

Chapter 6. Rethinking IMSS procurement strategies to maximise efficiency and sustainability

Ensuring that IMSS procurement maximises its potential for better healthcare requires the institute to strive continuously to improve. This chapter discusses the impact of IMSS's past procurement strategies on competition, value for money and efficiency. It also identifies possible risks which could undermine the sustainability of their benefits. It provides recommendations for mitigating those risks and to secure benefits from procurement for the institute and its beneficiaries in the long term.

Over the past ten years, IMSS has reached a number of milestones along the road to achieving full procurement efficiency and strong competition in the markets in which it operates. These milestones include leading the largest consolidated procurement scheme in the Mexican public sector. Continuing along this fruitful path, however, requires continuous rethinking of how IMSS's procurement policies and practices can provide better healthcare services by boosting their efficiency and ensure their long-term sustainability. Considering that one-third of public procurement expenditures across most of OECD countries is dedicated to health care, this exercise is essential for any healthcare system wishing to optimise the use of its resources and to provide the best possible care to contributors (OECD, 2017^[1]). Further opportunities are available for IMSS to increase efficiencies and maximise competition. This chapter explores some of them, which include opportunities for making savings, eliminating inefficiencies, ensuring a level playing field for suppliers and aligning procurement strategies with national healthcare objectives.

How can procurement strategies maximise value for money in the long term?

Implementing longer term assessments of the financial impact of its procurement strategies would provide IMSS with the opportunity to reassess their effectiveness

By monitoring the financial impact of procurement strategies over time, IMSS can extract valuable lessons on which components are effective and others whose impact is diminishing, thus laying the foundations for further improvements in the institute's procurement policies and practices.

That healthy competition can lead to savings is widely acknowledged and has led IMSS to develop specific procurement strategies to foster competition. Among others, aggregating needs is often seen as a strategy that can support greater competition (Albano and Nicholas, 2016^[2]). Yet competition, and the efficiencies it entails, also has a temporal dimension: competition today can have an impact on competition tomorrow; this is particularly the case in the context of recurrent purchasing activities in consolidated tenders for medicines. The fact that a certain measure increases competition in the short term does not mean that it will always produce the same effect. The effects of a measure on competition must thus be considered in a long-term context.

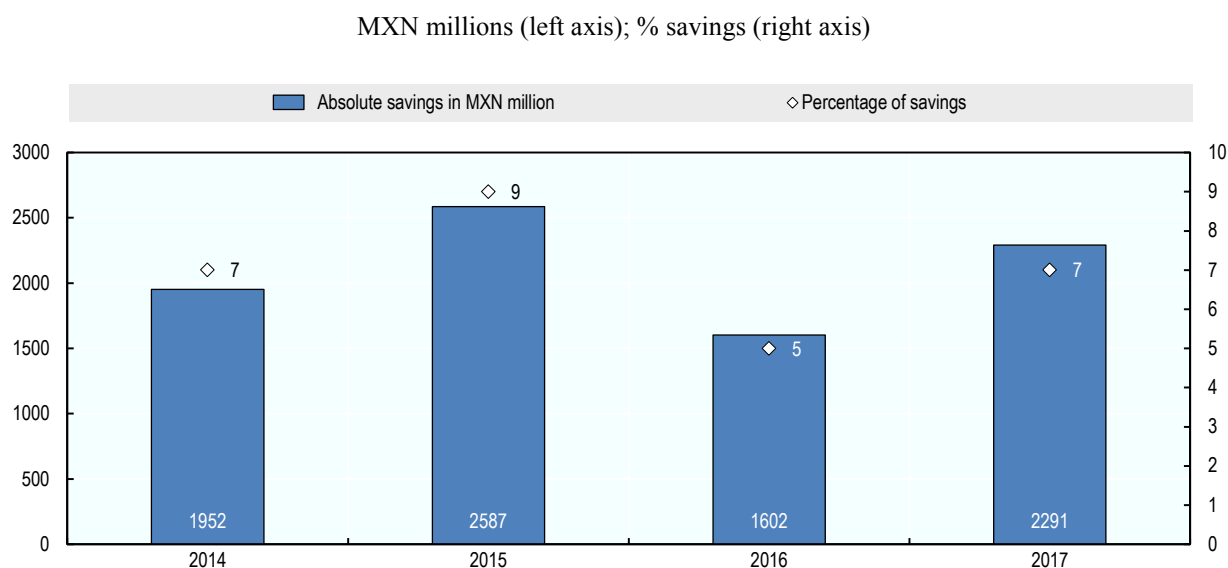
In 2013, IMSS led the largest consolidated procurement scheme in the Mexican public sector. Since then, approximately 43 consolidated procurement procedures have taken place, covering a number of high-rotation goods, such as medicines, vaccines, medical equipment, radiological material and laboratory material. The 2017 procurement operation resulted in savings of nearly MXN 3 352 million in comparison to the previous year's costs. The average price of products purchased outside of the consolidated procurement scheme has been calculated to be 1.98% higher than the price of the same goods purchased by means of a consolidated procedure (Investigación Farmacéutica, 2017^[3]).

The Coordinating Commission for the Negotiation of Medicines Prices and other Health Products (Comisión Coordinadora para la Negociación de Precios de Medicamentos y otros Insumos para la Salud, CCNPMIS) estimates that the accumulated savings achieved since 2013 through the consolidated purchase of patented drugs alone amount to MXN 2 340 million. The competitive prices for drugs and therapeutic goods achieved through

consolidated procurement operations mean they are currently used as a reference by institutions in the Mexican public health sector seeking to purchase similar goods.

Savings totalling MXN 14 215 million were achieved between 2013 and 2016 by all the dependencies, entities and institutes participating in consolidated purchases (Figure 6.1). IMSS benefited from almost 60% of these savings (MXN 8 432 million).

Figure 6.1. IMSS accumulated savings in consolidated tenders, 2013-2016



Source: Information provided by IMSS

However, there are indications that some of the advantages of consolidated purchases may be losing their initial lustre over time. Aggregating needs may increase competition in the short term by attracting large firms that had not previously been interested in participating in non-consolidated procurement procedures. But when a significant share of public contracts for a specific product is awarded to a reduced number of winning firms, it is likely that some firms may be pushed out of the market or become weaker competitors (through loss of experience or learning) in the medium term. This could weaken competition in future competitive procedures if no additional measures were taken to ensure their participation.

Similarly, excluding companies from participating in future procurement procedures because of contractual breaches may be a procompetitive measure in certain contexts by encouraging companies to execute their contractual obligations satisfactorily. Yet it could also affect competition in the long run, particularly in concentrated markets with high entry barriers. Achieving savings by aggregating needs in the short term may therefore result in inefficiencies and weakened competition in the long term if the risks of this procurement strategy are not thoroughly monitored and mitigated.

That these impacts of IMSS's consolidated procurement strategies are occurring is suggested by a decrease in the rate at which the savings achieved have been falling, as well as by signs that competition may have become weaker. Indeed a number of consolidated procurement procedures have been declared partially void for specific items because of the absence of competition (Table 6.1). Between 2013 and 2016, consolidated procedures were declared void for an average of 17.6% of product references, mainly

medicines. Six product references have been continuously declared void since 2014 (Investigación Farmacéutica, 2017^[3]), questioning the effectiveness of aggregating those specific needs into consolidated tenders.

