Chapter 1.

Snapshot of the use of framework agreements in Chile

Since their establishment in 2003, the use of framework agreements in Chile has increased dramatically. More contracting authorities rely on this collaborative procurement instrument, and awarded suppliers have doubled in the last two years. Under the responsibility of Chile’s Central Purchasing Body, ChileCompra, the sustainability and efficiency of the system are now at stake, which poses new challenges on how to support and manage the increasing use of this instrument. This chapter provides an overview of the major trends of the existing public procurement system in Chile and highlights the underlying objectives of framework agreements. It also includes the results from a benchmarking exercise across several OECD and non-OECD countries, which uses the responses received from the 2015 OECD Survey on Centralised Framework Agreements.
Chile's approach to framework agreements

According to data published in 2011 (OECD, 2011a), public procurement in Chile accounted for almost 7% of gross domestic product (GDP) in 2008. In 2013, OECD countries spent, on average, 12.1% of GDP on public procurement, translating into an average of 28.4% of the total general government expenditure, compared to an average level of 29.4% in 2009 (OECD, 2015a). Considering the significance of public expenditure, enhancing efficiency, including increasing cost effectiveness, is the primary objective of public procurement.

Collaborative procurement instruments are among the most commonly used tools that procurement officials use to drive efficiency and cost effectiveness. They open the door to streamlined procurement processes, reduced duplication of administrative costs and increased government purchasing power. While different contractual mechanisms are included in this collective approach to public procurement, a framework agreement, albeit with different specificities, is the most routinely adopted instrument by countries.

While framework agreements might be seen as a purely technical instrument applied to public procurement, it conveys principles and skills that contribute to the development of procurement as a strategic function. Demand analysis, responding to user needs and performance assessments provide tangible evidence of procurement efficiencies. Framework agreements directly address the major principles set forth in the 2015 OECD Recommendation on Public Procurement (OECD, 2015b).

The use of framework agreements by some or all procuring entities at the central government level is widespread among OECD countries: 97% of responding countries reported their use in 2012 (OECD, 2012). Furthermore, an increasing number of OECD member countries have implemented central purchasing bodies at the central level in order to aggregate demand and to act as manager of the national system that awards consolidated instruments, including framework agreements (Figure 1.1). In the European Union, framework agreements represented 27% of the number and 42% of the value of all central purchasing contracts during 2008 and 2009 (EC, 2011). The use of collaborative procurement tools represents a shift towards the implementation of strategic procurement.

**Figure 1.1. Role of central purchasing bodies**

The Chilean government programme for 2014-2018 aims to modernise the state to enhance efficiency and innovation. In line with this, the Directorate of Government Procurement and Contracting of Chile, ChileCompra, as the governing body of public procurement and acting as a central purchasing body, is currently reviewing some of its practices, processes, technologies and operation models.

ChileCompra is the central purchasing agency in Chile. Its main duties are: 1) provide support to public entities in carrying out procurement processes; 2) implement, operate and maintain the information system, allowing public entities to conduct online procurement operations; 3) manage the registry of suppliers; 4) purchase goods and services on behalf of one or more public entities; and 5) implement and manage framework agreements. ChileCompra’s role is therefore twofold: developing procurement policies of the country, and implementing collaborative procurement instruments for the benefit of contracting authorities.

Framework agreements (Convenio Marcos) have been instituted in Chile since 2003. The Law n° 19 886 on Public procurement¹ states that ChileCompra is responsible for implementing and managing this type of agreement. A bylaw² further details obligations of the public entities using framework agreements.

Figure 1.2 Uptake of framework agreements by contracting authorities

Source: Information provided by ChileCompra.

ChileCompra Express allows public entities to purchase goods and services available in the framework agreements. The electronic platform also allows suppliers to modify
their offerings. Changes to products specifications and prices submitted by suppliers are then assessed by ChileCompra and incorporated into the platform, if deemed appropriate.

**Figure 1.3 Uptake of framework agreements by suppliers**

![Graph showing the uptake of framework agreements by suppliers between 2008 and 2015.](image)

*Source: Information provided by ChileCompra.*

The architecture, functioning and use of ChileCompra Express over time show the success of ChileCompra in using framework agreements to achieve the overarching policy objectives of inclusiveness and openness of the public procurement system to Chilean suppliers of all size. Between 2010 and 2015, the number of transacting suppliers increased by almost 180% (Figure 1.3). It represents the largest virtual store in the country and is almost equivalent to the entire private electronic commerce in Chile.³

However, there are inherent operational and conceptual challenges alongside these successes, which hinder the overall efficiency of the system. Incremental evolution of the system could enhance its efficiency, its manageability and the overall benefits that framework agreements could bring (aggregation of demands, rationalisation of purchases and pool of suppliers, standardisation of offerings, etc.).

