contracts*. This includes Digital Marketplace commercial routes to market, and associated procurement and contracting reforms, including reviews of domestic regulatory contexts at national and subnational government levels.
- *Ensuring service delivery*. This involves contract awards and managing service delivery and supplier relationships through service assessments and associated standards.
- *Embedding the Open Contracting Data Standard*. This includes supporting the progressive public disclosure of information relating to procurements, and generating detailed information in human-readable and machine-readable formats.
- *Building capability and capacity.* This involves developing new professions within government related to digital, data and technology and associated capabilities frameworks; and building institutional capacities in the Civil Service and private sector through targeted learning and development modules covering the above areas, with training delivered through an academy model focused on integrity, procurement reform, digital service delivery and government transformation.

Sources: https://oecd-opsi.org/innovations/global-digital-marketplace; www.digitalmarketplace.service.gov.uk.

Finally, driving the economy can also mean using the government's purchasing power to shape the products offered by vendors and promote the strategic goals of government. Promoting social goals is considered to be one of the most important purposes of the procurement system in Slovenia, as discussed earlier in this report. Slovenia could use its procurement function to effect change and signal the government's desire to drive social change. Victoria, Australia's Social Procurement Framework, provides a strong example of this approach, as discussed earlier in Box 2.7.

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Notes

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[2] www.gov.uk/service-manual/communities.

[3] https://playbook-ict-procurement.herokuapp.com.

[4] www.amcham.si/en/partnership-for-change.html.

[5] See, for example, www.fca.org.uk/firms/regulatory-sandbox.

[6] See also an interesting discussion on this topic at www.howtocrackanut.com/blog/2017/5/22/procurement-sandboxes-mock-procurements-and-some-other-thoughts-on-trying-to-create-space-for-practical-real-world-experimentation.

[7] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017H1805.

[8] https://ec.europa.eu/docsroom/documents/32184.

5 Looking ahead: Scenarios

This chapter outlines three co-created scenarios for the Slovenian public sector designed to influence the procurement system, based on the core priority clusters described in the previous chapter. These scenarios were co-created and tested together with Slovenian stakeholders. Examination of these scenarios allows for exploration of recommendations and different solutions, as well as analysis and stress-testing of their potential effects. Policy solutions often introduce both foreseen and unforeseen outcomes and the scenario approach helps to prepare for these in a more holistic way. These scenarios were co-created and tested together with the Slovenian stakeholders in October 2019. The scenario approach does not imply that any of the presented approaches represents a blueprint for change, but they can help to identify the ambition and strategic intent for reform.

Systems are difficult to grasp, and systems change is especially difficult. Where should decision makers start when everything is connected to everything else? To help ground systems interventions in reality, the OECD deployed a strategy called scenario building.

Scenario building is an analytical exercise that constructs narratives of current and historic trends and events, within a certain context, in order to describe possible future trajectories. The aim is to identify possible paths towards a specific vision of the future. In systems analysis exercises, scenarios avoid linear, reductive solutions and, instead, look at the system as a whole. This does not mean that scenarios can predict all possible forms of the future; rather, futures exercises and analysis of systemic effects of reforms should be continuously repeated to analyse unintended effects and new possibilities.

Scenario building asks a key question: "What possible sets of solutions can be combined and developed to change the functioning of the system?" At its core, scenarios, first and foremost, provide a critical outlook on the future. This future framework clarifies the main focal issues and strategic decisions that different organisations face within the system, and establishes interrelationships between critical decisions and their time horizons. The aim of this exercise is to provide clues about important drivers of change, early warning indicators, and strategies that may be sufficiently robust to deliver the desired aims in the face of future challenges. None of the scenarios are intended as predictions or prescriptions; instead, they function as prompts to think about the future direction of the system, and are designed to challenge existing, often unstated, assumptions about how events will play out. This approach helps to validate plans and readiness in the system by identifying four key aspects:

- what is probable (likely to happen)
- what is possible (might happen)
- what is plausible (could happen)
- what is preferable (want to happen).