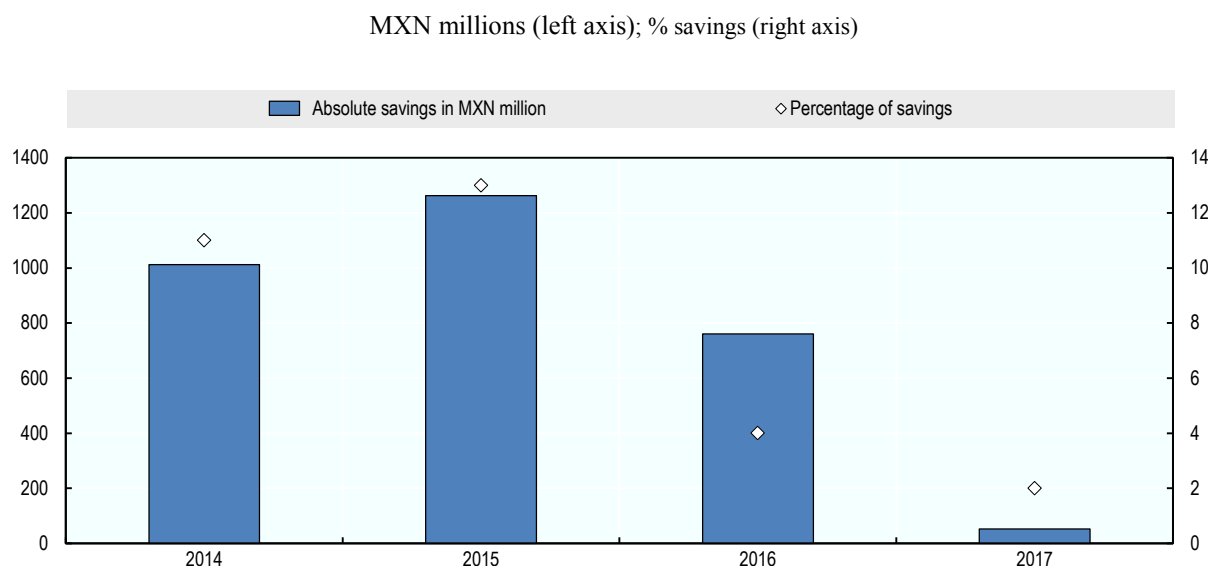
Table 6.1. Void references in consolidated tenders, 2013-2016

Number of product references for which consolidated procedures have been declared void			
Year	No. of product references included in the call for tender	No. of product references for which the procedure was declared void	% of void references
2013	1,890	229	12%
2014	1,905	353	18.5%
2015	1,760	430	24%
2016	1,651	270	16%

Source: Data provided by IMSS

This has led to the IMSS having to issue tenders for individual items or to resort to direct award procedures, even though the price obtained by the use of these mechanisms is, on average, 105% higher than the maximum reference price determined through the market investigation (Investigación Farmacéutica, 2017^[3]). Comprehensively assessing the potential for savings of consolidated tenders therefore also requires integrating these indirect costs.

Besides general strategies, IMSS has also implemented specific procurement techniques, such as reverse auction mechanisms, aimed at generating financial savings. Under this mechanism, participants are able to offer additional discounts on their initial prices once these are made public (the Mexican Federal Law on Acquisitions, Leasing and Services, or LAASSP, specifies that no maximum reference prices shall be used). Aspects of the offer other than price cannot be modified. This method brings prices down as competitors underbid each other. The consolidated purchase procedures currently carried out by IMSS frequently feature reverse auctions (also known as subsequent discount offer or SDO schemes). Figure 6.2 provides an overview of the savings to IMSS linked to the use of SDOs between 2014 and 2017.

Figure 6.2. Savings to IMSS in subsequent discount offers, 2013-2017

Source: Data provided by IMSS

As Figure 6.2 illustrates, the savings achieved by SDOs have been sharply decreasing over the past two years. This suggests there could be a limit to the price reductions that competitors can offer, beyond which further discounts would make their commercial activity inviable – which could explain this reduction in savings. Moreover, SMEs can be adversely affected by the use of this mechanism because of its extensive focus on price reduction and thus reducing profit margins. This is why the LAASSP forbids SDOs whenever SMEs participate in a tender procedure.

This analysis shows that this particular procurement strategy has also lost its effectiveness over time, at least for the type of goods and services it is used for (notably medicines). Multidimensional assessments can help determine whether the mechanisms require improvements to generate more savings, or whether they have reached their peak because efficiency savings cannot grow any more. Knowing this would allow IMSS to concentrate on other elements which could have a greater impact on the efficiency of its procurement strategies.

Eliminating inefficiencies

IMSS could remedy several sources of inefficiencies in its procurement strategies, such as contract heterogeneity and short duration, hindering further savings

Although IMSS's procurement practices and policies have many virtues and have led to efficiency gains for IMSS, as well as the provision of better healthcare services supported by a more solid budget, it seems that the system still has ample room for improvement.

In addition to the issues discussed above, there are two other elements which are leading to inefficiencies. Firstly, the structure of consolidated purchases led by IMSS is extremely complex, which can give rise to problems related to contract management (discussed in Chapter 4). Although the tendering process is consolidated, each single

procedure gives rise to dozens of different contracts, each with its own payment and delivery conditions. These can in turn generate inefficiencies and produce market foreclosure effects.

Contract management and monitoring, as well as the handling of payment processes, are decentralised and managed by each of the authorities participating in the consolidated procedure (Chapter 4). When the signing entities operate at state level, the contracts to which they are party may be governed by the relevant state laws, whose provisions may differ significantly from those of their federal counterparts. This situation increases compliance costs for suppliers, who have to comply with both state and federal laws, and can be a source of inefficiencies in contract management. Moreover, some states may ask to modify the conditions in the framework of the consolidated purchase.

Contractual conditions may also vary significantly amongst the different agreements issued from a single consolidated purchase procedure. Some of the participating entities may request delivery of the purchased products by means of one contract to multiple locations, including areas that are difficult to access. Other participants may request bespoke packaging for certain medicines. It also complicates financial planning and budgeting for suppliers – with the ensuing financial costs. IMSS could therefore consider ways in which the complex structure of consolidated procurement procedures could be simplified and streamlined.

Standardising contracts

Standardisation of contracts could be one way forward for consolidated tenders. It provides a number of substantial benefits – not only to suppliers, but also to contracting entities, by harmonising the balance of risks. One possible approach would be to include in the tender documentation a model contract (Box 6.1) or catalogue of general conditions containing the basic clauses and terms applicable by all the contracting authorities to the procurement of each reference code or to the procedure as a whole. It could be specified that these basic conditions would not be modifiable by any of the parties post-award.

These conditions could include price terms, delivery conditions, payment terms, provisions governing the distribution of risks, or clauses governing non-compliance procedures. Any contractual conditions not included in this document could be subsequently negotiated individually.

