Chapter 4.

Strategic practices for the effective use of framework agreements in Chile

Once implemented by central purchasing bodies (CPBs), framework agreements are meant to be used autonomously by contracting authorities. However, without guidance or structured ordering processes, the potential efficiencies in the tendering process and the selection of suppliers could be put at risk. This chapter assesses country practices in supporting contracting authorities to make the most of existing framework agreements. It provides recommendations for ChileCompra on increasing the efficiency of the system and allowing contracting authorities to take informed purchasing decisions.
A structured call-off stage supported by detailed guidance could boost competition

The award of framework agreements to suppliers does not end ChileCompra’s responsibilities and strategic oversight. As for any central purchasing body, the award of framework agreements to suppliers entails follow-up efforts to ensure that the instrument correctly allows for the matching of public entities’ needs with market capabilities, while maintaining effective competition.

The use of framework agreements, and the corresponding support provided to both the demand and supply sides, depends on whether a contract already existed or if a new instrument is being implemented. Support during the initiation phase is highly dependent on this factor. Information about the range of products and associated services available under a new framework agreement is essential for ensuring that its coverage is adequately understood.

The classification of information on the products and services available under a framework agreement is a crucial step for ensuring the strategic use of the framework. This information frames the level and structure of the competition at the call-off stage. An extended products typology would allow the end-user to identify those closest to its needs, however, it would also diminish the level of potential competition among qualified suppliers.

Product typology also affects the experience of end-users in processing orders on the platform. Non-intuitive product classification makes the search and identification of offerings that match end-users’ needs difficult and longer. This has a direct consequence on the processing costs relating to purchase orders, and therefore on the overarching equilibrium of the framework agreement.

For businesses, extended product typology would open the door to unnecessary product differentiation and result in duplications when either requesting or updating their catalogue. In many countries where a shopping mall of products available under framework agreements is implemented, product updates are supervised by the central purchasing body to ensure relevant product categorisation.

To ensure that requests for modifications are sustainable over time, the majority of respondents to the OECD’s survey indicated minimum periods during which changes are not authorised. This is not the case in Chile. In addition, almost half of the countries defined a structured environment for the modification of offerings, whereby suppliers are allocated a maximum number of changes or requests for changes. These practices can mitigate the level of effort and resources needed in the CPB.

The call-off stage, which implies having recourse to another round of competition, commonly exists for purchases above a specified threshold and/or where a detailed and ad-hoc description of the needs of the contracting authority is required. Besides being compulsory to ensure competition among awarded suppliers, second stage competition could also foster the strategic use of framework agreements, provided that the CPB offers appropriate support and guidance. This stage often conveys broader principles relating to strategic procurement, such as need specifications or award criteria, which were applied by skilled and professional procurement officials in the first competition stage.

This exercise in the second stage is carried out by officials with heterogeneous procurement skills, depending on the frequency of their purchasing activities and on their complexity. In New Zealand, the Ministry for Business, Innovation and Employment defined a Procurement Capability Index that aimed to assess the procurement maturity of purchasing agencies (see Annex E). This index allows for a greater and more strategic
understanding of support needs, notably in the field of commercial acumen. Guidance and support provided by the central purchasing body during this phase is a major step towards enhancing the strategic use of framework agreements. These efforts could take the form of either real-time assistance via call centres, or supporting documentation and guidance provided online.

For call-offs where second stage competition is not needed, another way of fostering the strategic use of framework agreements is to identify and disclose information on suppliers relating to their initial assessment in the award phase. In many countries, framework agreements are awarded on the basis of a combination of technical and financial assessments. Informing contracting authorities of the outcomes of these assessments would allow them to make an informed decision before issuing an order to a supplier.

This could also affect the behaviour of the supply side in framework agreements, as end-users would have more visibility on the outcomes of the initial tender process. Disclosure could also incentivise suppliers to compete more fiercely in the first competition stage, as they know that the ranking of the initial proposal would affect the potential revenue generated with the framework agreement.

**The flexibility of framework agreements, and the options they offer, call for structured support from central purchasing bodies**

Supporting contracting authorities and suppliers during the initiation period of framework agreements helps to create a structured environment, which provides stakeholders with a greater understanding of the instruments’ main characteristics. For example, a framework agreement that provides specific products and associated services would warrant additional guidance to contracting authorities so that they can maximise their purchasing power by integrating all required goods and services into the same order from the outset. As shown in Figure 4.1, targeted information and support are provided in the initiation phase in order to raise awareness about the existence and structure of recently implemented framework agreements.