The following sections present three scenarios. The first represents a continuation of the current approach (Scenario "zero"); the second introduces a significant driver for change that incentivises a range of new policies or interventions (Scenario 1); and the last embodies a radical shift in policy that prioritises procurement throughout the government's strategic activities (Scenario 2). All scenarios are complemented by "wild cards" – low probability events – that may challenge the scenario trajectory and help uncover areas where the system needs to develop greater resilience.

Scenario "Zero": Continuation of the current trajectory

Overview

Under this scenario, the procurement system in Slovenia maintains its current trajectory. The government continues to bring out procurement in Coalition Agreements, with the goal of investing more funding in the transparency and efficiency of the system. More tasks are itemised and a digital audit trail for the procurement system is developed. E-signatures are incorporated into the system and digital systems inoperability is approved and completed. The government has more data to analyse bidding behaviour and the performance of procurement authorities more accurately. Small irregularities are detected, that lead to amendments, corrections or additional clarifications; however, no systematic bias or cases of corruption emerge.

The government discusses the adoption of machine-learning techniques to develop a risk detection tool for the procurement process, in order to limit corruption and the number of procedural mistakes. The idea both gathers both support and opposition, but is ultimately dropped as the risks associated with developing the tool in an agile manner are deemed too high, and most experts are unable to say with a high degree of certainty whether such a tool would work in the current data context.

The procurement system is made user-friendly, freeing up time for procurement officers to attempt different types of procedures, although new incentives to promote uptake are not introduced and very few attempts are made to use procurement for wider socio-economic aims.

With the aim of professionalising the workforce, the government co-designs a programme with industry partners to help buyers obtain experience in the private sector. Concerns are raised in public about the potential for procurement officials to develop overly close ties with industry partners, but the government gives its assurance that data transparency would prevent any such inclinations. Substantial effort is put into programme communication to outline the substantive aims of developing procurement professionals in the public sector through exchange processes. Relative research is made available to show the importance of social capital as a strategic factor in enhancing the accountability of political institutions (Nannicini et al., 2013[1]). The programme also includes a forum for discussion among participants about future trends in innovation and knowledge about procurement and the exchange of good practices between public sector organisations and economic operators.

An innovative public procurement award is established to heighten the visibility of the procurement system. While the award process is well received and generates positive media coverage, the Ministry of Public Administration, which co-ordinates the process, struggles to find notable cases.

The Ministry of Public Administration tackles a key factor in innovation cited by stakeholders – the time and available resources to test new and innovative procurement methods – by undertaking a time study of public procurement to establish where and how much time is spent in the procurement lifecycle. In addition, working groups from communities of practice map out different user journeys across different sectors and types of procurement authorities. This allows the Ministry to propose standards, streamline helpdesk activities and propose further avenues for automatisation of the process. However, more innovative procurement methods fail to emerge, as the associated risks are still perceived as high, with few incentives to push for more strategic procurement.

Centralisation becomes a key priority within the Ministry of Public Administration. In order to save time and money, the government seeks to reduce duplication among smaller procurement offices with limited procurement experience and knowledge. This new strategy produces immediate benefits in terms of pricing and overall time spent on procurements, but increases the strain on the Ministry, which is tasked with organising and executing these procurements. Additionally, the smaller procurement authorities remain sceptical of the initiative as a result of centralised procurement, due in part because the central procurements do not always meet their context-specific needs.

The Ministry of Public Administration invests more resources in developing a hub of expertise to develop consulting services for government agencies for procurement projects and to test and develop innovative ways to buy technology. Particular attention is paid to competencies for the development of innovation in procurement. However, the hub cannot consult with all public procurement authorities and greater emphasis is placed on capacity-building programmes and the professionalisation of procurement officers.

Slovenia continues to lead in transparency of procurement systems (making publicly availably tender notices, evaluation criteria, award notices and contract texts), but other EU countries are quickly catching up.