Box 6.1. Government model contracts in New Zealand

The New Zealand Ministry of Business, Innovation and Employment has released government model contracts, a set of standard conditions of contract for routine low-value, low-risk government purchases of common products. They are meant to become the default government contract, aimed at creating “a standard, simple, plain English set of conditions of contract for common goods and services” to be used by all public bodies, in order to:

- provide simple, plain English contracts that are easy to use for both agencies and suppliers, and simplify doing business with government
- provide a fairer balance of risk between buyer and supplier
- standardise the treatment of legal risk in low-value, low-risk contracts
- reduce the need for negotiations and legal advice in routine purchases
- promote consistent practice across government, support improved procurement practice and align with international best practices
- promote process efficiencies in high-volume, low-value transactional contracting.

Source: (New Zealand Ministry of Business Innovation and Employment (MBIE), 2017_[4])

Extending the products covered by consolidated procurement

IMSS could also assess whether consolidated procurement could be extended to other goods and services not currently procured under this scheme. Consolidated purchase procedures currently only cover the acquisition of medicines and other healthcare supplies, such as vaccines and healing, radiological and laboratory materials. Although this portfolio of products includes high-rotation goods which are essential for the fulfilment of IMSS’s mission, it is not as extensive as it could be. There is a very broad and varied range of products, services and work that are common necessities for most public entities, even if they are not as directly related to the provision of healthcare services as healthcare supplies. An expansion of this product portfolio could help IMSS extend the immediate savings obtained in the purchase of medicines and other healthcare supplies to the procurement of other products.

In principle, all core items and services required across various institutions could be candidates for inclusion. Some examples of these widely used goods, services and works include food products, transportation services and vehicles, stationary supplies, maintenance and cleaning services, external consultancy services, research and renovation work.

IMSS and its consolidated procurement partners could begin by compiling an inventory of the various participants’ requirements in order to identify core inputs used by all or the majority of the institutions which could be delivered through consolidated procurement.

For example, with regard to the procurement of food served in hospitals, even though different hospitals across the country cater to different food preferences, in principle two categories of food items could be identified. The first category would include volume core items, such as water, that constitute an essential requirement for all hospitals across the country. The second category would include specialty local or regional foods. Whereas the former category could be procured through national consolidated

procurement, the latter could preferably be the object of regional consolidation of purchases.

Using multiannual contracts to generate further savings

By extending the duration of contracts derived from consolidated tenders, IMSS will create additional opportunities for savings not solely from more competitive pricing but also from reduced internal costs and extended production lead-time.

Longer contracts may also increase efficiency, although the question as to whether longer or shorter contracts fit an optimal procurement strategy can only be answered through a market study, together with a careful analysis of the organisation's needs. For instance, long-duration contracts may have a lock-in effect, favouring incumbents and preventing entry to the market by new competitors. On the other hand, they may have many positive effects which outweigh these negative impacts. For instance, multiannual contracts may:

- give rise to economies of scale and scope that result in price savings
- open the market for larger-sized companies interested in higher-value contracts
- increase competition and foster innovation by offering firms better chances to recoup investments
- create operational efficiencies by shortening suppliers' learning curves
- guarantee continuity of supply
- facilitate the alignment of procurement practices with medium- and long-term strategic priorities
- reduce the administrative burden associated to frequently recurrent purchases
- hinder collusion by providing a tool to avoid repetitive contracting and extending the waiting period for cartel members to engage in bid rotation.

Engaging in multiannual contracting is one of the lines of action included in IMSS's Strategy to Foster Competition in Public Procurement (IMSS, 2017^[5]), based on OECD recommendations.

IMSS has made use of multiannual contracts in some contexts, e.g. for the procurement of integrated services (discussed below). IMSS estimates that the use of multiannual contracts for integrated services procurement helped the institute save MXN 2,969 million in 2016 while avoiding supply delays and stock outs.

However, multiannual contracts are not used for consolidated procurement. Contracts stemming from consolidated procurement procedures can currently only be valid for a maximum period of one year. While, as noted above, it is not possible to assert that multiannual contracts are always the most appropriate option, it would appear that in this case, recurring needs, high volumes and value would warrant a thorough assessment of the possibility of implementing multiannual contractual frameworks for consolidated purchases.

The LASSP and the LSS (*Ley del Seguro Social*, or Social Security Law) do allow for multiannual contracting, setting out the conditions under which multiannual contracts may be authorised. The IMSS's Technical Council is responsible for approving multiyear contracts, which must also be reported to the Ministry of Finance and Public Credit (SHCP); moreover, the Requiring Areas must provide budgetary support for multiannual contracts. These areas could work together to explore the possibility of extending the use of multiannual contracts to consolidated procurement procedures.

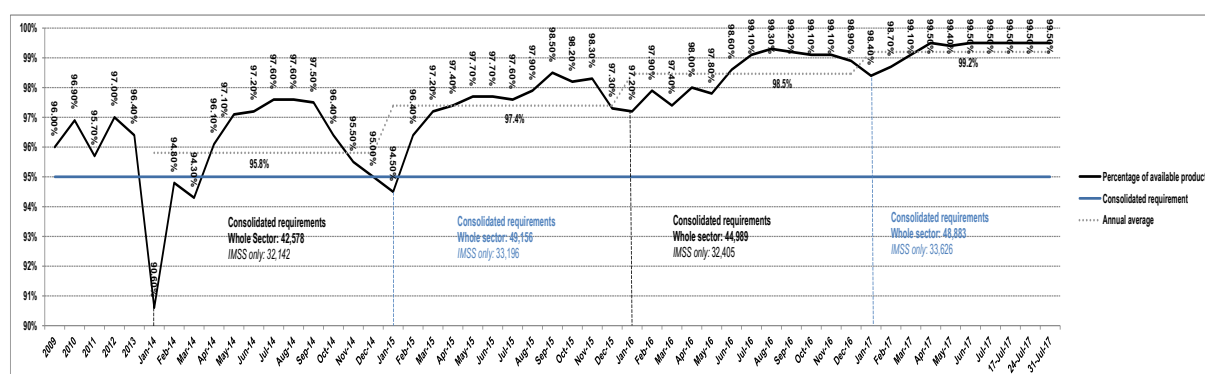
This would however entail an agreement amongst participating entities on the duration of such contracts. Yet, the benefits implied by extending contract duration, such as increased spend visibility for suppliers, and additional time available to conduct market research and define tender design for contracting entities, could open the door to additional savings.

To reduce any loss in flexibility derived from the use of multiannual contracts, IMSS could include a number of safeguard clauses, such as price review mechanisms, clauses allowing for the option to update the products with any innovations developed during the contract's validity period, or penalties for suppliers suffering from stock outs (as long as this event is not due to unforeseeable circumstances or force majeure). This latter would make them responsible for any extra amounts paid to other firms for acquiring sold-out products. In general, longer contract periods would also increase IMSS's ability to include clauses fostering innovation by suppliers (for instance, clauses linking financial compensation to better patient outcomes from the purchased solutions), since a longer contract would allow firms to recoup any necessary investments in innovation (see Chapter 9). The possibility of extension could also be stipulated in multiannual contracts.

The extension of contracts for procuring drugs would also bring additional benefits for suppliers, thereby reinforcing the attractiveness of IMSS's consolidated tenders. Indeed extending the duration of contracts could have an immediate effect on the timeframe of the overall procurement process. Best practice for supply management of drugs suggests that the time between the start of the bidding process and the contract award should be at least five months (Management Sciences for Health, 2012^[6]). For consolidated tenders led by IMSS this period lasts at best three months, mostly because of the short duration of the ensuing contracts.

