Chapter 2.

Strategies for implementing collaborative procurement instruments in Chile

Deciding to implement collaborative procurement instruments, such as framework agreements, requires detailed analyses of both the demand and the supply side to ensure that these instruments meet their underlying objectives. This chapter analyses concepts such as demand heterogeneity and supply uncertainty, which are central to the cost-benefit analysis of the implementation of procurement tools. It also highlights common practices across countries in the definition of procurement strategies.
A framework agreement is a legal procurement instrument that can help to rationalise and aggregate procurement needs, hence increasing public sector purchasing power. The OECD Recommendation on Public Procurement (OECD, 2015a) calls upon countries to develop processes that drive efficiency throughout the public procurement cycle. The Recommendation notably indicates that countries should: “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 procurement and contract with options.”

Framework agreements are part of many countries’ procurement toolbox, along with other options that aim to increase the overall efficiency of public procurement systems. They can be beneficial to suppliers and provide them with longer, more stable and visible contractual relationships with public entities. However, because of their nature, framework agreements should be carefully implemented, as they do not contain contractual commitments towards the ordering of goods or services.

**Demand heterogeneity and supply uncertainty require specific procurement strategies**

As in many OECD countries, framework agreements in Chile are set up by the centralised purchasing body (CPB) on behalf of contracting authorities, which can be portrayed as the final users.

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Although this system allows the CPB to have greater control of the definition of the corresponding procurement strategies, there are inherent challenges in ensuring that such a centralised procurement instrument meets decentralised needs.

Procurement strategies adapted to framework agreements should respond to different and sometimes contradictory objectives. Governments have increased their use of framework agreements to achieve costs savings and generate productivity gains (OECD, 2013a). Framework agreements can generate operational and administrative efficiencies by reducing red tape costs and delivering economies of scale, however, they also need to address the likely heterogeneity of needs across contracting authorities, and the possible different regulatory frameworks in which they are operating.

Highly disposable and standardised products will create an appetite for defining procurement strategies aimed at reducing costs. More complex or critical goods or services could lead to strategies that minimise the likelihood of the disruption of supply or that promote quality over prices. As such, it is key to adapt procurement strategies to the specificities of the goods or services to be procured.

Achieving the overarching objectives of framework agreements requires that analysis is undertaken of the demand, procurement needs and patterns of the purchasing entities (Nollet and Beaulieu, 2005). Information sources will greatly depend on whether a new framework agreement should be implemented, or if demand analysis concerns the renewal of an existing instrument.

Demand analysis should provide information on historical procurement trends in specific product categories and possible associated services; however, it also needs to closely look at the structure and characteristics of the demand side in terms of budget flexibility and mandatory recourse to framework agreements. Where framework agreements are used voluntarily, the corresponding potential budget should be cautiously assessed as it further reinforces revenue uncertainty.

An assessment of the market capabilities to respond to the CPB’s request to implement a framework agreement is also essential during its preparation. Implementing efficient procurement strategies for the award of framework agreements involves understanding market performance and concentration (Church and Ware, 2000), as well as gathering information about the price structure of the targeted goods or services. The role of the price structures is more pronounced when considering that economies of scale can only occur when suppliers are able to operate at a lower unit cost, i.e. when production costs comprise a noticeable fraction of fixed costs, independent of production scales (Albano, 2010). Colombia has recognised the essential role of market studies in preparing a framework agreement and has established the minimum acceptable content for market studies (Box 2.1).
Box 2.1. Minimum acceptable content for market studies in Colombia

Colombian procurement statutes require government purchasing groups to undertake a "preliminary study" before they commence a procurement process. In the past, such studies have largely dealt with the nature of the procurement and procurement process, and the intended contractual terms and conditions, and so were not true market studies. Article 15 of the Decree 1510 of 2013 now specifically requires Colombian government officials to undertake a market analysis before a procurement process is commenced. Despite these legislative changes, few public procurement officials in Colombia prepare market studies and or have the skills to carry out such a study. To address this issue, Colombia Compra Eficiente established the minimum acceptable content for market studies through a manual published in 2013 and updated in 2014, which can be used by Colombian procurement agencies when they undertake their market studies (CCE, 2014).