Box 5.1. Wild card: High-profile case changes the direction of the system

A large road infrastructure project utilising EU funding is carried out. A consortium of foreign companies with local Slovenian partners wins the tender. The tender is contested in the National Review Commission by several other companies, but proceeds as only small procedural irregularities are found. During project implementation, newspaper articles start to emerge implying an agreement between companies coming to tender at different times and potential bribes. No evidence for the former is produced. However, the political debate intensifies and calls to change the law emerge. After a long period of public debate, the government concedes to change the laws in order to intensify control of financial ties between companies. This implies new and intensive tasks for all procurement officers and significant changes to the IT system with high costs linked to the latter.

Source: OECD.

In the current route of the system one of the most challenging aspects is the potential of singular, high-profile procurement cases to challenge the system in its entirety and induce a process of legislative reform that does not benefit the system as a whole, but introduces new costs and administrative burdens to the system. This is described in Box 5.1.

Implications

The government builds an external legitimacy-oriented system with significant levels of transparency, but is vulnerable to unique and critical cases that can change the debate overnight. The lack of trust in the procurement system both inside and outside the public sector is not addressed. Incentives to use procurement as a demand-side measure for innovation and other socio-economic goals are not developed, as procurement officers consider the risk of more innovative public procurement or the use of more innovative means to be too high. Trust between different players in the procurement system – including procurement officers, policy makers, technical experts, auditors, NRC, journalists and the public – remains low.

Scenario 1: Creating a sandbox for testing different governance arrangements in procurement processes

Overview

The Ministry of Public Administration decides to test and trial new working methods. Recognising that they need support from both policy specialists and procurement officials, the Ministry decides to develop a community of strategic procurement specialist first, and then propose a potential test space for more innovative procurement processes. The Ministry calls together a community of practice of procurement professionals to first and foremost co-design an experimental space for innovative procurement, although other topics are also proposed for different working groups of the network.

The community also attempts to trial a free agent programme in which procurement officials temporarily help out organisations with tenders when specific expertise is needed or the authority is overloaded with tenders. Through the communities of practise, the central co-ordinating body, the Ministry of Public Administration, is able build more trust in the system and also push for more widespread use of framework contracts and modular development in order to encourage SME participation. The group also undertakes in-depth market consultation activities in some core areas identified by the government and conducts an analysis of joint or collaborative procurement actions.

After a period of co-design and communication around the initiative, the Minister backs the effort and beings it to a cabinet session, where several ministries decide to participate. The interest of key players including the Ministry of Economic Development and Technology, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and the Ministry of Infrastructure results in the initiation of a procurement sandbox. The sandbox does not aim to test radically new forms of procurement for which a regulatory experimentation space would need to be created, but instead aims to build and test supporting governance systems for procurements types rarely practised in the country. These support systems and innovative procurement methods are tested by carrying out pilots and demonstration cases for procurement processes new to the country. To support this effort, an overall community of procurement experts within the system is assembled. The National Review Commission and auditors contribute to the design of the sandbox as part of expert working groups, and journalists are invited to follow the initiatives. The National Review Commission and auditors serve to provide legitimacy to the sandbox and help ensure that it follows the necessary rules, but both organisations preserve their independence by only participating in the design stage to test new forms of procurement. The procurement sandbox is used to bring different experts together from across the system around innovative public procurement.

Lessons learned from the process are presented at procurement community meetings, and the control agencies, including the National Review Commission, commit to developing easily accessible preventive procurement guides for non-traditional procurement projects. The communities of practice facilitate the diffusion of lessons from appeal bodies, and provide an opportunity to gather feedback for the National Review Commission on how lessons from their decisions could be best presented and communicated. However, the possibility exists that failures within the sandbox could derail the initiative (Box 5.2).