**Figure 4.1. Steps taken during the initiation of framework agreements**

<table>
<thead>
<tr>
<th>Support Activity</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informing all other relevant parties, on the existence of the FA and its purpose.</td>
<td>58%</td>
</tr>
<tr>
<td>Meeting with suppliers and explaining the rules and roles of the CPB, of the suppliers and of the CAs</td>
<td>83%</td>
</tr>
<tr>
<td>Providing information on the CPB’s website and in newsletters</td>
<td>92%</td>
</tr>
<tr>
<td>Providing guidance for customers and suppliers on how to use the FA</td>
<td>100%</td>
</tr>
<tr>
<td>Organising informative events for CAs</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Note:* Lighter blue colour indicates where Chile does not take part. FA = framework agreement; CA = contracting authority.

While all respondents to the OECD survey indicated that they provide guidance and information to contracting authorities and suppliers on the use of framework agreements, countries adopt different strategies on the content and format of this support. For example, Consip, the central purchasing body of Italy, takes a proactive approach by providing information relating to framework agreements during the preparation stage in advance of the issuance of the corresponding call for tenders.

ChileCompra has a dedicated Users Division (Division Servicio al Usarios) that provides help-desk services and training services to both contracting authorities and suppliers. In 2015, the help-desk received more than 150,000 requests, out of which 69% came from contracting authorities. Among these requests, 15% related to administrative issues, such as forgotten password for accessing ChileCompra Express. Efforts required to address these purely operational requests are absorbing time and resources not allocated to the provision of substantive guidance.

Beyond administrative support, guidance for contracting authorities regarding call-offs implies that second stage competition is further developed in some countries. For example, Finland developed templates to be used by contracting authorities in order to ensure that major procurement principles, such as fairness and transparency, are also followed during this stage.

**Figure 4.2. Requirements at the call-off stage**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference prices are included in the call-off phase in order to accompany market evolution if it is not properly reflected in the FA</td>
<td>73%</td>
</tr>
<tr>
<td>The requirements and award criteria defined in the FA must be followed</td>
<td>67%</td>
</tr>
<tr>
<td>Contractors are under an obligation to respond to all calls for tender</td>
<td>42%</td>
</tr>
</tbody>
</table>

*Note: Lighter blue colour indicates where Chile does not take part. FA = framework agreement.*


Among respondents to the OECD survey, 58%, including Chile, have framework agreement systems that do not impose obligations on suppliers to respond to all call-offs. As discussed in Chapter 2, this indicates weak commitments on the supply side and induces a potential cherry-picking strategy from suppliers (Albano and Nicholas, 2016). In Chile, less than 19% of awarded suppliers respond to call-offs, on average (see Fig. 4.52). In the case of framework agreements with multiple suppliers, this risk could be reasonably mitigated by the multiplicity of suppliers. However, in the case of mandatory framework agreements with only one supplier, this practice could lead to potential disruption of supply.

Among survey respondents, 73% provide reference prices in the call-off stage to accompany market evolution. This practice helps ensure that prices proposed by suppliers...
during the mini competition are aligned with the most recent evolution of market prices, irrespective of the date of implementation of the framework agreement.

Figure 4.3. Discounts foreseen in second-stage competition

<table>
<thead>
<tr>
<th>Limits to discounts</th>
<th>0%</th>
<th>20%</th>
<th>40%</th>
<th>60%</th>
<th>80%</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discounts based on reference prices calculated by the CPB</td>
<td>17%</td>
<td>33%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discounts based on the initial prices offered by the suppliers</td>
<td>75%</td>
<td>60%</td>
<td>40%</td>
<td>20%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

Note: Lighter blue colour indicates where Chile does not take part. Bar with diagonal filling indicates where it is only applicable to some framework agreements in Chile.


Three quarters of survey respondents indicated that discounts obtained during the second stage of the competition are based on the initial prices proposed by suppliers through their first submission, upon which they were awarded the framework agreement. This practice illustrates a rationale whereby the initial prices serve as a competition starting point during the mini competition. It also sets the ground for the measurement of hard savings achieved via the issuance of second stage competition.

Ways that ChileCompra can streamline the use of framework agreements

One a framework agreement has been awarded, central purchasing bodies should ensure that contracting authorities use it to pursue efforts towards efficiencies that were initiated in the design and the open competition stage. To do this, central purchasing bodies could primarily attempt to provide a structured purchasing environment and sufficient guidance to contracting authorities to avoid behaviours and patterns that would harm the efforts achieved in the first stage.

ChileCompra could revisit product categorisation to boost competition and ease ordering process

More than 115 000 products and services are available on ChileCompra Express under 35 distinct framework agreements. However, this does not necessarily mean that there is competition among suppliers of goods and services. Almost half of the products available are only proposed by one supplier inside a given framework agreement, a situation which inherently removes any competition. (Figure 4.4)

On average, products and services are proposed by approximately five suppliers, which tends to indicate an effective level of competition (with the exception of the limitation mentioned above). While this number should illustrate the competitiveness of the offering proposed to contracting authorities, this is not always the case, for example, some product categories comprise up to 850 suppliers.

