Chapter 3.

Enhancing competition to maximise the benefits of framework agreements

As value for money is the primary objective of public procurement, countries have to develop an environment that is conducive to competition by reducing the asymmetry of information between contracting authorities and economic operators, but also by raising awareness of procurement opportunities. This chapter analyses how ChileCompra could improve competition, and thus the efficiency of framework agreements when they are designed, by encouraging early engagement with suppliers, developing the capacity of the public procurement workforce, standardising goods and services, and reducing the number of awarded economic operators.
The creation of an environment conducive to competition is necessary to attract and retain the best suppliers

Public procurement involves the expenditure of large sums of public money, and given its magnitude, can impact the structure and functioning of competition in a market. The primary objective of an effective procurement policy is the promotion of efficiency and the achievement of the best “value for money.”

Framework agreement is a widely-used procurement instrument to help address these objectives. Therefore, any contracting authority or central purchasing body (CPB) developing or managing framework agreements needs to create and ensure a competitive environment. A sound planning phase, grounded in thorough demand analysis, and sound market research and analysis will be key factors for the success of the framework agreement. Tender documents and specifications should, as a general rule, be clear, comprehensive, non-discriminatory, and have a focus on functional performance. The efficiency of the procurement process depends on the bidding model adopted and how the tender is designed, as well as on different mechanisms that favour a competitive environment, including the early engagement of suppliers and contracting authorities and the adequate standardisation of goods and services, which are further discussed in this chapter.

Compared to a contracting authority, a CPB running a framework agreement has more impact on the market, especially where the framework agreement is subject to mandatory use by the contracting authorities. To ensure that the framework agreement is designed and implemented in a sound manner, and that the needs of demand and supply sides are adequately met, suppliers and contracting authorities should be engaged in different stages of the tender.

There are two main reasons that could explain the benefits of engaging suppliers in different stages of the framework agreement:

1. Reduction of information asymmetry
2. Awareness of procurement opportunities

In the context of principal-agent problems, information asymmetry assumes that at least one party to a transaction has relevant information, whereas the other does not. The problem arises where the two parties have different interests and when the agent (a supplier) has more information than the principal (the CPB); meaning that the principal cannot directly ensure that the agent is always acting in the principal's best interests.

In procurement, it is acknowledged that suppliers have more information than the CPB on their costs, prices, market trends, products or services, and their substitutes. Therefore, meeting with a representative sample of suppliers could help decrease the information gap between the CPB and suppliers by collecting more credible and up-to-date information of the market. An example of this can be found in the framework agreement on cleaning services in Croatia (Box 3.1).
Box 3.1. A strategic sourcing and collaborative approach: Cleaning services in Croatia

Cleaning services was a suitable category to be split by regions, and therefore for creating a framework agreement. Market research was conducted in order to gain knowledge on the specificities relating to cleaning services.

Key suppliers of cleaning services were contacted and their experiences were discussed. This was a mandatory step before starting the demand aggregation, as the officials in charge of the procurement procedure needed to understand how to formulate tables for the demand aggregation, what data to ask for, etc.

The procurement team learned about the classification of space, the types of cleaning services, the percentage of labour in the price of service per m², the types of cleaning products used, etc. Information on the current contracts of the cleaning service suppliers was also provided.

The initial market research step led to the understanding that the two major classifications of cleaning services are per type of space and per frequency of cleaning.


Regarding the awareness of procurement opportunities, the reason for engaging with suppliers from the very beginning, and in subsequent pre-tendering stages of the framework agreement, is for the dissemination of information on procurement opportunities to the maximum number of suppliers to ensure efficient competition.

In addition to engaging with suppliers, early engagement by the CPB, which acts as an intermediary between the demand and supply side, with contracting authorities is critical for the identification of their needs and specifications in terms of quantity and function-specific quality. The early engagement of contracting authorities also has the benefits of increasing their participation and the use of the framework agreement. For instance, the Public Works and Government Services in Canada has developed various tools to facilitate the early engagement of suppliers and contracting authorities (Box 3.2).

Box 3.2. Early engagement of suppliers and contracting authorities in Canada

The Public Works and Government Services (PWGSC) in Canada encourages in its supply manual early engagement between client departments and potential suppliers to ensure that public tenders meet market capabilities.

Client departments are invited to engage with PWGSC contracting officers early in the process. This engagement may focus on different topics and may include various levels of engagement. It may be long before a signed requisition is received within PWGSC.