Revisiting the design of framework agreements offers a great opportunity for ChileCompra to further strengthen the strategic approach of its centralised procurement function. These efforts would support the more general shift towards strategic procurement experienced in many OECD countries.
Considering the current use of this procurement instrument, and its success in terms of inclusiveness, sound implementation of recommendations towards a more efficient system would require a cautious and phased approach to avoid drastic changes.

In order to better understand the different policy options available in the implementation and management of framework agreements, the OECD designed a survey (hereinafter the “Survey”) focusing on the implementation of framework agreements by central purchasing bodies. This report includes analysis of the responses’ received from the OECD and non-OECD countries that provided sound information on their experiences with this tool. The survey results are used to benchmark the practice of ChileCompra on centralised framework agreements against these countries.
### Box 1.1. Principles of the OECD Recommendation linked to framework agreements

While the 2015 OECD Recommendation on Public Procurement spells out principles that are applicable to the entire public procurement cycle and to all procurement tools used by OECD member countries, some principles convey concepts that are closely linked to the centralised implementation and management of collaborative procurement instruments, such as framework agreements. The OECD Council notably:

1. **RECOMMENDS** that Adherents foster transparent and effective stakeholder participation.

   To this end, Adherents should:

   1. **Develop and follow a standard process when formulating changes to the public procurement system.** Such standard process should promote public consultations, invite the comments of the private sector and civil society, ensure the publication of the results of the consultation phase and explain the options chosen, all in a transparent manner.

   2. **Engage in transparent and regular dialogues with suppliers and business associations to present public procurement objectives and to assure a correct understanding of markets.** Effective communication should be conducted to provide potential vendors with a better understanding of the country’s needs, and government buyers with information to develop more realistic and effective tender specifications by better understanding market capabilities. Such interactions should be subject to due fairness, transparency and integrity safeguards, which vary depending on whether an active procurement process is ongoing. Such interactions should also be adapted to ensure that foreign companies participating in tenders receive transparent and effective information.

   3. **Provide opportunities for direct involvement of relevant external stakeholders** in the procurement system with a view to increase transparency and integrity while assuring an adequate level of scrutiny, provided that confidentiality, equal treatment and other legal obligations in the procurement process are maintained.

2. **RECOMMENDS** that Adherents develop processes to drive Efficiency throughout the public procurement cycle in satisfying the needs of the government and its citizens.

   To this end, Adherents should:

   1. **Streamline the public procurement system and its institutional frameworks.** Adherents should evaluate existing processes and institutions to identify functional overlap, inefficient silos and other causes of waste. Where possible, a more service-oriented public procurement system should then be built around efficient and effective procurement processes and workflows to reduce administrative red tape and costs, for example through shared services.

   2. **Implement sound technical processes to satisfy customer needs efficiently.** Adherents should take steps to ensure that procurement outcomes meet the needs of customers, for instance by developing appropriate technical specifications, identifying appropriate award criteria, ensuring adequate technical expertise among proposal evaluators, and ensuring adequate resources and expertise are available for contract management following the award of a contract.
Box 1.1. Principles of the OECD Recommendation linked to framework agreements (continued)

3. Develop and use tools to improve procurement procedures, reduce duplication and achieve greater value for money, including centralised purchasing, framework agreements, e-catalogues, dynamic purchasing, e-auctions, joint procurements and contracts with options. Application of such tools across sub-national levels of government, where appropriate and feasible, could further drive efficiency.

3. **RECOMMENDS** that Adherents develop a procurement workforce with the Capacity to continually deliver value for money efficiently and effectively.

To this end, Adherents should:

1. **Ensure that procurement officials meet high professional standards for knowledge, practical implementation and integrity by providing a dedicated and regularly updated set of tools**, for example, sufficient staff in terms of numbers and skills, recognition of public procurement as a specific profession, certification and regular trainings, integrity standards for public procurement officials and the existence of a unit or team analysing public procurement information and monitoring the performance of the public procurement system.

2. **Provide attractive, competitive and merit-based career options for procurement officials**, through the provision of clear means of advancement, protection from political interference in the procurement process and the promotion of national and international good practices in career development to enhance the performance of the procurement workforce.

3. **Promote collaborative approaches with knowledge centres such as universities, think tanks or policy centres to improve skills and competences of the procurement workforce**. The expertise and pedagogical experience of knowledge centres should be enlisted as a valuable means of expanding procurement knowledge and upholding a two-way channel between theory and practice, capable of boosting application of innovation to public procurement systems.

4. **RECOMMENDS** that Adherents 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.

To this end, Adherents should:

1. **Assess periodically and consistently the results of the procurement process**. Public procurement systems should collect consistent, up-to-date and reliable information and use data on prior procurements, particularly regarding price and overall costs, in structuring new needs assessments, as they provide a valuable source of insight and could guide future procurement decisions.