When looking at the median, analysis shows that only two suppliers are able to compete within the same product category (Figure 4.4). This suggests that a significant
number of product categories are not able to attract a sufficient number of bidders, notably in the second stage competition. In the United States, second stage competitions in Multiple Award Schedules (MAS) are required to comprise at least three suppliers to ensure a reasonable degree of competition.

![Figure 4.4. Number of products provided by different numbers of suppliers](image)

*Note:* Calculated based on the 117 390 product descriptions database provided by ChileCompra.

*Source:* OECD analysis based on information provided by ChileCompra.

A low number of potential competitors also renders competition more predictable, which could open the door to bid-rigging practices, such as in Mexico with the Mexican Institute of Social Security (Instituto Mexicano del Seguro Social – IMSS), where drugs and medicines public procurement markets were distributed across a small number of main suppliers who collusively agreed to share the market (OECD, 2013).

By rethinking product categorisation, ChileCompra could streamline the ordering process and foster competition among suppliers. This would facilitate contracting authorities’ ordering processes by eliminating unnecessary level of details when describing their needs, and as a result provide end-users with a greater number of possible goods and services that match their needs. If adequately categorised and displayed on the platform, the resulting variety of offerings could propose alternatives to end-users that would help them make informed purchasing decisions that go beyond merely comparing financial aspects. Goods and services under the same product category could, for example, be regrouped according to the scoring of the suppliers’ proposals against other criteria defined in the call for tender.

In Korean framework agreement systems, innovative (excellence programme) goods and services are identified in the platform so that end-users can decide to purchase them, even if competing products from other suppliers might turn out to be cheaper. Other
countries specifically identify goods and services that perform best environmentally. Acting as filters, these selection capabilities provide additional information on the available offering, and can grant contracting authorities the flexibility necessary to pursue secondary policy objectives when ordering specific products.

Refining product categories would also broaden competition between suppliers at the second stage competition by eliminating product duplication. For example, training materials developed by the US General Services Administration (GSA) to support ordering processes under MAS recommend avoiding the definition of needs according to a specific brand so that competition is not limited.

ChileCompra could further support contracting authorities to increase efficiency with framework agreements

ChileCompra could develop support and guidance to help contracting authorities drive efficiencies through framework agreements. An area of particular importance for additional support is second stage competition. While it represents a minor share of the total number of purchase orders (approximately 0.1% of the total number processed each year), orders passed after second stage competition amount, on average, to slightly more than 28% of total expenditure under framework agreements for the last four years. This represented, in real value, USD 1.84 billion out of the USD 6.5 billion spent in total under framework agreements between 2012 and 2015.

Second stage competition is a strategic milestone in procurement under framework agreements as it represents the achievement of all previous efforts in designing and issuing call for tenders and in selecting the most advantageous proposals. If this step is not adequately carried out, all previous centralised efforts, for example towards sustainable procurement, would be harmed. Second stage competition also represents a more complex step which, in order to drive efficiencies, implies having recourse to strategic procurement skills that go beyond a mere understanding of the operating environment of framework agreements. In Chile, 1,268 calls for second stage competition were made in 2015, compared to a total of 124,665 purchase orders made under framework agreements in 2014. This number raises concerns when considering that the calls had, on average, an 18.8% response rate from suppliers; and that 599 of the calls (47%) had a response rate of less than 10%, and 309 between 10% and 20% (Figure 4.5).

Figure 4.5. Dispersion of suppliers’ response rate to calls for second-stage competition, 2015

Source: OECD analysis based on information provided by ChileCompra.
ChileCompra Express is used by 850 contracting authorities. On its website, ChileCompra provides guidance to this category of end-users comprised of both mandatory (central government) and voluntary users (municipalities). However, guides could move from the existing operational description of processes to providing further information on how to make the most out of framework agreements. These guides could possibly be tailored to specific audiences.

Box 4.1. Support provided to eligible agencies in New Zealand

The New Zealand Government Procurement (NZGP) agency, under the Ministry of Business, Innovation and Employment, is responsible for the management of collaborative procurement instruments, such as all-of-government (AoG) contracts, which can be used by eligible agencies to purchase a range of products. AoG contracts harness the collective purchasing power of government by establishing single supply agreements for the supply of selected common goods and services.

In addition to AoG contracts led by NZGP, the following two types of collaborative contracts are also available to eligible agencies:

- Open syndicated (OS) contracts
- Common capability (CC) contracts

Dedicated centres of expertise in NGZP manage the development, negotiation, provider performance, and on-going contract management of the AoG contract within New Zealand’s government procurement.

Centres of expertise help eligible agencies assess the value that the AoG contract can deliver, both at the implementation phase and throughout the life of the contract. This could include general advice relating to the contract, assistance with analysis of the savings the eligible agency can achieve through the contract, as well as additional value that can be achieved through best practice purchasing.