The early engagement with industry may also take many forms, such as:

- Issuing Letters of Interest (LOIs)
- Requests for Information (RFIs)
Box 3.2. Early engagement of suppliers and contracting authorities in Canada
(continued)

- One-on-one consultations with suppliers
- Holding of industry days
- Informal discussions
- Online questionnaires
- Online collaboration tools
- Focus groups

By engaging clients and suppliers through early and ongoing consultation and dialogue, contracting officers are better situated to identify the various complexities and risks associated with a client’s requirement, enabling the development of mitigation strategies. Acquiring the knowledge of the requirement, and its related complexities and risks, better positions all stakeholders for a successful procurement that meets the client’s needs.

Various tools are available to facilitate this early engagement. For example:

- **The Acquisitions Program Policy Suite**, which provides policy instruments on topics such as engagement and communications, governance, socio-economic objectives and risk management.
- **The Procurement Library**, which includes the Complexity Assessment tools and copies of Risk Assessments for Complexity Levels 1 to 3.
- **The Procurement Nuggets**, which provide quick references on various procurement issues.


The way tender requirements are written can affect the number and type of suppliers attracted to the tender and, therefore, the success of the selection process. How they are written can also affect the number of contracting authorities using the framework agreement when the use of CPB services is not mandatory for all contracting authorities, or when contracting authorities are allowed to not use the framework agreement if they find better conditions outside or if the products and services offered by suppliers do not correspond to their needs. The clearer the requirements, the easier it will be for potential suppliers to understand them and to prepare and submit bids, and for contracting authorities to use the framework agreement.

Designing a framework agreement involves a careful balancing between enhancing competition and reducing the number of qualified suppliers. While a small number of suppliers could be associated with low levels of competition, inefficiency could rise when a large number of suppliers are included under framework agreements. When many actors are involved, suppliers may not give their best offer while submitting the bid because they know they have a good chance to be part of the framework agreement anyway, and because there is likely only a small share of business from the framework agreement. In
this regard, the number of economic operators that are part of each framework agreement is a critical point to consider.

Participation in a bid represents a real cost for the economic operators, but also for the CPB and contracting authorities. This is also valid for the second stage competition (the call-off phase) of the framework agreement, since contracting authorities, through the CPB platform, must invite all economic operators under the framework agreement to participate. For this reason, many CPBs and contracting authorities set specific rules to limit the number of suppliers who can be awarded a specific framework agreement.

Decisions on the number of economic operators that are part of a framework agreement depends on the country, the market analysis and the secondary policy objectives to implement, such as the access of small and medium-sized enterprises (SMEs) to public procurement. For instance, Box 3.3 explains how Consip, the Italian central purchasing body, determines the number of suppliers under framework agreements to maximise efficiencies.

**Box 3.3. Balancing the number of suppliers for framework agreements: Examples from Consip (Italy)**

Consip determines the number of suppliers using a flexible rule that depends on the number of valid tenders received. It balances competition and maximum participation.

Examples of rules in some framework agreements:

<table>
<thead>
<tr>
<th>Framework agreements</th>
<th>Number of suppliers under the FA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desktop outsourcing</td>
<td>Valid tenders ≤ 6 =&gt; 3 suppliers</td>
</tr>
<tr>
<td></td>
<td>Valid tenders &gt; 6 =&gt; 4 suppliers</td>
</tr>
<tr>
<td>Open Source</td>
<td>Valid tenders n =&gt; n-1 suppliers (maximum 7)</td>
</tr>
<tr>
<td>Travel agency services</td>
<td>Valid tenders ≤ 5 c =&gt; 3 suppliers</td>
</tr>
<tr>
<td></td>
<td>Valid tenders 6-7 =&gt; 4 suppliers</td>
</tr>
<tr>
<td></td>
<td>Valid tenders ≥ 8 =&gt; 5 suppliers</td>
</tr>
</tbody>
</table>

This system has enabled a significant increase of savings as suppliers have a strong incentive to be ranked first.

*Source*: Information provided by Consip.

Depending on the framework agreement and the nature of products and services, CPBs apply specific minimum requirements to ensure the capability of the suppliers to perform the contract. However, suppliers need to be proportional to the size and terms and conditions of the procurement contract. Minimum requirements may be in the form of pre-qualification requirements and capability tests related to the activity of the supplier, such as stock capabilities, robustness of the supply chain, and annual revenues assessed against projected expenditures under the framework agreement. Other requirements relate to legal aspects, such as the fulfilment of legal obligations in terms of taxes and labour conditions.