Box 5.2. Wild card: An early failure in the sandbox overshadows all other projects

While two of the three major demonstration projects in the procurement sandbox go well, one project stalls due to lack of expertise in Slovenia to tackle a key issue. The sandbox members decide to proceed with the procurement regardless, in the face of strong political pressure to complete the projects. As the procurement scale and scope is not that large, only a few international bidders come to the tender and there is a general consensus that the Ministry may not identify a provider that meets its needs. As a result, the Ministry cancels the tender, but one of the international companies involved in the tender complains to local journalists about their experience of dealing with the government. The ensuing negative media coverage is not significant, but taints perceptions of the sandbox among politicians.

Source: OECD.

Implications

The government decides to invest in internal demonstration cases to prove that innovative approaches to procurement are possible. Yet, the success of the sandbox is based on too few cases, thus, not fully understanding and managing risks or understanding factors for success or failure. As a result, the approach is highly vulnerable to the success and failure of single projects and, based on these, other ministries will decide whether they want to be involved. High-profile cases are also deemed vulnerable to changes in government coalitions, if the efforts are not accompanied by attempts to build capacity within the system. Furthermore, the procurement sandbox will not be possible without a community of practice and buy-in from key stakeholders. The mechanism should include a way to encourage administrations that tested new approaches to promote them to others.

Scenario 2: A radical shift in the procurement system

Overview

The Ministry of Public Administration and the Ministry of Finance decide that in order to maintain a leading role in procurement, they need to invest more heavily in the system and develop new tools and methods to innovate. To this end, the Ministry of Finance devises an incentive system for government offices decreeing that 15% of all procurements have to follow an innovative approach. Additionally, if organisations save money on their planned project during the financial year, they can carry over the funds and use them for either capacity building or innovative procurement projects. Needed regulatory changes follow and the system takes effect.

In the meantime, the Ministry of Public Administration develops a toolbox and a capacity hub to help procurement officers within the system carry out procurement experiments. It also plans a programme to evaluate efforts, reporting twice yearly about successes and lessons learned from these projects in Slovenia and outside. The international procurement community takes notice and international companies (especially start-ups) increasingly demonstrate a willingness to tender bids in the country.

However, the majority of contracting authorities fail to reach their goal of 15% in two years, and the government reconsiders its approach. It selects a couple of priority policy areas as missions where innovative procurement ideas can be put into practice and innovation procurement can be adopted more thoroughly. One of these areas is sustainable development. In these areas, the state decides to establish a competence centre together with the Ministry of Public Administration and the Ministry of Environment and Spatial Planning. The centre aims to work across different levels, targeting contracting authorities at the national and local level. However, the new processes may add pressure to the system (Box 5.3).

Box 5.3. Wild card: Radical increase in turnover of procurement officers

The reform of the procurement system is implemented and the demands on procurement officers increase substantially. These include taking more risks and – together with the Ministry's hub – carrying out new types of procurement. While people working in the field view this as a positive change and are excited about the process, both stress and on-the-job demands mount. While the Ministry of Public Administration and Ministry of Finance try to keep up by proposing a raise in wages for officers and more funds to hire new people, procurement officers slowly start to leave the public service, increasing annual turnover to 30%. The system struggles to find alternative talent to take their place. Younger people are more inclined to accept positions on the basis of the recent innovations, the importance of the job and the increased wages, but lack the necessary experience or capabilities.

Source: OECD.

Implications

The government has undertaken an ambitious strategy to make the procurement system world class, but failed to take fully into account the strain on the traditional system during the transformation process. While the ministries involved prepared for the need to adjust the capacities of procurement officers, the change was very fast requiring behavioural shifts, and on-the-job effects of the reform were not taken systematically into account. In order to undertake this type of ambitious reform effort, all contingencies should be assessed and resources made available to deal with unforeseen issues during the change process. The responsibility for this process cannot rest solely with the Public Administration, and must be spread across the system.

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6 Conclusion

This conclusion pulls together the different narratives covered in the report and the recommendations that arise from the analysis. It also highlights different reform efforts from a systems perspective and operationalises the main leavers for change. The Slovenian public procurement system is ready for systems change. This process should incorporate new linkages and forms of collaboration, as well as different ways of analysing the strategic intent of the system and testing and experimenting with innovative procurement methods.