To further assist eligible agencies in their purchasing operations under AoGs, NGZP has developed quick informative guides specific to each AoG. They provide an overview of:

- key features, benefits and scope of the contract
- the panel of providers
- contractual relationships amongst all parties
- how to join, transition to and buy from this contract

Among the various benefits of the contract, NGZP lists the different procurement options available under the AoG and the direct and indirect specific potential savings that could be generated through this type of procurement.


In addition to guides, ChileCompra provides support to contracting authorities via a call centre and training activities, either physically or online. Some training modules are specifically dedicated to purchases under framework agreements. However, they mostly provide an overview of the system, covering how to use the platform and the main milestones to be observed. They do not provide detailed information on the overarching
principles of framework agreements, how to understand their structure, or how to increase their efficiencies.

Each framework agreement contains a number of specificities that need to be clearly understood by contracting authorities to allow for informed purchasing decisions. ChileCompra could establish an efficiency checklist for each framework agreement. For example, guidance on the benefits of a procurement planning exercise for office supplies could help contracting authorities to generate further economies of scale by grouping orders. For more complex services, additional information on needs definition or award criteria would support end-users in identifying proposals offering the best value for money overall.

ChileCompra could provide support to contracting authorities in further developing these skills. While taking into account human resources limitations, analyses of contracting authorities’ procurement behaviours (recurrence of purchase orders, numbers of second stage competition, most purchased goods and services, etc.) could provide insights into defining the corresponding training strategy.

While training and support in this area would increase the strategic use of framework agreements by contracting authorities, genuine competition among awarded suppliers at the call-off stage could be hindered by publicly disclosed information on the electronic platform. Although transparency is one of the pillars of public procurement at all stages, the timing of the disclosure of some information can impact competition. For the second stage competition, all suppliers invited to submit a bid can clearly see the list of suppliers to whom the invitation was sent, but also those who have submitted a bid before the deadline. This practice could potentially discourage some suppliers from submitting a proposal, and knowing who has already responded risks collusive behaviours among bidders. ChileCompra could reconsider the timing of disclosing information on the identity of suppliers who have reached the second stage competition so that it neither harms genuine competition, nor enables bid-rigging.

ChileCompra could provide information to contracting authorities on the value for money of proposals submitted by bidders to support informed purchasing decisions

Many OECD countries are devoting substantial efforts to channelling procurement spent under framework agreements to suppliers who best meet end-users needs or the adopted procurement strategies. For example, the French centralised purchasing body implemented, in certain framework agreements, a bid rotation system whereby the suppliers best ranked in the initial competition stage are provided with greater revenue certainty. Unless duly justified, contracting authorities are then mandated to order goods and services from the best ranked suppliers.

In accordance with a survey carried out by the Danish Competition Authority on suppliers awarded under a framework agreement, revenue certainty (or uncertainty) is the most decisive factor in a supplier’s decision to participate in a call for tender for a framework agreement (Danish Competition and Consumer Authority, 2015).
Figure 4.6. Proportion of non-transacting suppliers and revenue shares of top 10 suppliers in each framework agreement

Source: OECD analysis based on information provided by ChileCompra.

Figure 4.6 illustrates that in almost all framework agreements implemented by ChileCompra, a high proportion of awarded suppliers (more than 60%) did not receive any purchase orders in 2014. In addition, revenues provided to the first ten suppliers in each framework agreement accounted, on average, for 71% of total procurement expenditure under these procurement instruments.

Although it is important that the inclusiveness of the system is not compromised, ChileCompra could implement measures to incentivise suppliers to submit proposals that maximise value for money, particularly for orders placed below the threshold that do not require a second stage competition. For example, disclosing the initial assessment of suppliers from which the selected good or service could be sourced would provide contracting authorities with additional information on the outcomes of the competition before deciding which supplier to use.

In Finland, Hansel, the central purchasing body of the Finnish government, actively promotes corporate social responsibility in its framework agreements. This objective encompasses various perspectives, such as the environmental performance of goods and services, and financial or social responsibility. Based on a feasibility study, it is decided whether these perspectives can be integrated into the evaluation process. If so, offers
submitted by suppliers are assessed against these criteria, which form part of the overall ranking of suppliers. This selection method helps to channel procurement spend to companies, which fits with broader government objectives and strategies.

Ensuring value for money for contracting authorities, notably in second-stage competition, could be achieved by factoring in the outcomes of the initial assessment of the proposals received in purchasing decisions. Part of the initial assessment could serve as a starting point for the second stage competition. By informing suppliers under the framework agreement about initial assessments, companies would compete more fiercely in the first phase, as they know that initial efforts are taken into account. Furthermore, suppliers will also be provided with the opportunity to react and adapt their second proposals, which would result in better overall outcomes for contracting authorities.
References