In some countries, contracting authorities, or the CPB in charge of the framework agreement, require large and disproportionate monetary guarantees or bonds from bidders as a condition for submitting a bid. Bid or participation bonds are the two main types of bonds often demanded to make sure bidding companies execute the contract when it is
awarded. The performance bond serves as collateral to ensure that all terms of the contract are respected. As described in the European code of best practices facilitating access by SMEs to public contract (European Commission, 2008), this kind of practice, when used disproportionately, represents an administrative and financial obstacle in terms of competition for some categories of bidders, such as SMEs, since they can have difficulties providing these bonds.

Selecting suppliers with the necessary technical and professional ability to bid for contracts ensures good delivery of public services and value for money. Countries have different ways to assess suppliers’ ability to fulfil a contract. For instance, a supplier’s technical and professional ability could be demonstrated by its performance of past contracts, as in Korea (Box 3.4). Some countries take the past performance of suppliers into account by excluding them from a framework agreement. Suppliers may be excluded for the following reasons:

- Delays in providing the goods and/or services in accordance with the framework agreement
- Failure to supply all the goods and/or services in accordance with the scope set out in the framework agreement
- Failure to meet any service levels and/or supply the goods and/or services
- Negative feedback from contracting authorities

Box 3.4. Taking account of suppliers’ past performance in Korea

Established in 1949 as the Provisional Office of Foreign Supply, the Public Procurement Service (PPS) took on its current role as the central procurement agency of the Republic of Korea in 1961. The mission of the PPS is “To provide the best value service to its clients, save national budget spending and contribute to economic development by procuring and managing resources for public administration.”

PPS is responsible for the establishment and management of Korea Multiple Award Schedules (MAS) framework contracts. MAS was designed to meet the differing needs of various end users through contracts awarded to multiple suppliers, each offering goods of similar quality, performance and efficiency. PPS issues unit-price contracts annually with qualified suppliers, who must have an acceptable past delivery performance and satisfactory financial standing. These products and prices are then listed in the Online Shopping Mall, and each end user can make purchases directly, without the need for direct involvement of PPS contracting staff or the issuance of a new contract.

This arrangement provides a number of benefits. First, it provides more options for end users by providing access to a broader range of suppliers. It also allows more suppliers to participate in the public procurement process – as long as the minimum requirements for satisfactory past performance in at least three instances and a credit rating above a certain threshold are satisfied, any supplier can participate. This increased number of suppliers also generates increased competition. Not only do suppliers compete on price, but also on quality of similar product, delivery terms and rated after-sales service, which refers to the suppliers’ responsiveness to inquiries, requests for action on defects and other performance elements.


Basing contract award decisions on past performance encourages companies to achieve better acquisition outcomes over the long term, and helps ensure that the contracting authority or the CPB will contract with firms that are likely to meet
performance expectations. Moreover, under a system that allows for past performance criteria, suppliers compete not only on price but also on quality. However, for past performance information to be useful, it must be documented, relevant, fair and reliable; there also need to be systems, tools and metrics for sharing the information, such as in the United States (Box 3.5).

**Box 3.5. Taking account of suppliers’ past performance in the United States**

Federal agencies are required since July 2009 to post all contractor performance evaluations on the Past Performance Information Retrieval System (PPIRS, ). That web-based, government-wide application provides timely and pertinent information on a contractor’s past performance to the federal acquisition community for making source selection decisions. PPIRS provides a query capability for authorised users to retrieve report card information detailing a contractor's past performance. Federal regulations require that report cards be completed annually by customers during the life of the contract. The PPIRS consists of several sub-systems and databases (e.g. contractor performance system, past performance database, and construction contractor appraisal support system).


The CPB or contracting authority running a tender need to consider the cost of the bid, as well as the time associated, as this has a great implication on competition and efficiency. The higher the cost of the tender, the lower the level of competition. This is true for framework agreements, but also for call-offs. For this reason, the use of electronic bidding systems and, more generally, e-procurement systems, can be seen as a way to remove barriers to competition as they enable cheap and quick communication. Some economic operators, such as SMEs, do not have large and specialised administrative capacities. Therefore, contracting authorities and CPBs could try to keep administrative requirements to a minimum as a way of enhancing competition.