Market studies should identify the characteristics and specifications of the:

- goods and services to be purchased
- existing and potential suppliers
- alternative products
- price trends over time
- differences in prices between private and public procurement markets
- costs and other competitive variables.

Market studies should be conducted by individuals with procurement and/or research expertise, who are provided with sufficient time and resources. The development of a training strategy and the implementation of a training action could provide procurement staff with the necessary expertise to conduct effective market studies.

Sources:

On the basis of these preliminary analyses, tailored procurement strategies adapted to framework agreements would contribute to defining the design of the tender documentation. They would also try to reconcile the inherent uncertainty (suppliers are not promised to receive any revenue out of framework agreements) of such an instrument, with the reasonable certainty setting the ground for competitive proposals (suppliers are not incentivised to propose attractive terms and conditions if contextual information is not sufficient).

Stakeholders’ participation (contracting authorities, suppliers, audit agencies) in the definition of the tender structure could also help foster inclusive framework agreements that would yield benefits and additional efficiency gains (greater coverage, better co-ordination and feedback).
Figure 2.2 illustrates, from a different perspective, major principles that allow an assessment of the feasibility of implementing framework agreements. CPBs need to obtain information on the amount of purchases and the number of orders, as well as estimating the complexity of the subject matter, both from the contracting authority (CA) perspective and in terms of the product characteristics. CPBs also need to evaluate the manageability of the supply side by assessing industry structure and market capabilities.

In line with the OECD Recommendation on Public Procurement, external stakeholders can be involved in the definition of the procurement strategy. One option is for procurement authorities to benefit from existing market studies previously carried out by competition authorities. For example, Peru’s competition authorities have developed market studies in specific areas. Several market studies were conducted in the past five years, including on competition in public procurement at the regional level, the domestic market for commercial airlines, the health system, the notary service market, the mobile market and the distribution of natural gas (OECD, 2015c).

**Implementing framework agreements is a strategic choice based on robust analysis**

According to the OECD Survey, all countries devote efforts to the demand analysis stage before implementing or renewing a framework agreements. Considering the overall architecture of this procurement instrument, sources of information could be found in e-procurement systems and/or by conducting interviews or meetings with contracting authorities and/or suppliers.
Consulting contracting authorities is considered as best practice for all countries that responded to the Survey, however, it is mandatory only for 9% of respondents. In New Zealand and Italy, this consultation process follows a uniformed methodology for all framework agreements, or is reported into a standardised format. In Chile, a specific timetable for the consultation of contracting authorities is only developed for new framework agreements.

Figure 2.3. Data collected to define future needs

Note: Lighter blue colour indicates where Chile does not take part.


Past procurement information on electronic systems is also commonly used to determine future needs. This information is either collected through centralised e-procurement systems, such as in France, or with the assistance of external authorities that monitor public spending, like the anti-corruption authority in Italy (ANAC).

In parallel to estimating needs from a financial perspective, central purchasing bodies in the OECD countries surveyed are carrying out discussions and analyses to structure the demand of contracting authorities. Almost two thirds of the respondents indicated liaising with the most relevant contracting authorities to obtain detailed information about their procurement trends and patterns.

Although suppliers are frequently consulted, an analysis of their past performance is less frequently practiced in the demand analysis stage.
Over 50% of respondents to the OECD survey undertake a cost-benefit analysis to identify whether or not a framework agreement is the most efficient procurement route. Based on country experiences, this feasibility study encompasses analyses of both demand and supply sides structures and patterns, the existence of product alternatives, or the level of competitiveness of the market.