This report presents the results of work undertaken with the Slovenian public sector and the European Commission over the past 12 months. The report was co-created with stakeholders within the Slovenian Civil Service and relies on a series of co-designed sessions that drew upon systems and design thinking, futures research, behavioural insights and other methodologies. Its findings have been tested and validated step-by step with the community of actors, with co-design and capacity-building workshops carried out to create a common understanding of the procurement system's strategic aims and the main challenges – based on those ambitions – that the system is facing (Chapter 2). The aim of the project was not to publish a report, but rather to build readiness and momentum within the system to initiate the necessary processes inside government, with or without the OECD's further involvement.

Through desktop analysis of documents and extensive interviews with stakeholders, both inside and outside of government, OPSI reconstructed the development of the public procurement system with its inherent feedback loops and path dependencies. The procurement system as a whole in Slovenia has been impacted by high-profile cases which have generated negative perceptions (Chapter 3). However, over the past five years, the government has invested significant resources to make the system more open and transparent and demonstrate that, overall, the system is functioning well.

Nevertheless, public perception in Slovenia requires work and more systemic communication to overcome the image created over time. To this end, the Slovenian government should orient procurement usage towards its stated strategic aims and develop open dialogue processes with system stakeholders to highlight its work. However, there will always be public interest and scrutiny of the public procurement system. This will continue to be a focus for the media and civil society and citizens, as part of their role is to hold the public sector accountable. Hence, the government should make it easier for them to fulfil that role in the name of openness and transparency, but also deal with the side-effects of such interactions, which intentionally or unintentionally, may contribute to risk aversion in the public sector and hold back innovation. Some foundational tensions therefore exist within the public procurement system in Slovenia which the government has to contend with and the public sector most likely cannot solve. These can be alleviated but will always pose challenges to the procurement system. They include the size of the economy, knowledge disparities between sectors, and trade-offs between the centralisation and decentralisation of procurement activities. These challenges also exist in other public procurement systems.

Solutions exist to mitigate the above challenges, but fundamental issues will remain regardless of the degree of intervention. In many cases, strategic choices and some trade-offs will have to be made. There are obvious compromises connected to targeted and more open procurement procedures that have to be contextually analysed (e.g. under which conditions to limit competition to produce the most effective result). In addition, smaller public sector organisations still require goods and services that match their specific needs. Thus, the government can invest more in centralised co-ordination bodies and procurement competency one-stop-shops, although there are always going to be costs linked to communication and needs assessment connected to smaller contracting authorities.

Regarding the size of economy, Slovenia can target specific industries and build up sectors within the country using procurement as a demand creation measure. This will require detailed analysis of the potential of different industries and co-ordination with the country's entrepreneurial and innovation policy, which does not yet exist. However, in many sectors the specific needs and size of projects will extend beyond the Slovenian market, regardless of industrial and entrepreneurial development. For example, in areas such as the medical sector and bigger infrastructural developments, dependence on the European Union and global markets will remain. The question here is how to obtain value for money under larger market conditions and develop partnerships with companies beyond the local market. Even large tenders for Slovenia may not be sufficient to make deals with dominant market suppliers in specific industries. Thus, market research and opportunities to partner internationally for tenders will become an important variable, in addition to the ease of participation in local tenders for international companies. While much can be done to make the system more user-friendly internationally, tensions in this area will remain.

At inter and intra-organisational levels, specific interdependencies within the Slovenian public procurement system need to be dealt with in a holistic way. Chapter 3 identified seven specific system systems challenges or dilemmas specific to Slovenia:

1. **Strategic versus tactical action.** As procurement is rarely viewed as a strategic activity in Slovenia, it is not surprising that most of the time, effort and priorities for most of the procurement system are tactically focused. Capacity to use strategic procurement is very low.
2. **Fragmentation versus co-ordination.** The Slovenian procurement system currently operates in a fragmented manner. This fragmentation leads to tactical thinking, less focus on the mission and outcomes, limited learning and spreading of good practises, and reduced understanding of how the system works. This cannot be addressed only through co-ordination from the centre.
3. **Legal versus behavioural leavers for change**. Slovenia has a strong legal-based system with little tolerance for mistakes and failure. Most responses to inefficiencies or lack of effectiveness are countered with legislative changes. At the same time, there is a huge implementation gap resulting from cultural and behavioural factors.
4. **User-centred versus process-driven development**. There is a lack of learning and feedback loops within organisations, ministries and across and outside government. Thus, development of the procurement system focuses on upgrading the technical system rather than user needs inside and outside of government.
5. **Perception versus reality**. Reducing corruption was the most-cited reason for reform, with corruption also cited as the cause of complicated processes and additional burden during the procurement process. The perception of corruption is usually created through single, high-profile cases that do not correspond to overall practices inside government. Rather than employing additional ex ante analysis and expert input to tackle these procurements, the government has decided, thus far, to transform the system for all in a horizontal manner. The resultant adaption processes generate costs within the system.
6. **Isolated incentives versus aligned action**. In the current fragmented system, procurement officials view success in terms of passing through the procedure with few delays, no appeals or no successful appeals. Aligned action around strategic aims and intra-organisational goals is usually not taken into account.
7. **Public scrutiny and accountability versus risk aversion**. Risk aversion and avoidance within the public procurement system is usually linked to lacking support, expertise and time necessary to meet all of the challenges. These will remain as challenges within the system, thus alternative options to free up resources, bring in new capacity, and enhance internal and external support need to be considered.

After analysing these challenges, the OECD organised co-design sessions with the Slovenian government to validate and tackle them in a systematic manner. The following clusters of activity were outlined (Chapter 4) and tested for readiness in scenario-building exercises conducted inside the government (Chapter 5):

- **Develop communities of** practice that can share knowledge, develop expertise, build trust and implement solutions faster across the procurement system.
- Tackle the fragmentation of the procurement system by creating **new forms of work processes officials** that foster understanding and collaboration between technical experts and procurement.
- Manage risk by creating **safe spaces for experimentation** to test new procurement methods, with input from oversight organisations such as audit, revision and competition authorities.
- Support **capacity building and risk taking** within the procurement process to ensure that procurement can achieve the strategic aims of government. This involves the creation of activities to professionalise the workforce and room and resources to innovate.

- **Build up the role and image of the public procurement system**, and tackle issues linked to negative perceptions of the system, to help the profession become an attractive and highly regarded option for future employees in the public sector.

As outlined in the scenarios presented in Chapter 5, the Slovenian Government can tackle these issues in different ways and with diverging levels of ambition. However, to be effective, reforms in the procurement system require the different parties involved to build up trust and collaboration, and that there are feedback and learning loops among the various actors. This is where a community of practice with different working parties could deliver the most value. Such working parties under the co-ordination of the Ministry of Public Administration could serve as a source of living and adaptable policy guidance. As the public procurement data system evolves and becomes more interoperable, the ecosystem around the communities of practice can grow, learn and evolve. This could also serve as a platform through which different parties could openly share their processes and templates and help procurement officers from smaller authorities access and re-use them. The design of these communities and sharing platforms could be informed by similar approaches in Portugal, the United Kingdom and United States, among many others. Communities of practice as a means to greater collaboration can also serve as a way to conduct joint market research and open a dialogue with non-governmental actors. Furthermore, they could engage with awards and other forms of recognition for procurement officers that may help raise the profile of the profession externally, as well as spread learning faster. Additionally, communities of practise could serve as the basis for mobility schemes for procurement officials to tackle some of the challenges coming from a decentralised system. This would require more flexible forms of human resource planning within the sector. Various initiatives that could support the activities are described in Chapter 5.