In terms of processes, there is a strong link between competition and deadlines to submit bids. As such, CPBs and contracting authorities could take into account all constraints of economic operators in order to set an appropriate timeframe to receive more bids and better bids in terms of quality.

The boundaries of a procurement market are essentially defined by the tender specifications. Therefore, careful attention on the tender specifications is necessary to ensure that the market is defined as widely as possible, and that barriers to entry are as low as possible. In procurement markets, barriers to entry can be lowered by designing tender participation criteria that are not unnecessarily restrictive, by allowing firms from other regions or countries to participate, or by devising ways of incentivising smaller firms to participate, even if they cannot bid for the entire contract.

Of key importance for a framework agreement’s design is its capability to meet a specific need, not a specific product or service. The standardisation of products and services is the process of homogenisation and setting generally uniform characteristics for a particular good or service that may reduce the variety of products that fall under similar descriptions. This can be a powerful way to increase the efficiency of the framework agreement in terms of competition, and is a big step towards the rationalisation of public spending. The standardisation, and thus the categorisation of products and services under a framework agreement in the system, play a key role in the second-stage competition.
Allowing contracting authorities to choose the categories and sub-categories for call-offs by going further in the technical specification could dramatically decrease competition.

**Promoting engagement with suppliers: A shared objective across countries**

According to the OECD’s survey, CPBs consult suppliers when carrying out market research (92%) and demand analysis (83%). After receiving information and opinions on the needs and the market, suppliers are consulted less often. Half of the countries surveyed engage with suppliers for the general design of the framework agreement.

![Figure 3.1. Supplier consultations at different stages of framework agreement preparation](image)

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


For instance, in New Zealand, the suppliers are consulted dependent on the market and the requirements: their Strategic engagement methods include public notices, requests for information, "speed dating" sessions, meet the supplier sessions, industry workshops and, if appropriate, one to one engagement.

It is worth noting that most of the CPBs surveyed are European. In their model, the number of suppliers under the framework agreement is considerably smaller than in ChileCompra.

ChileCompra carries out supplier consultations at different preparation stages of framework agreements, notably at the demand analysis stage, the market research and the choice of categories stages which are mainly done through requests for information (RFI).

ChileCompra co-ordinates the Propyme (*Pro Pequena y Mediana Empresas*) committee, which is a consultative body with a clear goal of proposing actions and promoting the activities of ChileCompra in terms of public procurement to SMEs. This committee meets five times per year and is composed of representatives of ChileCompra, industry associations, the Ministry of Economy, chambers of commerce and trade associations. The ChileCompra website has a forum for all relevant actors to share their opinions and perspectives. In the executive summary of the 3rd Propyme committee meeting in September 2013, survey results were shared especially on the reasons for low competition in ChileCompra activities. Reasons included difficulty to access the
information, its low circulation, and the lack of the supply and the type of contracts (Figure 3.2).

**Figure 3.2. Reasons for low competition in ChileCompra activities**

<table>
<thead>
<tr>
<th>Difficulty to access information</th>
<th>Lack of supply</th>
<th>Dissemination</th>
<th>Type of contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Source: Based on information provided by ChileCompra*

Suppliers participate in decisions on the procurement strategy in some countries. For example, they can influence decisions on procurement procedures, such as in France and New Zealand. The extent of their participation in the decision varies across countries, however, the final decisions are made by the CPBs. The participation of suppliers in decisions on the award criteria of the framework agreement exists only in New Zealand and Spain. In Spain, all main lines of procedures are subject to suggestions, including from suppliers through a request of information (Box 3.6).

**Box 3.6. Supplier participation in the procurement strategy: Spain**

In Spain, the Directorate-General for Rationalisation and Centralisation of Procurement (DGRCC) acts as a CPB for the central administrations. Its main mission is the promotion, management and monitoring of centralised procurement in the state public sector.