**Figure 2.4. Measures implemented in the demand analysis stage**

*Note:* Lighter blue colour indicates where Chile does not take part. (*) CA means contracting authorities.


**Figure 2.5. Development of feasibility study for each framework agreement**

While most of the respondents implement feasibility studies depending on the nature of the goods or services, some countries have developed more formalised process. For example, Finland has developed a template for feasibility studies (see Annex B). New Zealand has institutionalised a review process for each product category.

In the pre-solicitation phase, assessing market responsiveness helps to maximise the efficiency of framework agreements

Sound procurement strategies that are adapted to the nature and specificities of framework agreements in the Chilean context could support a more efficient use of this legal instrument and enhance its benefits both for the public demand and the private supply sides.

In light of OECD country practices, and the operating environment in Chile, further steps can progressively be implemented to design procurement strategies that allow for the effective and efficient use of framework agreements. However, before this is undertaken, feasibility studies designed in accordance with ChileCompra’s overall objectives could help to decide whether or not a framework agreement is the most suitable procurement tool to respond to public demand.

ChileCompra could develop structured feasibility studies to guide its decision to implement framework agreements

In accordance with Article 30 d) of the Law on Public Procurement, framework agreements are implemented either based on the discretionary decision of the ChileCompra or following the request of one or more contracting authorities. However, Article 14 of the Bylaws on Public Procurement further details that implementation of framework agreements is always subject to an opportunity assessment carried out by ChileCompra. The latter has discretionary powers on deciding the appropriateness to implement such a procurement instrument. Various procurement instruments sitting alongside framework agreements are used by OECD countries.

Figure 2.6. Use of innovative procurement tools in central government (2012)

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Total OECD

| ■ Tool is routinely used in all procuring entities |
| ■ Tool is routinely used in some procuring entities |
| ■ Tool is not routinely used |

Deciding upon the implementation of framework agreements is subject to a cost-benefit analysis. The cost assessment heavily relies on the CPB’s understanding and accurate estimate of the administrative tasks required to prepare, award and manage this instrument. Product categories with a large pool of suppliers, and that are prone to regular product updates or modifications, will directly increase the overall cost of this procurement instrument.

While cost assessments follow a somewhat identical methodology, the benefits of a framework agreement could be multidimensional, depending on the overall objectives of the CPB towards its creation. If the main objectives relate to the inclusiveness of the system, i.e. providing business opportunities for as many suppliers as possible, benefits would likely comprise an assessment of the concentration of the market in the specific product category. Activities should also include an analysis of past procurement expenditure that focuses on the number of contracting authorities that have purchased corresponding goods or services.

Should the objectives be to increase the efficiency of public spending and generate economies of scale, the benefits are to be found on the potential of framework agreements to aggregate a large volume of procurement expenditure and to structure internal demand. In this respect, product homogeneity plays a central role regarding the ability of framework agreements to effectively aggregate demand. For those product categories where a large range of goods and/or services are available, the recourse to framework agreements is not likely to produce the expected effects on economies of scale. Benefits linked to the aggregation of demand could leverage purchasing power and contribute to broader policy objectives, such as the development of open government programmes. The absence of concerted, centralised procurement policies for the purchase of IT hardware could hinder this type of initiative, as has been evidenced in Finland.

**ChileCompra could promote a regional structure for specific framework agreements to foster competition and ease access to procurement opportunities to small and medium-sized enterprises (SMEs)**

Although call for tenders already allow bidders to select regions in which they propose to operate, ChileCompra could further embed regional aspects into tender documentation, where deemed appropriate. Transforming an operational requirement into a structuring element of the tender could provide several benefits.