Besides the short duration of the tendering phase, the current duration of contracts also affects the production lead time required for manufacturers to produce the drugs. This situation has two main effects. Firstly, it affects the level of replenishment of stocks in IMSS pharmacies, ultimately affecting patients in need of those specific medicines, as shown in Figure 6.3.

Figure 6.3. Level of supply of medicines



Source: Information provided by IMSS.

Indeed, one can see in the figure above that although stocks are regularly improving and are now at historically high levels, stocks are low at the beginning of each year when new contracts enter into force. Secondly, short contracts also prevent smaller manufacturers of

generics from competing, thus affecting the efficiency of IMSS procurement process (See chapter 8)

Ensuring a level playing field in IMSS procurement

IMSS should ensure that its tenders are encouraging participation and supporting increased competition by federating expertise from technical and procurement areas.

Tender documents play an important role in creating efficiencies as well as in promoting competition. The OECD Recommendation on Public Procurement (OECD, 2015^[7]) advises that tender opportunities be designed to encourage broad participation and that adherents ensure that procurement outcomes meet the needs of customers, for instance by developing appropriate technical specifications. Moreover, the OECD Recommendation on Fighting Bid Rigging (OECD, 2012^[8]) acknowledges that the way in which tender documents are written influences the outcome of the selection process because it has an impact on the number and type of suppliers that are attracted to the tender.

Ensuring flexible tender documents

When tender documents are flexible, for instance when they include functional requirements detailing the expected outcomes without imposing technical specifications to deliver them (see Chapter 9), the number and variety of potential bidders will be higher since the process will be open to providers of a range of substitute products and services. Innovation will also be fostered, since suppliers will be given the chance to propose alternative sources of supply (see Box 9.6, Chapter 9). Moreover, allowing for innovative or alternative solutions will make collusive practices more difficult. These factors result in better value for money and stronger competition. Besides innovation, alternative definitions of the same needs would target different markets, thus broadening the playing field in IMSS procurement operations.

In fact, IMSS has already tested the benefits of providing alternatives to the traditional definition of some of its needs. In the context of the Strategy to Foster Competition in Public Procurement (IMSS, 2017^[5]), it identified that leasing schemes may in some instances be more advantageous for the institute than the traditional purchasing solution. An instance of this is the substitution of IMSS's vehicle fleet with the procurement of integrated rental services in 2016, which saved MXN 101 million.

Leasing can also help IMSS increase financial flexibility. IMSS assessed the opportunity costs linked to the large initial outlay required for purchasing a fixed asset such as vehicles. These entail a decrease in the resources available to be assigned to working capital. These opportunity costs can be avoided by substituting purchasing models with leasing models, which liberates working capital resources. As well as contributing to direct and indirect savings, this procurement strategy also helped to target different type of suppliers, thus mitigating risks of market concentration and technological lock-in.

Drafting clear tender documents

When tender documents are clear, suppliers will be better able to understand the goals of the procurement procedure. Moreover, clarity reduces room for discretion, and therefore corruption, on the part of buyers. These factors will make suppliers confident in the procurement procedure, which will in turn increase participation and competition.

However, in the health sector specifications can be complex given the technical jargon necessary to describe the results expected of bidders. This is why, in most cases, technical specifications in IMSS tenders are written by subject matter experts in the requiring areas rather than procurement officials. Yet, IMSS should also ensure that procurement experts are closely involved in the design of tender documents to complement the technical skills with strategic procurement skills, a prerequisite for identifying and assessing the relative merits of various procurement strategies.

Suppliers' inputs, as experts in product characteristics as well as in market conditions, can also be helpful in ensuring that definition of needs meets market capabilities.

Using award criteria wisely

The choice of award criteria can also have an impact on the efficiency of a procurement procedure. Whenever possible, award criteria should be diverse, non-discriminatory and clearly defined. This may make the difference between choosing the solution that best fits IMSS's holistic needs and choosing a product that, while cheaper than other alternatives, will fail to provide IMSS with the most advantageous solution. As discussed in Chapter 9, economic considerations alone fail to capture the many ways in which IMSS's procurement practices can influence the results of different working areas across the institute. When objectively measurable award criteria reduce the risk of abuses of discretion, and therefore limit the likelihood of post-award challenges, while encouraging current and future participation. Moreover, the more diverse the award criteria, the harder it will be for suppliers to implement collusive schemes.

Generally speaking, the award criteria used in IMSS's procurement often seem to consist of a "binary" evaluation method: a pass or fail mechanism in which the cheapest tender that satisfies minimum technical requirements will win. This is particularly the case for medicines. Instead, IMSS's tender documents should regularly include award criteria that, in addition to price, also assess a variety of factors such as the entire life-cycle costs (including the costs of use, ownership, maintenance, and disposal), guarantees, speed of delivery, energy savings and post-sale services. Currently, these elements are not systematically considered. Doing so could allow the institute to reward cost-cutting and innovation and introduce additional dimensions on which competition takes place among bidders. Award criteria should of course be set so as not to grant individual advantages and to avoid abuses of discretion. Their description and their weight in the contract award must be appropriately specified in advance by means of the tender terms, to allow suppliers to better prepare their bids and to prevent challenges being raised by bidders at the post-adjudication stage.

IMSS's procurement framework already allows for the use of diverse award criteria, since the points and percentages award method is encouraged by the LAASSP (art. 36) and its implementing regulation, and is allowed for (if not encouraged) by the LOPSRM (art. 38).

There are currently no formally established quality systems or co-ordination mechanisms to assess the adequacy, clarity and restrictiveness of tender documents. The Contracting or Requiring Areas are in charge of drafting the technical specifications, proposing the technical evaluation method and specific criteria. However, they receive no training in performing these tasks and there is no independent or third-party review of their work in this regard.

The Co-ordination of Supply Control maintains quarterly contacts with local entities and Highly-specialised Medical Units (*Unidades Médicas de Alta Especialidad* or UMAEs) in order to gather data on their real consumption, particularly of medicines. They use these data as the basis for defining procurement requirements. However, this collaboration refers to the types and quantities of products and does not define how clearly, adequately or restrictively the specifications are to be written.

IMSS could establish an independent review mechanism or quality system (such as a review undertaken by procurement units, independent commodity experts or committees) to ensure that tender documents are drafted as clearly and understandably as possible, that they do not unnecessarily restrict entry or competition, and that they are able to extract the best value in both the long and short term for IMSS. This review mechanism could be led by a separate internal team or involve the support of external experts.

Additionally, IMSS could consider providing the Requiring and Contracting Areas with training on drafting tender documents.

Identifying and removing entry barriers

As described above, consolidated and centralised procurement may be the source of many advantages for procuring entities and suppliers alike. However, it may also create barriers to market entry that prevent potential suppliers from participating or that reduce their ability to do so.

Currently, around 51% of IMSS's total procurement expenditure is allocated to only four companies, the largest of which has a 23% market share (DIMESA, see Table 6.2). Concentration levels are higher in the context of consolidated procurement, where three bidders made up 53% of IMSS consolidated procurement expenditure in 2016-2017. As Table 6.2 also shows, the market shares of IMSS's main suppliers have been growing steadily over the past few years.