For the purposes of increasing the transparency of centralized procurement processes and of ascertaining the views of the business sector to which the framework agreements are directed, the DGRCC holds meetings with business associations and public sessions with potential tenderers and associations during the preparation of the conditions of tender. These sessions allow the DGRCC to get the views of the sector on a diverse range of aspects of procurement. This process concludes, on most occasions, with the distribution of a questionnaire (RFI) for the companies and associations to give their opinion on the different aspects of the procurement approach.
Box 3.6. Supplier participation in the procurement strategy: Spain (continued)

For instance, after an open meeting on the future framework agreement on office suppliers, suppliers and associations had to answer a questionnaire on the:

- Duration of the contract
- Scope of the contract
  - Availability of all products? If not why?
  - Quality
  - Packages
- Delivery zones/regions
- Management of supplies:
  - Delivery times
  - Minimum orders


Box 3.7. Engaging with suppliers in Portugal

The National Agency for Public Procurement in Portugal (ESPAP) conducts two types of consultations to engage suppliers:

1. A public consultation where the CPB presents the tender purposes and specifications. The main aim is to gather feedback from all relevant stakeholders, such as suppliers. During this consultation, ESPAP clearly describes the:
   - Objectives of the agency and framework agreements (general)
   - Type of procedure, duration, lots and set-up of the framework agreements
   - Awarding criteria and proposals ranking
   - Minimum technical and functional requirements (base + optional)
   - Conditions to participate in the tender
   - Product update and changes in the offer during the framework agreements

2. A preliminary consultation, which is an informal consultation with future interested parties (economic operators), can be accepted for procedure preparation and information purposes. This process could result in recommendations or relevant market information being issued. Special attention on competition protection and non-discrimination and transparency principles is required.

Source: based on a presentation given at a workshop supporting the Greek public procurement reform, June 2014.
The publication of a prior information notice to make suppliers aware of upcoming procurement opportunities is generally regarded as best practice. There is no specific rule or timeline to publish the notice. It is published in several countries with different timeframes: 2-11 months before the tender invitation in Belgium; 6-8 months before in Finland, except for very few procedures; and 3-4 months before in Spain, through a web portal. In Italy, the notice is published during the very early stages of market consultation. In New Zealand, prior information notices are posted on GETS (Government Electronic Tendering Service), and upcoming opportunities are posted on the New Zealand Government Procurement (NZGP) website, including annual procurement plans.

ChileCompra does not publish any prior information notice, and the information related to the framework agreement is only available in the tender publication stage.

As a specific procurement instrument, the implementation of framework agreements requires tailored procurement processes

**ChileCompra could further engage with suppliers and contracting authorities to enhance competition**

Establishing an ongoing dialogue between industries, contracting authorities and the CPB throughout the procurement process should begin as early as the needs identification stage. Early engagement mitigates risks, identifies innovative solutions, and enhances competition by connecting buyers and suppliers early on in the process.

ChileCompra's co-ordination of the Propyme Committee is a good initiative to promote early engagement. However, this committee is intended only for SMEs, which represent less than 50% of procurement value and purchase orders. In order to create an environment that is conducive to competition, the first step for ChileCompra is to invite all interested suppliers from all categories to a dialogue with the procuring agency on the technical and administrative specifications of the procurement opportunity, or on the framework agreement more generally.

Figure 3.3. Share of companies by their size in terms of value and number of purchase orders in Chile

<table>
<thead>
<tr>
<th>Size</th>
<th>Value</th>
<th>Purchase orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>52.42%</td>
<td>53.94%</td>
</tr>
<tr>
<td>Small</td>
<td>17.29%</td>
<td>18.93%</td>
</tr>
<tr>
<td>Medium</td>
<td>19.09%</td>
<td>15.00%</td>
</tr>
<tr>
<td>Big</td>
<td>11.19%</td>
<td>12.12%</td>
</tr>
</tbody>
</table>

*Source: Information provided by ChileCompra.*
Instituting clear processes and actions at different stages using various means is critical for enabling ChileCompra to unlock the benefits of the early engagement of suppliers. The publication of procurement plans is considered as a good practice to inform suppliers at a very early stage. Various CPBs publish procurement plans based on demand analysis, but also on the exact end time of a framework agreement. The best option to reach out to the broadest audience is to publish procurement plans on the CPB website or the national procurement website. This gives a clear visibility to suppliers on the upcoming opportunities in the medium to long term. On the ChileCompra website, the annual plan of procurement is currently available on previous years where this information is crucial for the upcoming years to help the suppliers. A regular update of the information available in the website is a key factor of success.

In some countries, any contracting authority or CPB can publish a prior information notice that describes the amount, and sometimes the characteristics, of tenders to be launched in the next twelve months. This enables economic operators to be aware of, and prepared for, future procurement opportunities in the middle term. For instance, the European Commission provides an advanced and complete model of the prior information notice. On the ChileCompra website, suppliers can see the upcoming framework agreements for 2016. However, the information provided is minimal and describes only the procurement area, it does not adequately enable suppliers to prepare to submit bids. Providing more information, including a short description of the nature and quantities of the framework agreement or the scope of works, the scheduled date for start of award procedures and the duration of the contract, would enable ChileCompra to raise the awareness of future opportunities among its supplier community.