Another systemic gatekeeper for the use of strategic procurement towards substantive aims (Chapter 2) is the use of multi-disciplinary teams, working together throughout the procurement process, with each having shared goals. Such teams would include programme and procurement officials, as well as other potentially relevant stakeholders. According to stakeholders in Slovenia, the procurement process is highly disjointed at present and collaboration between policy specialists and procurement officers to define aims and possibilities does not happen as frequently or as deeply as necessary. Design, hackathons, challenges and other non-traditional forms of collaboration during pre-procurement phases are not commonly practised. Any attempt to implement these approaches in the Slovenian public sector would require not only capacity but also collaboration among different experts in government. This is even more important when dealing with agile procurement and technological development, where development and tendering is modular and iterative.

Collaboration is also crucial to redefining procurement award criteria beyond the lowest price. Only together can officials establish the criteria for success with a view to achieving strategic aims. Examples of such criteria include the efficiency of project execution, business performance substantive aims (social, sustainability goals, etc.) technological innovativeness, personal growth and professional development of the team. These criteria must also be supported by organisational leadership and work planning processes. Collaboration should expand the whole lifecycle (see Figure 4.1, Chapter 4) of the procurement process in order to build better feedback loops regarding the success of projects in their entirety, beyond execution on schedule and lack of delays. Currently, such evaluation tools and feedback systems are absent, and no information is collected systematically about more substantive policy outcomes of the process and the performance of outside partners. This also limits the possibility of successfully monitoring and evaluating secondary goals of procurement, such as driving the economy.

One of the biggest challenges uncovered through the OECD's work with Slovenia is a significant aversion to risk. While legislation covering different forms of innovative procurement is in place, such approaches are not used in practise. In order to tackle this in a more systematic manner, the government needs to establish a safe space for experimentation. However, taking into consideration the current culture and organisational capacities of government, it is unreasonable to assume that all procurement authorities will be ready to implement new and innovative procurement approaches immediately. Instead, demonstration

cases could be used to socialise new approaches and change the supporting infrastructure. These could be incubated within a public procurement experimentation sandbox or a lab. They would need to be supported by capacity building and tools for agile contract language, templates and tips on how to use them. These could be developed as part of the activities of the communities of practice and kept as an evolving repository of knowledge. The work of the sandboxes could include more user-centred approaches to procurement. They could also push forward more strategic procurement efforts around specific government goals such as sustainability or emerging technology.

All of the above requires professionalisation and capacity building within the public sector to ensure successful implementation. While much work has been done on procurement competency models at the EU level (Chapter 4), there is a need for opportunities to apply these capacities on the ground. There is also a need to tie these competencies to new ways to acquire information from external partners, especially through collaboration. This leads to opportunities to introduce new ideas and innovative approaches to the public procurement system of Slovenia. However, the up-front and waterfall procurement practices currently dominating the system do not make room for the former. In order to create that space, the government must take a more proactive stance to addressing team workload, and demand for and incentives to carry out alternative procurement procedures.

None of the above-described clusters of interventions will solve all the issues within the public procurement system of Slovenia. Moreover, any upgrading efforts must involve a systematic analysis of any barriers that new solutions will help address as well as new challenges they create. Integrating new solutions will also create new pressures in the system, whether in terms of time, capacity or other challenges. These will need to be addressed simultaneously. Finally, using procurement as a core, strategic function of government places more pressure and responsibility on procurement authorities and officers. As such, it is essential to boost appreciation for their core role and their image within the public sector. Otherwise, the objectives of the Government of Slovenia’s ambitious procurement journey will not be realised.

OECD Public Governance Reviews

System Change in Slovenia

MAKING PUBLIC PROCUREMENT MORE EFFECTIVE

This report uses systems thinking tools to address pervasive problems in Slovenia's procurement system that the government has struggled to remedy through traditional regulatory means. The report outlines how room for innovation can be created within highly regulated policy domains and how governments can systematically benefit from it. Systems thinking allows for a new understanding of the role of procurement. The report explores potential reforms that could be designed from the bottom-up, to address specific behavioural and structural barriers – such as public perception, risk aversion, accountability and control functions – that cannot be addressed using only a legalistic approach.

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