Table 6.2. Evolution of awarded contract value and share in total procurement expenditure, medicines and healing material

Value expressed in MXN million

No.	PROVIDER	AWARDED		AWARDED		AWARDED		AWARDED	
		2014	%	2015	%	2016	%	2017	%
1	DIMESA	3,656	14%	5,292	20%	6,711	24%	6,904	23%
2	FARM. ESPECIALIZADOS	4,407	17%	3,474	13%	4,853	17%	6,336	21%
3	CPI	1,619	6%	2,022	8%	2,424	9%	2,677	9%
4	MAYPO	2,155	8%	1,621	6%	1,526	5%	1,016	3%
5	CIMSA	698	3%	692	3%	1,264	5%	1,357	5%
6	VITASANITAS	658	3%	818	3%	773	3%	0	0%
7	RALCA	331	1%	463	2%	759	3%	975	3%
8	DIBITER	526	2%	-	0%	295	1%	526	2%
9	LANDSTEINER PHARMA	435	2%	875	3%	8	0%	0	0%
10	SAVI	4,201	16%	39	0%	0	0%	0	0%
Subtotal		18,688	73%	15,294	58%	18,613	67%	19,792	66%
OTHERS		6,779	27%	11,048	42%	9,246	33%	10,071	34%
TOTAL		25,467	100%	26,342	100%	27,859	100%	29,863	100%

Note: The fiscal year indicated is the contract performance year. Vaccines and patent/single-source drugs not included.

Source: Information provided by IMSS

This concentration level is not on its own a fool-proof sign that market competition is weak or that IMSS procurement policies and practices are raising entry barriers to the market, but it might be an indicator, depending on the characteristics of the market.

The fact that only four companies hold the vast majority of IMSS's business is a risk factor for the creation of several lock-in effects that can exclude firms of all sizes, and which may weaken competition in the long run:

- Over time, companies that repeatedly receive similar types of contracts through IMSS procurement gain know-how and experience that place them at a significant advantage over other firms. This is particularly the case when award criteria place a heavy weight on prior experience in the performance of similar or related contracts.
- Lock-in effects can exist when specific investments, for instance in distribution or logistics networks, are required by companies to perform a certain contract. This is particularly the case when these investments constitute sunk costs, namely when they cannot be utilised for purposes other than the one for which they were made.
- The fact that IMSS and its consolidated procurement partners have become jointly dominant buyers for certain goods in the Mexican market only exacerbates these effects, as there are not many, or any, other buyers whose business could provide firms with a similar competitive advantage.

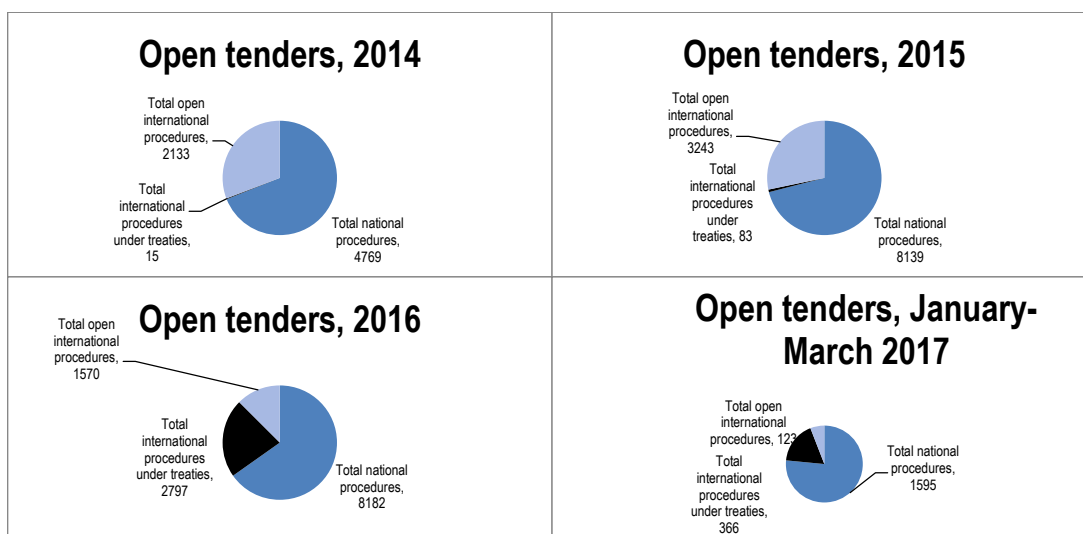
For these reasons, preventing entry barriers should be a priority for IMSS. There are strategies that IMSS can pursue in order to encourage participation, and therefore competition, by facilitating access to procurement opportunities for competitors of all sizes. Some of these strategies are described here, and can be adopted at the stage of tender design. Chapter 8 describes how IMSS can use procurement strategies to attract small and medium-sized enterprises (SMEs).

Opening procurement procedures to the participation of international bidders can be one way to stimulate competition in the market. It appears, however, that IMSS is not fully benefitting from this option. Although the purchases of some goods, such as integrated services, are open to international competition, in general national tenders are the most frequent. Currently, only 35% of suppliers in IMSS consolidated tenders are non-Mexican.

IMSS's Contracting Area determines whether open tenders can be national (open only to Mexican firms offering goods produced in Mexico with a minimum of 50% of national content); "international under treaties" (open only to Mexican firms and firms from countries that have signed a free trade treaty, including a chapter on government procurement with Mexico); or "open international" (where any firm can participate regardless of their nationality).

The IMSS Strategy to Foster Competition in Public Procurement (IMSS, 2017^[5]) acknowledges the virtues of opening up IMSS procurement procedures to international competition and aims to extend the use of this practice. However, additional efforts are required to ensure that this strategy is put into practice effectively: as the charts in Figure 6.4 show, the vast majority of tender procedures carried out by IMSS over the past years have been national in scope.

Figure 6.4. Degree to which IMSS tenders are open to international bidders, 2014-2017



Source: Information provided by IMSS

Since 2013, IMSS has been making full use of reservation clauses¹ provided for in free trade agreements in its consolidated purchases of therapeutic goods. The aim is to protect the domestic industry. In 2016, these reservation clauses covered MXN 5 billion for medicines and MXN 2.64 billion for healing materials. This meant that a total of MXN 7.64 billion could only be awarded to national firms or firms providing goods with at least 65% of national content. However, this scheme has the side effect of limiting competition.

It would be advisable for IMSS to encourage non-local and foreign bidders to participate in its procurement procedures. Any restrictions to their participation – such as the use of reservation clauses in free trade agreements and the use of national procedures – could be

limited to the strict minimum required (rather than allowed) by law. The Mixed Consultative Supply Commission, responsible for defining policies on the use of these reservations, could issue a recommendation in this regard.

IMSS could also consider publishing a summary of the call for tenders in English so that international bidders could more easily find out about opportunities for participating in IMSS's procedures.

Opening the market by splitting contracts into lots

IMSS could systematically assess, on the basis of a market investigation, whether some of the higher-value contracts tendered should be split into lots, in order to promote participation and foster competition in the long run. This assessment is particularly relevant for consolidated procurement.