The introduction of requests for information before the publication of a framework agreement is considered as good practice to enable a better design of the tender specifications. RFIs are distinct from requests for quotation (RFQs): RFIs address issues related to tender design and specification in general, whereas RFQs are mainly intended to get prices. Using all components of RFIs for all tenders could help ChileCompra have a better understanding of each market.

ChileCompra could also institutionalise meetings with suppliers before the launch of each framework agreement in order to ensure more engagement from the supply side. These could be in the form of open or individual meetings, which would ensure equality of treatment between suppliers. Considering the size of the country and the risk of collusion when suppliers meet, ChileCompra could consider online open meetings to help reduce face-to-face interaction.
Box 3.8. Industry days in Canada

Canada uses the smart procurement approach of early engagement to ask suppliers for their expertise before a requirement is identified. This is achieved through an increased number of industry days, one-on-one supplier consultations, and other engagement activities.

For instance, the Department of National Defence, Canadian Forces Base, Edmonton, Alberta, has a requirement for the provision of television services that includes the media, labour, material, supervision, equipment and transportation necessary to fulfill this requirement. Television media could include those provided through cable (fibre or copper); radio frequency, such as satellite or microwave; or Internet protocol streaming over the Internet.

Because of the complex nature of the requirement, the contracting authorities organised an “industry day” with industry representatives to discuss this requirement in detail. The purpose of this session was to proactively communicate the government’s intent to purchase television services, and, as a stakeholder, suppliers had the opportunity to bring forward suggestions to make the process effective, efficient, and aligned with industry practices.


Reaching all suppliers individually can be difficult, and RFIs through the ChileCompra website may not be a sufficient way of reaching suppliers and collecting valuable information. It is therefore essential for ChileCompra to keep working actively with other institutions, such as:

- Industry associations that can be used as legitimate, pro-competitive mechanisms for members of a procurement sector to promote standards and competition.
- Chambers of commerce, whose goal is to further the interests of businesses.

Both types of institution can provide valuable information on the market, and also act effectively to relay information to their members, and thus enhance competition. ChileCompra has established links with these institutions through the Propyme committee. However, the key is to ensure that the information is then transmitted to suppliers with clear action plans and follow-ups. ChileCompra could consider establishing relationships outside the Propyme committee for each procurement area.

For ChileCompra's framework agreements, suppliers have two months to submit a bid. ChileCompra should consider adapting the procurement process to each framework agreement, depending on the procurement area and the complexity of the framework agreement. While ensuring suppliers have adequate time to submit their bids, the early engagement of suppliers can enable a reduction of the timeline, since suppliers could be made aware of and prepared for procurement opportunities.

ChileCompra could further develop subject matter expertise according to product categories

In terms of the efficiency of the framework agreement, category managers or subject matter experts play a significant role. In some CPBs, category managers should at least be specialised at the procurement area level as they need a good knowledge of a specific market and its environment. Category managers should know the industrial sector in which they operate, market trends, products and services available in the market, and all
the other relevant information necessary for a good understanding of the market and a
decrease of information asymmetry. These tasks should be undertaken during the
preparation of the tender, but also during the entire tender life. Even if those tasks are
more demanding in terms of time, the impact in terms of competition and efficiency will
be much more significant.

The inclusion of appropriate subject matter experts in the design of the tender
specification could lead to a further rationalisation of the offering and the pool of
suppliers.

**Figure 3.4. Share of products transacted**

![Figure 3.4. Share of products transacted](image)

Source: OECD analysis based on information provided by Chilecompra

Indeed, only 31.5% of the products included in the platform are effectively transacted.
This represents a waste of time and a cost for the CPB, but also for suppliers. Hence, to
reduce the time spent on the design of the tender specification, and on the checking and
update of products and services, a further development of procurement expertise could
help when selecting the relevant products and services to include in the framework
agreement and in the platform, and would allow for a greater focus by category managers
on strategic decisions.