The regional distribution of orders under framework agreements could signal geographical heterogeneity in terms of the needs of contracting authorities in Chile (Figure 2.7). While the metropolitan area of Santiago (region XIII) generates almost half of the orders in terms of number, which reflects the concentration of contracting authorities in the capital, Bio-Bio (region VIII), whose area is less than 25% of the Magallanes area (region XII), orders three times more products under this framework agreement.
When looking at supplier distribution, only 22% of suppliers operate in all 15 regions, and most operate in only a few regions. Furthermore, almost 40% of suppliers operate in only 1 region (Figure 2.8), and this trend can be observed both for goods and services. Supported by more detailed analyses on suppliers’ distribution, these elements could provide insights into the market structure, and the need for contracting authorities to allow for a tailored regional structure of tenders.

*Source:* OECD Analysis based on information provided by ChileCompra (2012-2015).
Efforts in this direction could also help to integrate balanced secondary policy objectives, such as sustainability, environmental considerations or the participation of SMEs in procurement processes that lead to the award of framework agreements. However, thorough market analysis would be essential to support the potential benefits.

By disaggregating procurement needs into regional lots, ChileCompra could foster the participation of SMEs in the corresponding competitive procurement process, in which they may otherwise not have been able or interested to participate. For example, deciding to structure the tender documentation relating to the provision of raw food in regional lots implies a procurement strategy that is directed to local producers rather than distributors. Provided that the market structure and business trends support this decision, it would further promote access by SMEs to public procurement opportunities, and also introduce environmental considerations.

However, these efforts should take due consideration of potential bid rigging or collusive tendering. Bid rigging occurs when “businesses, that would otherwise be
expected to compete, secretly conspire to raise prices or lower the quality of goods or services for purchasers who wish to acquire products or services through a bidding process” (OECD, 2012). Dividing tenders into administrative regional lots could favour market allocation whereby bidders secretly agree not to compete in certain geographic areas.

The OECD Recommendation on Fighting Bid Rigging in Public Procurement provides guidance to procurement officials on designing public tenders to reduce bid rigging (design checklist). They notably suggest reducing predictability in tender design. Therefore, a division into geographic areas that does not follow the administrative division of the country, but rather, when appropriate, regional divisions of the market according to geographical allocation of demand and supply, could help minimise the occurrence of such behaviour.

**Chilecompra could consider adapting the duration of framework agreements in accordance with complexity and market trends**

Most of the existing framework agreements implemented by ChileCompra last six years, which is relatively high, according to the recent benchmarking exercise. In the European Union, the maximum duration of framework agreements is four years, save in exceptional circumstances. An initial duration could be two to three years, with the possibility of up to two prolongations of one year, depending on the performance, the achievement of objectives, or the need to update the instrument. During the term of this type of closed framework agreement, competition is locked and additional suppliers cannot enter into the agreement.

Defining the duration of a framework agreement continues the trade-off initiated when assessing the need to create a framework agreement, as the time and resources required for its implementation and the benefits that it may yield must be considered. On the one hand, a short duration would provide regular market updates and allow central purchasing bodies to be constantly abreast of market developments and trends. However, this may limit the attractiveness for suppliers and expand processing costs for the central purchasing body. On the other hand, a longer duration could foster the development of stable contractual relationships, which may provide greater potential revenue for suppliers and increasing public purchasing power. However, a long duration might generate outdated offerings, which would be less attractive to end users or entail unnecessary additional product updates.

Carefully balancing decisions regarding the duration of framework agreements based on the nature of the product category (fast obsolescence, initial investment required, entry of new suppliers) and the structure of the corresponding market (competitiveness, openness) is therefore essential. ChileCompra could take these two criteria into account when assessing the optimal duration of its framework agreements.

In EU countries, a slightly different practice has been developed that enables suppliers to join existing collaborative procurement instruments, provided that they respond to minimum requirements. However, this procurement instrument, referred to as a dynamic purchasing system (or open framework agreements in some jurisdictions), is differentiated from a framework agreement in the European context. As opposed to framework agreements, dynamic purchasing systems only request suppliers to fulfil technical requirements at the initial competition stage. The second competition stage then provides for competition among suppliers on the financial aspects. Those two instruments
are not exclusive and often provide complementary options to respond to collective government procurement.