As noted above, in the context of high-value procurement procedures there is a danger that some firms, particularly those smaller than their main competitors, can be forced to exit the market or lose important competitive advantages over time. However, IMSS can counteract this effect by splitting acquisitions into lots so that firms can bid on individual lots or on combinations of lots.

In this way, the institute can increase the number and the types of firms that are able to participate and compete – not only at the present time, but also in future procurement procedures. This practice may be a tool to preserve competition over time, and therefore help the procuring entities obtain better value for money in the long run. This is in line with the OECD Recommendation on Public Procurement, which advises that in order to maximise the participation of bidders, tenders should allow for bids on certain lots or objects within the contract, or on combinations thereof, rather than only on the whole contract (OECD, 2015^[7]).

This approach has been successfully tested by IMSS for medical device procurement, with good outcomes and improvements in competitive conditions. However, this does not necessarily mean that large contracts should always be split into lots; the decision must be thoroughly weighed on the basis of an in-depth market study assessing the benefits and costs of different strategies. Splitting contracts into lots does not automatically guarantee a competitive result or better value for money for two reasons:

- 1) Splitting a contract might mean losing out on economies of scale because larger firms might be uncertain about their chances of winning enough lots to allow them to exploit the synergies available. In this situation, firms might offer a higher price for each lot than they would have offered for an entire contract, in order to make sure that they cover their costs even if they win fewer lots than anticipated.
- 2) A single firm may still win the tender for all the lots.

The first problem can be tackled by designing a tender that features package bidding, where bidders can present different offers for individual lots and for packages of lots. However, in practice it might be difficult to define the relevant packages of lots; for instance, if the contract is split into very heterogeneous lots in terms of value – one very high-value lot and one very low-value lot – the barriers to entry may be somewhat lowered, but not removed. Moreover, a lots-to-bidders ratio that allows for a relatively homogeneous distribution of similarly-valued lots amongst competitors may facilitate collusive schemes. Additionally, comparing a high number of different offers for

individual and bundled lots can prove to be a complex exercise for the buyer. Box 6.2 shows the approach developed by the European Union to deal with this issue.

Box 6.2. Bundles of lots in the European Union Public Procurement Directive

The European Union (EU) Directive on public procurement (Directive 2014/24/EU) reflects the concern that splitting a contract into lots may lead to firms offering less value for money than they would have had the contract not been split.

The Directive allows EU member states to allow contracting authorities to specify in the tender documentation that they reserve the possibility of awarding combinations of several (or all) of the lots to the same company, specifying the lots or groups of lots that may be combined.

In this context, contracting authorities could assess the offers with a view to determining firstly, which tenders offer the most advantageous conditions for each individual lot, and then carrying out a comparative assessment of these offers against the tenders submitted by specific companies for combinations of lots.

Source: Adapted from European Union (2014), Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

The second problem could be addressed with the introduction of participation limits (which restrict the maximum number of lots for which individual firms can compete) or award limits (which set a maximum number of lots that can be awarded to each individual company). However, the more stringent the participation limits, the higher the chance that some lots will receive no bids.

Moreover, participation limits may reinforce the entry barriers created by a heterogeneous grouping of lots, as in the example above: if a contract is split into one high-value lot and one low-value lot, a participation limit of only one lot may have the effect of allowing small firms to only bid for the low-value lot, and vice versa. However, this strategy could be used, to pro-competitive effect, to promote new entry into highly concentrated markets. Finally, the adoption of participation limits may provide a cover for market-sharing bid-rigging schemes (particularly when firms can predict the way in which the contract will be split), which would be difficult to spot by competition authorities.

Award limits would encourage participation by weaker bidders, who would have an incentive to bid on as many lots as possible, as they may receive lots that stronger bidders could not be awarded due to the award limit (Box 6.3). However, although award limits may increase participation, they may also prevent the buyer from choosing the best-value bids for each and every lot.

Box 6.3. Award limits in the UK

Ofcom, the UK's telecommunications authority, has set rules for the mobile spectrum auction that is to take place in late 2017. The watchdog has set caps of 255 MHz for the "immediately usable" spectrum and 340 MHz for the overall amount of mobile spectrum that any one operator can hold as a result of the auction.

These limits have important consequences for the largest operators currently holding the biggest mobile-spectrum shares: EE, part of British Telecom Group, is not allowed to bid for spectrum in the 2.3GHz band and will only be able to win a maximum of 85MHz of 3.4GHz spectrum. Vodafone can only win a maximum of 160 MHz of spectrum across both bands.

With these limits, Ofcom expects to preserve long-term competition in the market.

Source: (Ofcom, 2017^[9]).

To sum up, whether and how to divide a contract into lots are crucial questions that should be routinely examined when designing each procurement procedure (and especially a consolidated one). The use of these mechanisms entails both advantages and challenges, and it is up to the purchasing authority to carefully weigh them up in each individual case. Market investigations are an essential tool to allow IMSS make an informed choice about these crucial tender design aspects.

Besides divisions into lots for technical-related reasons, IMSS could consider designing lots along geographical lines. This procurement strategy could help to foster participation by regionally competitive SMEs and to create additional savings by reducing transportation costs. Market studies, notably analyses of the price structure of typical bids, would play a pivotal role in assessing the potential benefits of this procurement strategy.

For the purposes of fostering competition and obtaining efficiencies, IMSS has created a strategic regionalisation tool for specific product categories. This allows IMSS to divide the Mexican territories into homogeneous regions with procurement requirements of a similar value. The procurement procedure is then carried out at the regional level. In this way, the institute encourages entry by firms that are competitive at the regional level, but that might be less able to compete at the national level. Thanks to this approach, the 2017 open tender for security services for IMSS buildings saved MXN198 million.

It is important however to determine on a case-by-case basis the appropriateness of using this mechanism. Improperly used, regional consolidation may have the potential of excluding larger firms from the market, thereby foregoing savings for IMSS derived from efficiencies of scale and scope.

Another approach which can ensure that IMSS receives proposals offering the best value for money is to limit the use of exceptions to open tenders as much as possible. Open tenders are currently the default procurement mechanism; as they are the most competitive procurement mechanism they therefore provide IMSS with the best chances of obtaining good value for money. However, the LOPSRM and the LAASSP list a number of situations in which exceptions to the open tender procedure can be allowed. While these legal provisions do not entail an obligation not to opt for an open tender, they merely allow for the possibility to do so. Consequently, the use of exceptions to

open tenders constitutes a sizeable share of IMSS procurement procedures representing 23% of total procurement expenditures from January to May 2017.

The Ministry of Public Administration is already retraining procurement officers to emphasise that the use of exceptions to open tenders is not mandatory, even if it is legally allowed. The aim is to strongly discourage their use – except in certain situations embodied in legal provisions:²

- where there is only one provider in the market able to sell the required good or provide the required service (as long as there are no technically reasonable substitutes)
- in the case of unforeseeable circumstances or *force majeure*
- where the procurement procedure is carried out for military purposes
- where the procurement of a product by means of an open tender represents a risk for national security or public safety
- for contracts to be concluded in the context of a prior framework agreement.