In the case of a new framework agreement, in-house expertise developed as early as
possible would help in understanding the relevant market challenges. An example of this
in Chile is the experience of ChileCompra with medical devices. ChileCompra
established a strategic alliance with the Institute of Public Health (Instituto de Salud
Pública) and received feedback from two main contracting authorities: San Juan Hospital
and the Hospital of Chile University. For this framework agreement, the average
percentage of transacted products is high (around 85%) compared to those in other
framework agreements of ChileCompra. It clearly supports the positive impacts of this
kind of alliances and the benefits of early engagement with the contracting authorities
which would be essential for Chilecompra to establish in other procurement areas.
The standardisation of goods and services is crucial for enhancing competition and increasing efficiency

The standardisation of products and services, while ensuring the market is defined as widely as possible in the tender specification, can enhance the efficiency of the system and boost competition in the market. Tenders should reflect the diversity of the technical solutions available in the marketplace, with certain limits. The easier a product/service can be standardised, the higher the chance to aggregate the volume, the value of the framework agreement, and thus the savings.

Information available on the platform regarding the use of products and services would be a valuable input for ChileCompra when deciding which products and services to be included in the framework agreement. From the products and services managed by ChileCompra, only 39.8% had more than one purchase order, and 12% were disqualified or not available. When renewing a framework agreement it is essential for ChileCompra to consider whether or not to include the products and services that are never or rarely ordered. This analysis can help to define standardised products and services.

**Figure 3.5. Percentage of products having received 0 or 1 purchase order**

Source: OECD analysis based on information provided by ChileCompra

Defining specifications as widely as possible would enhance the efficiency of the system, as going into high specifications and details, such as the SKU (stock keeping unit) level, would reduce competition. This work is directly linked with the standardisation and categorisation established by the CPB. For example, in ChileCompra there are 28 different categories of rice and even more subcategories.
Categories are sometimes duplicated or very similar. This way of categorisation could lead to reduced competition, especially for procurement above the threshold. Categories should reflect the tender specifications, which means products and services meeting the need, not a wide and detailed description of the products and services to be procured.

Contracting authorities are obliged to use ChileCompra framework agreements unless they find better conditions outside, and data on framework agreement coverage clearly shows that the average coverage is quite low (59.3%). This means that more than one third of the amount spent by contracting authorities, for which a framework agreement is available, is spent on goods/services outside the framework agreement.

A smart standardisation of products and services gives a clear visibility to suppliers on the real demand side. It can lead to increased competition among suppliers, as all will compete for the same standardised products and services. This will increase the efficiency of the framework agreement and increase its coverage. This process is crucial for ChileCompra since it impacts the efficiency of public spending, but also the sustainability of the model.

Standardisation also allows for meaningful price comparison. Currently, ChileCompra Express (the electronic procurement platform) allows contracting authorities to filter by price, but not by price per unit. The price per unit would constitute relevant information to be displayed in order to make comparison possible and enhance competition among suppliers. This issue should be addressed at the design phase while imposing to suppliers in the tender specifications specific units and sizes of products.

**Reducing the number of economic operators under framework agreements could help Chile to further promote competition**

With the standardisation of goods and services, suppliers can benefit from clear visibility of the goods and services to supply. However, having a large number of suppliers under a framework agreement does not allow suppliers to plan supply, benefit from economies of scale, or share this benefit with contracting authorities. The standardisation of products and services should go hand in hand with the limitation of the number of suppliers to maximise the benefits deriving from demand aggregation (Harland et al., 1999).

Selection criteria for the evaluation and awarding of a framework agreement affect the intensity and effectiveness of competition in the tender process. Transparency, and a good explanation of tender selection rules, is very important steps towards efficiency. There is no general rule on limiting the number of economic operators that may participate in a framework agreement. However, the pool of suppliers should be of manageable size for the award phase, but also during the tender life.

For the framework agreements available in 2015, ChileCompra received 8 209 bids and awarded 6 004 of them. This means that ChileCompra had to analyse a significant number of bids, for which nearly one third were not awarded. The evaluation phase (including the qualification of suppliers) takes between two to eight months which is understandable given the high number of suppliers. However, a long evaluation phase increases the risk that bids awarded are not up-to-date in terms of price or needs.

SMEs account for 90% of suppliers under ChileCompra's procurement system, but they represent only 47.6% in terms of value, and 46% in terms of the number of purchase orders. Around 60% of suppliers under framework agreements in 2014 had no transactions in the same year. This could mean that a large range of suppliers and SMEs
do not receive any orders, or receive only a few. This implies inefficiencies in the system for a wide range of suppliers, particularly when considering the costliness of the bidding process. Hence, the CPB should carefully assess the market, their requirements and resources during the preparation stage, and decide on the appropriate number of economic operators for each framework agreement.