2. **Develop indicators to measure performance, effectiveness and savings of the public procurement system** for benchmarking and to support strategic policy making on public procurement.

Pursuing common objectives: The multiple forms of framework agreements

Framework agreements across countries have different structures, implement different mechanisms and sometimes use different names. A framework agreement may be defined by a processual explanation, which says that a framework agreement is commonly understood as a contractual instrument with one or more economic operators for the supply of goods, services and, in some cases, works. The purpose of the framework agreement is to establish under which terms governing contracts are awarded by one or more contracting authorities (CAs), under its principles and requirements.

Centralised framework agreements are implemented by a central purchasing body (CPB) on behalf of CAs. The tripartite relationship implied by this type of instrument (CPB – CAs – Suppliers), and the benefits provided by framework agreements, depend on the nature of the links between these different entities.

The level of commitment from the demand and the supply sides to the use of framework agreements will affect its functioning as it provides an indication of the likelihood of effective trade activities between the parties. Considering their inherent revenue uncertainty, the effectiveness of framework agreements for both sides will depend on this commitment.

When demand side commitment is weak, and contracting authorities are not required to purchase available products through a framework agreement, the attractiveness of this instrument to suppliers may be limited. When the supply side commitment is weak, and does not entail mandatory acceptance of orders, efficiencies for the contracting authorities may be questioned. The primary role of CPBs regarding framework agreements is, therefore, to try to reconcile their flexibility with reasonable visibility on likely procurement activities.

The overall structure of framework agreements could help to transform the role of the central purchasing body from an intermediary to an enabler.
1. SNAPSHOT OF THE USE OF FRAMEWORK AGREEMENTS IN CHILE

This tripartite relationship surrounding the management and use of framework agreements could also have financial consequences. In several countries, CPBs generate budget resources from the use of framework agreements. At the same time, the Survey showed that the practice of CPBs receiving fees by suppliers or by contracting authorities is divided among countries (Figure 1.6).

Figure 1.5. The role of CPBs

1. Two opposite sides of the bridge

- Finding the best match between public and private needs

2. An evolving relationship with both sides changing the CPB’s role

- Partnership and strong co-operation with both sides
- Real change management within the public sector

3. Two partners …. and an enabler

- CPB encouraging a transparent dialogue, no longer acting as an intermediary, but as a dialogue enabler

Previous surveys suggest that some CPBs in the European Union receive some fees from suppliers (OECD, 2011b), which usually amount to between 0.6% and 2% of the invoiced turnover generated under the framework agreement. Such a system could provide CPBs with incentives to develop and implement performing framework agreements, since a share of their revenue directly derives from their use.

However, this system could also drive up prices under framework agreements, since the revenues, or a share of them, will depend on amounts invoiced. This potential effect would be mitigated in Chile, as the law authorises contracting authorities to purchase outside the framework agreements if terms and financial conditions are found to be more favourable.

The processual definition just explored only partially describes what framework agreements are and how they are understood and used by countries. Another way of defining framework agreements is to look at their purpose as a strategic procurement tool where processing costs, both at the implementation and administration levels are, or should be, outweighed by the benefits provided in terms of simplification, rationalisation or participation.

This second way of defining framework agreements provides for an additional decisive factor on the structure and functioning of framework agreements: they are not suited for all procurement activities. Whether decisions are made on the basis of shares of procurement expenditures, recurrence of purchases or nature of the markets, implementing framework agreements requires informed decisions that are often based on transactional information.

While the quality and reliability of transactional information is paramount to support any general move towards strategic procurement, this is even more acute for the strategic implementation and management of framework agreements. In 2014, more than 800 000 purchase orders were issued by Chilean contracting authorities under framework agreements.
agreements. However, almost 15% of these orders were not correctly identified in the system, which means that ChileCompra cannot retrieve sufficient information on 8.75%, in terms of value, of public expenditure channelled through framework agreements, which amounts to USD 164 million.

Notes

1  Article 30 of Law 19 886 on Public Procurement (Ley de Bases Sobre Contratos Administrivos de Suministro y Prestacion de Servicios).

2  Regulation of Law 19 886 (Reglamento de la Ley n°19.886 de Bases Sobre Contratos Administrivos de Suministro y Prestacion de Servicios).

3  According to the Santiago Chamber of Commerce estimates, the e-commerce in Chile during 2014 amounted to USD 2 billion.

4  The survey was sent to Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Croatia, Denmark, Estonia, Finland, France, Greece, Hungary, Iceland, Ireland, Italy, Korea, New Zealand, Portugal, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States. Responses were received from 11 OECD countries - namely, Belgium, Canada, Chile, Finland, France, Greece, Hungary, Italy, New Zealand, Portugal and Spain - and 2 non-OECD countries, Colombia and Costa Rica.

5  Hansel in Finland, SKI in Denmark, Buying Solutions in the United Kingdom and the Swedish CPBs.
References