In the case of the health sector in general and IMSS in particular, the most common exception lies with the acquisition of medicines from single-source suppliers, a common practice considering the number of patented drugs dominating the market of medicines. However, a recent report from the Mexican Competition Authority found that one year after the patent expiration, the average number of competing generic versions available on the market is 2.8 (COFECE, 2017). Therefore, IMSS could systematise its use of competitive procurement methods right after the expiry of patents in order to encourage the entry of new competitors.

Ensuring procurement strategies contribute to achieving IMSS objectives and support operational excellence

So far, this chapter has discussed the opportunities for IMSS to achieve greater value for money in procurement. However, for an institution like IMSS that provides public healthcare services, other considerations are also salient. The impact of procurement on healthcare is multidimensional; therefore, an assessment that is limited to analysing direct financial performance can only offer a partial view.

IMSS's procurement strategies should therefore not only focus on identifying the best price, or only the best quality-price ratio – they should also integrate holistic considerations of the broader impact that procurement may have on the healthcare system. This is also discussed further in Chapter 8.

Improving patient experience would support IMSS mandate

People-centred healthcare was the focus of the OECD Policy Forum and Ministerial Meeting on the Future of Health held in January 2017 (OECD, 2017_[1]); the performance of healthcare systems is often measured by what they do and how much they cost, but their effects on patients should also be an essential objective of their design. These effects may range from comfort and life quality, to the absence of pain or the ability to live independently (OECD, 2017_[1]).

In this context, healthcare procurement has an important role to play. Procurement can affect different aspects of the quality of the care provided, bringing about improvements in patient well-being and reductions in the length of hospital stays, readmission rates,

post-care complications or infection risks. Moreover, these improvements are usually associated with savings (Box 6.4).

The avoidance of nosocomial infections, i.e. originating or taking place at the hospital, is an important component of quality care. Nosocomial infection may occur, among other causes, when the safety features of medical equipment are not sufficiently effective. Ensuring the safety of medical equipment is a way in which procurement procedures can contribute to the holistic improvement of healthcare.

Box 6.4. Broadening value-for-money procurement in Norway

The Norwegian company Helseforetakenes Innkjøpsservice AS (HINAS) is owned by the four regional Norwegian health authorities and serves as a means for its owners to co-ordinate public procurement.

HINAS has set in place an innovative procurement model for certain products (IV catheters) that allows for the pre-purchase testing of products in order to measure, amongst other factors, handling safety for nursing staff, as well as ease of use and the pain levels arising from the use of the catheters as reported by patients. The award criteria include not only cost factors, but also the qualitative aspects assessed by means of these tests.

Following the two-month evaluation period established in the tender terms, HINAS realised that the cheapest product available was not the best option, since its deficiencies in flexibility and sharpness meant that clinical staff often had to go through several attempts to pierce the skin with it, occasionally having to remove and replace it, which was additionally burdensome in terms of both time and financial cost. On this basis, the contract was not awarded to the bidder that submitted the lowest-priced bid (which prompted an unsuccessful legal case against the procurement authority) (Gerecke, Clawson and Verboven, 2015^[10]).

In this way, HINAS not only improved the safety conditions for clinical staff, but also improved the experience of patients and saved costs in the long run (Istad, 2016^[11]).

Source: (Gerecke, Clawson and Verboven, 2015^[10]); (Istad, 2016^[11]).

In order to not only cut costs, but also to achieve the best patient outcomes, building trust amongst different areas in order to examine the various options available is essential. In this context, the importance of close collaboration between the Requiring Areas and the Contracting Area cannot be overstated. For instance, the Contracting Area can work with the Requiring Areas to reduce their individual preference lists or to ensure that the Contracting Area understands which products or services have been scientifically proven to ensure the best patient outcomes. The Contracting Area should therefore not limit itself to covering the requests received, but should also engage in a productive dialogue with the Requiring Areas to ensure that the needs are covered in the most efficient way possible and in a way that is also integrated with the healthcare system.

Saving hospitalisation costs: IMSS would save around 23.5% if it reduced the average length of patient stay by one day.

The average length of stay in hospitals (ALOS) is a common indicator of a healthcare system's efficiency, measuring how many days hospitalised patients stay, on average, in

hospitals. Although shorter ALOS usually entail a higher average cost per day, in general they tend to reduce the total cost of care per patient. For this reason, most countries seek to reduce ALOS while maintaining or improving the quality of care provided (OECD, 2015^[7]). Procurement can play a crucial role in this regard by finding solutions that can contribute to this goal (Box 6.5).

The ALOS at IMSS hospitals is currently 5.23 days (IMSS, 2017^[12]), namely 1.23 days above the 2013 Mexican average (OECD, 2015^[13]). Considering that a day in hospital is one of the most expensive services provided by IMSS – specifically, the seventh most expensive service out of 80 services provided (Table 6.3) – a reduction in this expenditure would represent substantial savings for the institute and could be invested in improving the quality of care provided.

Table 6.3. The top-ten most expensive services provided by IMSS to non-contributors

(out of 80 services)

Ranking	Service	Price per day (MXN)
1	One day of intensive therapy (third-level units)	34,643
2	One day of intensive therapy (second-level units)	34,509
3	Haemodynamic study/procedure (second-level units)	27,248
4	Surgical intervention (second-level units)	19,327
5	Gynaecological surgery (third-level units)	12,757
6	Gynaecological surgery (first- and second-level units)	7,638
7	One-day stay at an IMSS hospital	7,256
7	One-day stay at an incubator	7,256
8	Chemotherapy session	4,911
9	Haemodialysis session	4,736
10	Magnetic resonance studies	4,341

Source: Annex I to Agreement ACDO.AS3.HCT.220217/32.P.DF, Official Journal of 21 March 2017, Section 1, page 18.

Box 6.5. Reducing the length of patient stays through innovative procurement in France

UniHa (*Union des Hôpitaux pour les Achats*) is a co-operative procurement network that brings together 67 French public hospitals to carry out joint procurement procedures.

The union had noted that the average length of stay for patients at UniHa hospitals was too long, which entailed risks for patients (such as nosocomial infections), additional workloads for medical and nursing teams, and general extra costs for the healthcare system.

Meanwhile, medical devices and surgery techniques were available on the market that offered the chance to significantly reduce post-operative monitoring (particularly for gastrointestinal surgery). This would allow patients to benefit from the most recent laparoscopy techniques with micro-invasive medical devices; medical and nursing teams would see their workload reduced while developing new competences; and finally, hospitals would save money.

UniHa issued a tender for a framework agreement whose specifications required not only the supply of medical devices, but also the provision of assistance and training for a minimum of 18 months to the medical teams in post-operative care for colorectal and bariatric surgery.

UniHa hospitals choosing to join the framework agreement would be signing up, in all cases, for the provision of medical devices plus the performance of an audit and supply of a diagnostic report on the hospital's practices. Apart from this, hospitals would have the option to choose, on the one hand, between a detailed action plan, including an objective average duration-of-stay target and follow-up on its implementation, and on the other hand, follow-up on the labelling and/or a pre-audit.

Moreover, this scheme allowed for the possibility of a risk distribution model between the purchaser and the provider, with the provider's remuneration depending on the extent of the achieved reductions in the length of patient stays (UniHa, 2017^[14]).

The framework agreement was awarded in 2017, and the first contract within the agreement has already been signed by the Toulon Hospital Centre.