The number of suppliers under a framework agreement ranges from 1 to 1,094, with an average of 147. The mechanism does not encourage suppliers to give their best offer as they know they have a good chance of being part of the framework agreement anyway. For procurement under the threshold, contracting authorities can buy from any supplier without having complete information on the initial selection phase, such as the ranking of suppliers. ChileCompra could consider introducing a mechanism to make visible the ranking of suppliers and to give a larger share to those ranked higher. This could incentivise suppliers to give a more competitive price. This mechanism will reduce the information gap as ranking is not only based on the price criterion and thus will enhance competition and likely decrease prices.

The capability tests of suppliers checked by ChileCompra are minimal as the CPB generally only checks the fulfilment of legal obligations (taxes, labour conditions, etc.). This could explain the high number of bids, the low percentage of disqualified suppliers (4%), and the high percentage of products not available (11%). To strengthen the quality of suppliers, ChileCompra should consider the introduction of a prequalification stage and additional capability tests, such as stock capability or the robustness of the supply chain, depending on the procurement area.

A good way to ensure the quality of suppliers is to introduce past performance criterion, which is used for some tenders by ChileCompra. However, to use this criterion efficiently, the CPB should not ask only about years or numbers of experience in the specific procurement area but also information related to the quality of suppliers in the performance of previous contracts. This information should be documented, relevant and reliable, and adapted to each procurement area. ChileCompra should consider developing a system or a platform to receive feedback from contracting authorities on the performance of suppliers regarding the compliance of the contractual clauses (e.g. prices and delays).

To limit the risks related to the performance of the contracts, ChileCompra can ask for various types of guarantees/bonds. The CPB has published instructions on its website on how to use these guarantees:

- **Bid bonds** are expressed in total value but cannot represent more than 5% of the contract. ChileCompra advises contracting authorities to not ask for those guarantees under the threshold (1,000 UTM), and the CPB should monitor their use.

- **Performance bonds** are expressed in total value ranging from 5 to 30% of the contract. The percentage to apply will depend on the risk assessment of the procurement.

Limiting the number of economic operators with adequate capability tests can limit the risks related to the performance of procurement, and thus decrease the percentage of the bid and performance bonds. A decrease of financial guarantees according to supplier performance of the contract should be encouraged.
The good design of tenders should not restrict some groups, such as SMEs, from submitting bids for a framework agreement. ChileCompra should allow contracts to be awarded in the form of separate lots when possible. Allotment can be used from a regional perspective, but also for special categories of products and services. The subdivision of public purchases into lots clearly facilitates access by SMEs, both quantitatively (since the size of the lots may better correspond to the productive capacity of the SME) and qualitatively (the content of the lots may correspond more closely to the specialised sector of the SME).

In many countries, such as those under the EU directive, contracting authorities are obliged by law to accept a group of suppliers submitting a bid. In this case, the group or consortium may rely on the capacities of all participants. From the information available, ChileCompra does not currently allow for this kind of co-operation among suppliers, even for the second stage competition. While rationalising the number of suppliers, ChileCompra could consider allowing the grouping of suppliers in order to further remove barriers to participation.

ChileCompra allows subcontracting for only a small portion of framework agreements, and it is acknowledged that economic operators would prefer to win the entire contract. However, in the case of large contracts, or when there are no SMEs in the market, subcontracting may still provide firms and SMEs opportunities to have a share of the contract through participation in the procurement supply chain. This is particularly the case when SMEs can provide added value in the form of specialised or innovative products or services. In this regard, increasing subcontracting opportunities could further facilitate SME participation in framework agreements.

Notes

1  In Chile, Law N° 20.416 establishes the criteria to define the size of a firm. SMEs are considered as firms with fewer than 200 employees and with an annual turnover up to 100 000 UF (Unidad de Fomento, a unit of account that is adjusted to inflation). It corresponded to USD 3 700 000 in January 2016.

2  Accessible at www.mercadopublico.cl/Home/PlanDeCompra.


4  Accessible at www.mercadopublico.cl/Home/Contenidos/QueEsCM.


6  UTM (unidad tributaria mensual) is a unit of account in Chile, generally used to calculate taxes, fines and custom duties.
3. ENHANCING COMPETITION TO MAXIMISE THE BENEFITS OF FRAMEWORK AGREEMENTS

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