On the basis of product and market characteristics, ChileCompra could consider implementing strategies aimed at differentiating instruments. This could further promote the participation of suppliers where fulfilling technical requirements is sufficient for identifying suitable suppliers. Entry points during the term of the agreement could be defined to allow additional suppliers to participate.

**Strategic analysis could support choices relating to the aggregation and rationalisation of demand, which would increase ChileCompra’s purchasing levers.**

Framework agreements are commonly used as a strategic procurement tool to foster the aggregation and rationalisation of demand. By consolidating needs from end users, central purchasing bodies can leverage a global volume increase to obtain more competitive proposals from suppliers. This, however, requires more visibility on procurement spending.

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**Box 2.2. Aggregating demand in Australia**

The Government of Western Australia developed eight smarter buying principles to help steer the public sector towards making better purchasing decisions, implementing better practice, and achieving value for money. These principles are illustrated by case studies relating to projects undertaken by one of the state agencies.

The Goldfields Esperance Regional Buying Centre initiated a group buying arrangement for airline travel within the Goldfields region. The establishment of the group buying arrangement has:

- Identified a contractor with fixed rates and conditions.
- Incorporated the needs of many agencies.
- Identified actual spend.
- Reduced time wasted when booking individual services.

**Previous procurement process**

Prior to the joint contract, there was no arrangement in place for air travel within the Goldfields region. As such, agencies were required to seek their own competitive quotes when the need arose. They operated in isolation and were not aware of what other agencies with the same needs had done previously, or what prices had been paid.

This process was time consuming and inefficient, and wasted considerable agency staff time that could be better utilised. Furthermore, because there was minimal understanding of the spend incurred by each agency, the potential for large volume buying could not be taken advantage of.

**Changed procurement process**

Discussions with members of the local client council identified that considerable time and money was spent by agencies chartering air services for travel in the Goldfields region. Little was known as to what the actual spend was, although estimates were around AUD 200 000 annually.
Box 2.2. Aggregating demand in Australia (continued)

There was recognition of the potential benefits of putting in place a group buying arrangement. This would enable all agencies in the region to access the one contract, enabling the buying to be undertaken more quickly and at a pre-determined price. The group buying arrangement was drafted incorporating two large users, the Departments of Education and Corrective Services (DoE), as well as other regional users. Aircraft requirements, regulations and local capabilities to deliver services were considered.

As part of an open tender process, the Regional Buying Centre sought offers from appropriately experienced, skilled and qualified aviation operators to provide ongoing management, operation and maintenance of aircraft charter services for state government agencies throughout the Goldfields region.

Improved outcomes

By aggregating air travel services and creating a single contract that could be used by all agencies requiring travel in the Goldfields region, the Regional Buying Centre has opened up communication between agencies that ordinarily operate in isolation.

“We discovered that lots of agencies required this service, and that many agencies were replicating the work already done by others,” said Robert Tagliaferri, Senior Procurement Manager. “By talking to a few, we were able to nut out the general requirements and make a single contract that would address everyone’s needs.”

“Some of the conditions we’ve set encourage the agencies to talk more,” said Robert. “For example, if DoE only has two people that need to go to a particular town, but a flight requires six passengers, it can contact some of the other agencies to see if they need to fly out too.”

The new contract also means that if an agency has enough people to fill a flight, they can simply book the contracted supplier as opposed to chasing numerous quotes, which saves significant time and effort.

The group buying arrangement has also been successful in determining exactly how much money is being spent on regional air travel. “We originally thought the contract would be worth about AUD 600 000 over three years,” said Robert. “But the more research and analysis we did, the higher the number climbed.”

In fact, the original estimate has more than trebled to AUD 600 000 per year and current spend analysis has indicated a contract value of $1.8 million over three years.