Source: (UniHa,(n.d.)^[15]); (UniHa, 2017^[14]).

Bringing about organisational improvements

Procurement activities can have an impact on the organisation of the healthcare system, such as the amount and handling of the waste generated and the maintenance of the medicine inventory (including drug storage, stability and shelf life). In this regard, procurement must focus not only on the products to be acquired, but also on the use that the institution is going to make of them.

For example, a drug which is frequently purchased by IMSS can be acquired in two presentations: monodose or a ten-dose package. The ten-dose package entails a lower cost per dose than the monodose alternative. However, opening the ten-dose package means that the expiry date of any unused doses is shortened. Since, in IMSS's experience, no more than one or two doses are generally used at a time, the purchase of

ten-dose packets of the drug usually entails significant waste and represents the least cost-effective option in the long run even though at first sight the cost per dose is lower.

Procurement practices can help reduce waste in these situations by taking expiry dates into account and drafting tender specifications that require the provision of a product as a monodose.

In particular, it is advisable to consider the extent to which IMSS's use and care delivery methods and patterns may affect the products' cost, as well as whether the products in question may support the easing and streamlining of internal processes. In this regard, some of the aspects that may be taken into account when drafting the tender documents include whether the products can be easily stored in an environment that guarantees their stability and supports a longer life cycle; the products' expiry date; the inventory costs; and what levels of waste will be generated (Box 6.6).

Box 6.6. Tenders for wound care products in Sweden

In Sweden in 2012, the Stockholm County Council (SCC) issued an innovative procurement procedure aimed at accounting for the total cost of providing care to patients using different competing wound-care products.

Under the tender documents, suppliers were required to calculate the total cost of treatment for each of three hypothetical cases with their own products, using a calculation model provided by the SCC. The model accounted for such aspects as the unit cost of wound care dressings, the necessary number of dressing changes, the time that needed by clinical personnel to change dressings (and the subsequent labour costs), and the likelihood of subsequent complications.

Eventually, the contract was awarded to the bidder that had proposed the highest unit price: this bidder had successfully provided evidence that its products entailed the lowest total cost of care over time.

Source: (Gerecke, Clawson and Verboven, 2015_[10]).

Some procurement transactions, and particularly those related to medical devices, have the potential to affect the healthcare system's expenditures by reducing operative costs. For instance, energy-efficient products, even if possibly higher priced at face value, can bring economic advantages to healthcare institutions by reducing their energy consumption, even if this aspect is not apparent from a simple assessment of the unit price (Box 6.7). The opposite can be true for a product that has a *prima facie* lower price, but whose low energy efficiency can constitute a hidden additional cost.

Box 6.7. Energy self-sufficiency through procurement in Poland

The hospital of Such Beskidzka in Poland sought to find a solution to the excessive sunlight that flooded a building facing south, which was the source of thermal discomfort for patients. Solutions included installing air conditioning in the hospital wards or installing shades to cover the windows and block the sun (EcoQUIP, 2016^[16]).

However, the hospital went a step beyond by taking part in the EcoQUIP procurement project. Through an innovative procurement solution, the hospital achieved its main objective while at the same time achieving significant energy savings: the fixed outward blinds chosen to block the sun were also covered with solar panels, which allowed the hospital to achieve energy self-sufficiency with no exploitation costs (European Commission, 2016^[17]).

The cost of cooling hospital wards by means of air conditioning would have amounted to around EUR 23 260/year; the innovative panels avoided this cost, while generating additional energy savings of over EUR 14 000/year for the hospital. Therefore, this innovative procurement solution helped the Such Beskidzka hospital save more than EUR 37 000 every year compared to a traditional, non-innovative solution such as the installation of air conditioning (Kautsch and Lichoń, 2015^[18]).

Source: (EcoQUIP, 2016^[16]); (European Commission, 2016^[17]); (Kautsch and Lichoń, 2015^[18])

Finally, good organisational practices can help avoid medicine stock outs. These can pose a public health hazard, in particular when essential drugs used to treat life-threatening conditions are unavailable. Procurement practices that do not seek to guarantee medicine availability can have pernicious effects on public health, namely deteriorating the medical condition of patients or causing hospitals to become overcrowded. Moreover, stock outs can involve extraordinary costs arising from the urgent need to purchase products at very short notice. Procurement practices can and should aim at guaranteeing the availability of necessary products.

IMSS has taken a positive step in this direction by implementing integrated services schemes, whereby health services such as haemodialysis are outsourced along with the medicines and medical devices necessary to perform them. Integrated services are an alternative for contracting medical services for the performance of diagnostic or therapeutic procedures, such as laboratory services, minimally invasive surgery, blood bank, dialysis and haemodialysis services, as well as for the procurement of ambulance rental or maintenance services. These schemes, coupled with the use of multiannual contracts, have helped IMSS's medical units to provide uninterrupted medical care.

These issues signal the need to move towards value-based procurement to ensure that procurement activities can not only achieve the best value for money, but also bring substantive improvements across the entire healthcare delivery system. One of the conclusions of the 2017 OECD Health Ministerial Meeting was that “people-centred care should better guide the course taken by health care in the future” (OECD, 2017^[11]). By identifying the healthcare elements that can be indirectly affected by procurement practices, IMSS can capture these considerations and integrate them in the design of its procurement strategies.

However, the effects of procurement policies and practices can even extend beyond the provision of healthcare services to policy areas such as innovation, environmental protection or support to SMEs. Part III of this report will pick up that thread, describing in detail how IMSS purchasing power can influence the achievement of broader policy goals.

Proposals for action

The opportunity areas identified above suggest that IMSS can take a number of measures to continue to improve efficiencies and save money:

Assess the impact of IMSS's procurement strategies on savings

- Monitor the financial impact of procurement strategies and identify alternative options which can sustain benefits over time, such as multi-annual contracts for large consolidated tenders.
- Eliminate sources of inefficiencies in IMSS's procurement strategies that are costing it money, for example by standardising contractual provisions to avoid compliance costs which would be ultimately transferred by suppliers to participating institutions.
- Ensure that tender documents maximise savings by focusing on functional specifications rather than on detailed technical requirements.

Ensure a level playing field in IMSS's procurement

- Identify and remove entry barriers, notably for smaller Mexican suppliers of generic medicines, by expanding the bidding period to account for production lead times.
- Open the market strategically to suppliers through a comprehensive assessment of the benefits and risks of dividing tenders into lots while mitigating the risk of collusion amongst bidders.
- Increase the attractiveness of procurement procedures by developing tailored tender documentation and further promoting international competition in public tenders.

Use procurement to achieve achieve IMSS objectives and increase operational efficiencies

- Improve patient experience by defining procurement strategies which not account for the technical performance and price of goods and services, but also their impacts on treatments.
- Reduce the average length of patient stay by one day to save hospitalisation costs and maximise IMSS operational efficiencies.
- Use IMSS's procurement practices to contribute to holistic healthcare objectives.

Notes

¹ Reservation clauses allow for some tenders to be excluded from the application of free trade agreement rules.

² Those listed in fractions I, II, IV and V of art. 42 of the LOPSRM and fractions I, II, IV, V, VIII and XX of art. 41 of the LAASSP.

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