

## Executive summary

Public procurement is a crucial activity of government, with important strategic implications. It is not only an area where the public and private spheres intersect; it is also a critical channel for delivering services to citizens. Therefore, ensuring the integrity, transparency and accountability of public procurement is essential to public trust. Providing relevant information to all stakeholders, safeguarding the integrity of officials responsible for the procurement process, opening and levelling the playing field for potential providers, and guaranteeing adequate remedy and redress processes are all cornerstones of an effective public procurement system.

At the same time, the creation of central purchasing bodies (CPBs) as centres of procurement expertise and the development of e-procurement solutions are transforming traditional practices, by sharing knowledge across relevant procurement actors in a more structured way and by enhancing different capabilities across all levels of government, including regional and local counterparts.

In Colombia, public procurement accounts for 12.5% of GDP, slightly below the OECD average, but for a relatively larger share of government expenditure (35.7%). Colombia has recognised the importance of public procurement reforms. *Colombia Compra Eficiente* (CCE) was established in 2012 as the CPB for Colombia and subsequently empowered with a mandate that includes the establishment and operation of framework agreements, responsibility for centralisation and publication of public procurement information, and the development and dissemination of procurement policies and expertise, at both central and sub-national levels.

### Key findings

**The availability and value of public procurement data have improved, but more can be done to reduce duplication and improve usefulness.** The development and expanded use of electronic systems for collecting public procurement information and providing access to framework agreements have improved transparency and efficiency. The transition to the new e-Procurement system (SECOP II) is underway, incorporating key performance indicators. Some avoidable duplication remains, with supplier registration currently required in multiple electronic systems.

**The system for identifying, preventing and managing conflict of interest in public procurement could greatly benefit from consolidating the policy framework and implementing a balanced management approach and effective enforcement.** While a variety of laws and regulations currently prohibit conflicts of interest and provide sanctions for violation, there is no single national definition, which is a necessary element of a consistent and coherent policy framework.

**The extensive use of non-competitive methods for awarding contracts should be addressed to create an open and level playing field for suppliers, as well as to**

**increase efficiency.** Approximately 3 of every 5 contracts in Colombia are awarded through direct contracting, bypassing the benefits of effective competition; the practice is particularly prevalent at the sub-national level. Efforts are underway to improve this outcome through better data collection and analysis, prior planning and market studies, and the expansion of framework agreements. CCE is also taking steps to standardise and protect the bid evaluation process to ensure fairness and transparency.

**Legal remedy and control systems are in place, but processes are complicated and focused on compliance with the rules rather than on good commercial outcomes.** The public procurement system offers pre-award opportunities for suppliers to offer observations in writing or through hearings, but often these are merely a formality. Litigation is lengthy, with some stakeholders reporting cases lasting up to fifteen years. Fiscal and disciplinary control through the *Contraloría* and the *Procuraduría* can result in substantial financial or judicial sanctions, leading personnel to prioritise risk avoidance over better procurement outcomes.

## Key recommendations

To expand the availability and usefulness of public procurement data, CCE should carefully manage the transition to SECOP II, including by publishing information on how it is reducing administrative burdens, thus encouraging additional interest in the use and growth of the system. Building on the good work done in developing key performance indicators, CCE should also look for ways to derive additional value from the data, including developing stakeholder-targeted standardised reports and using it in internal and external efforts to mitigate risks, such as those of the *Contraloría* and the competition authority.

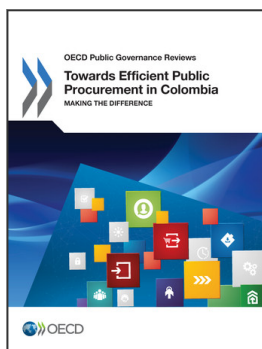
A national definition of conflict of interest should be developed, as well as a specific conflict of interest policy for procurement officials. Adopting positive resolution approaches to managing conflict of interest, including more tailored approaches to asset disclosure or other sources of conflict, can foster an open environment for enhanced integrity. Making such information public also enables the private sector or civil society groups to participate in monitoring activities.

Increasing competition can help improve the climate for awarding contracts. Simplifying and standardising the tendering process would build confidence and support a shift from compliance-based behaviour to more commercially oriented decision making. Sufficient outreach with both procurement agencies and suppliers to disseminate policies, best practices and lessons learned can also support increased competition by levelling the playing field and clarifying expectations, particularly for small and medium-sized enterprises. Additional use of flexible contracting methods such as framework agreements can further reduce the use of direct awarding.

Making maximum use of existing flexibilities can improve redress procedures. For example, potential sources of dispute should be addressed early in the tendering process, such as during the observation and hearings periods. Pre-trial complaint resolution should also be expanded, as this offers real possibilities for assessing and resolving disputes without the burden and disruption of full litigation. A specialised public procurement tribunal for pre-award and contractual disputes could help reduce the case backlog and time delays.

In each of these areas, training, guidance and professionalisation of the public procurement workforce is essential, and will be a necessary condition for the success of the transition to SECOP II. It will also support better use of the data available to procuring entities. Dedicated and systematic integrity training fosters a general climate of integrity and builds confidence in the nature and application of conflict of interest rules among procurement personnel. Proper training in contracting methods and evaluation procedures can support a reduced reliance on direct awarding as well as more consistent and transparent outcomes for suppliers in the awarding process. In all of these areas, ensuring that procurement personnel are aware of the relevant policies, procedures and flexibilities can also support the shift from risk-averse concern for potential complaints to achieving better and more efficient outcomes.





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