Benefits

By creating this contract as a joint arrangement, the Goldfields Esperance Regional Buying Centre has:

• Created a single contract with fixed prices.
• Reduced the level of duplicated procurement effort.
• Identified an area of significant government spend.
• Addressed the needs of many agencies.
• Encouraged a better working relationship between agencies.

Governmental contracting authorities in Chile are obliged to use centralised framework agreements established by ChileCompra, in accordance with Article 30 d) of the Law on Public Procurement. While municipalities, army and police forces are not obliged to use centralised framework agreements, they can voluntarily adhere to them and benefit from the products and services offered.

One exception to the mandatory use of framework agreements by governmental entities lies with the identification of similar goods or services that have more competitive conditions outside of the framework agreements. This exception, along with the voluntary use by specific public entities, advocates for the most comprehensive possible consolidation of needs.

Figure 2.9. Coverage of the framework agreements (2014)

Note: Each bar represents framework agreements for different goods and services of ChileCompra.
Source: OECD analysis based on information provided by ChileCompra.

On average, existing framework agreements in Chile covered around 59% of the corresponding public expenditure in 2014. Although reaching 100% of coverage of needs may be unrealistic, some product categories are lagging significantly behind the average, such as the framework agreement relating to data centre and associated services (17.85%) or training and education services (28.92%).

This issue poses two questions. The first relates to the assessment of the costs-benefits ratio, which is the basis on which decisions regarding the implementation of framework agreements are made. Framework agreements entail administrative costs deriving from implementation and management efforts. These costs should be outweighed by the benefits provided to the end users in terms of ease and speediness of procurement operations. A low level of coverage of public expenditure could signal dysfunctional framework agreements, which question the validity of the benefit assumption.

The second question concerns the process and amount of information relating to the needs of contracting authorities and market capacities. Global market analysis could
provide ChileCompra with valuable insights into market concentration and major trends in specific sectors subject to the implementation of framework agreements. As part of this analysis, ChileCompra could further benefit from market studies carried out by the Chilean Competition Authority (Fiscalía Nacional Económica, FNE).

The sound design of framework agreement strategies heavily draws upon a thorough analysis of procurement spending and its patterns. Well-established processes at the demand analysis stage would provide ChileCompra with useful insights on end user behaviours and expectations, which would support the enhanced coverage of framework agreements.

The National Board of Student Aid and Scholarships (Junta Nacional de Auxilio Escolar y Becas, JUNAEB) comprises regional contracting authorities. It provides an example of a national institution that is structured into different regional contracting authorities, and illustrates the challenges and opportunities for the implementation of coordinated procurement decisions. As shown in Figure 2.10, procurement patterns differ substantially in terms of the number of purchase orders and the average amount of purchase orders. This information could fuel different analyses on procurement behaviours resulting in low value – high frequency purchase orders.

**Figure 2.10. Contracting authorities’ procurement patterns under framework agreements**

![JUNAEB Regional contracting authorities](image)

*Note:* The size of the circles represents the total volume of purchase orders, in terms of value.

*Source:* Analysis made by the OECD based on [www.analiza.cl](http://www.analiza.cl) for purchase orders issued under framework agreements between 2008 and 2015.

By putting further emphasis on demand analysis, ChileCompra could strategically drive the use of framework agreements, which may result in a greater consolidation of purchases. However, these efforts would require the mobilisation of sufficient resources in number and skills. Considering the decentralisation of purchases under framework...
agreements, and the absence of integration of the platform managed by ChileCompra with the public finance management system, this work needs to be initiated sufficiently in advance of the procurement process.

For this reason, it may be desirable to test the impact of these efforts on the coverage of framework agreements and the overall efficiency of a pilot project. For example, framework agreements experiencing lower coverage of public expenditure could be subject to further demand analysis to adapt the procurement strategy. The outcomes of this analysis would help ChileCompra to address the weaknesses identified in the previous cycle.
References


Church and Ware (2000), Industrial Organisation, A strategic approach, Mc Graw-Hill


