

Chapter 4

Going beyond price as an award criteria in Peru and measures to support secondary policy objectives

This chapter examines the use of evaluation criteria for awarding contracts to suppliers, including the role of selection committees and how they ensure strict compliance with the criteria in the solicitation documents. It further assesses whether the Peruvian authorities are strategically supporting secondary policy objectives through the awarding mechanism, and if they have taken specific measures to support SMEs, innovation or green procurement. Experiences from other countries provide examples of criteria for sustainable procurement as a secondary policy objective.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

The public procurement process should be properly prepared right from the start. A suitable set of conditions must be provided, including adequate selection and award criteria that will allow for equitable results from the bidding process. Specific tender opportunities should be designed in order to encourage broad participation from potential competitors, including new entrants and small and medium-sized enterprises (SMEs). The evaluation of tenders is the stage of the procurement process during which a contracting authority identifies which one of the tenders meeting the set requirements is the best one on the basis of the pre-announced award criteria. There are several OECD Recommendations (2015a) assessed this chapter, from the need for up-to-date and reliable information regarding price and overall costs in structuring new needs assessments, to public purchasers having sufficient relevant information to develop more realistic and effective tender specifications by better understanding market capabilities.

Secondary policy objectives in procurement (the use of which is known as strategic public procurement) refer to any of a variety of objectives such as sustainable green growth, the development of SMEs, innovation, standards for responsible business conduct and broader industrial policy objectives. Increasingly, governments pursue these objectives through use of procurement as a policy lever, in addition to the primary procurement objective (OECD, 2015a). Given its size and impact, in global economic terms, governments can leverage the procurement process to actively promote secondary policy objectives by using their substantial buying power in the marketplace. However, the benefits of doing so need to be weighed against the costs of including these objectives in the procurement cycle. Adding additional contract clauses, requirements and specifications into contract documentation makes for increased complexity, for both bidders and procurement organisations. This can sometimes result in additional hidden costs in terms of efficiency, transparency and effectiveness.

This chapter analyses the framework for evaluating tenders and the criteria for awarding contracts to suppliers, including the role of selection committees and how they ensure the strict compliance with the criteria in the solicitation documents. It also assesses whether Peruvian authorities are strategically supporting secondary policy objectives through the awarding mechanism and if they have taken specific measures to support SMEs, innovation or green procurement. Examining the balance of benefits and the costs of such policies and how they are linked to the overall strategy is especially important: for instance, SMEs account for 98% of all Peruvian enterprises, 60% of the active working population, and over 40% of the national GDP.

4.1. Towards a framework for evaluation and awards to ensure value for money

To ensure a sound evaluation framework that will produce equitable results, it is absolutely essential to prepare the public procurement process properly and from the very earliest stages. Tender evaluation has been identified as a particularly vulnerable step in that process. All evaluation criteria must be directly linked to requirements, be as objective as possible, and not favour a particular supplier. Evaluation criteria, as well as other requirements for compliance, must be clearly identified in the solicitation documentation, and the evaluation must entirely and exclusively adhere to them with no other elements considered.

4.1.1. Identifying and communicating appropriate evaluation and award criteria

Peru should broaden the award criteria and adopt the most economical offer that reflects proportionally the best price and quality (best price/quality ratio).

The evaluation method used in procurement operations involves the application of scores in a series of criteria determined by a selection committee; the criteria must be binding, reasonable and proportional with the object of the procurement. Under the former public procurement law (Legislative Decree No. 1017), bidders had to present two envelopes, one containing the technical proposal and the other containing the economic proposal. For the evaluation, the technical envelope was opened first; the committee verified compliance with the requirements and applied the evaluation criteria in order to determine the score applicable to each tender. The total sum of all the scores had to be equivalent to a hundred (100) points. Only the tenders that exceeded the minimum score of the technical proposal – sixty (60) points in the case of goods and works and eighty (80) points in the case of services and consultancy – passed onto the evaluation of the economic proposal.

This methodology changed for the procurement of goods, services and works in the framework of the new public procurement law (Law No. 30225); with the exception of consultancies where the bidders have to present only one envelope containing all the tender documentation required. For the evaluation, the selection committee needs to verify compliance with the technical requirements and to apply the evaluation criteria – price may well be the sole criterion – in order to determine the score applicable to each tender (see Box 4.1). The committee then verifies compliance with the qualification requirements established in the tender documentation, but only that of the bidder with the best score.

New standardised tender documentation, in accordance with Law No. 30225 and its regulation, was approved in January 2016 by Directive No. 001-2016-OSCE/CD, and updated in August 2016 through Resolution No. 304-2016-OSCE/PRE. In accordance with the new public procurement law (as well as the prior public procurement regulation), the evaluation criteria are the basis for allocating scores to those”, so there’s already a first elimination bids that are considered more advantageous to the entities (see Table 4.1). However, there are some differences between the evaluation methods established in the former regulation and the new public procurement law. Formerly, there were two evaluation stages: one technical and one economic. The most common competition criteria were: i) delivery timetable, ii) experience of the bidder, iii) experience of the proposed workforce and iv) improvements to the technical requirements, which means that the supplier should offer goods and services with best features rather than the ones required by the entities. Information on use of the different evaluation methods used is very limited. Moreover, no data are available for the preceding five years showing the allocation of the different evaluation methods in procurement procedures, neither in total registered nor in amount of the corresponding contract. The public procurement regime is designed to promote competition, making all public tenders open for participation in order to select the best tender. Hence, there is no specific tender method for international suppliers.

Table 4.1. **The evaluation criteria established in the public procurement regulation**

Category	Legislative Decree No. 1017	Law No. 30225
<i>Goods</i>	Availability of services and replacements	Price (mandatory)
	Commercial guarantee	Commercial guarantee
	Delivery timetable	Delivery timetable
	Training of the entity's workforce	Specific features offered for the object of the procurement, such as environmental and social sustainability, improvements, etc. Contracting workforce with any disability Others established in the standardised tender documentation approved by OSCE:
	Improvements to the technical requirements or the conditions established in the tender documentation	availability of services and replacements training of the entity's workforce improvements to the technical requirements or the conditions established in the tender documentation
<i>Services</i>	Experience of the bidder	
	Compliance of the provision of the goods	
	Others defined by the entity	
	General and/or specific experience of the bidder (mandatory)	Price (mandatory)
	Compliance of the service	Delivery timetable
<i>Consultancy (mandatory for L.D. 1017)</i>	Proposed workforce for provision of the service	Commercial guarantee
	Improvements to conditions established in the tender documentation	Specific features offered for the object of the procurement, such as those involving environmental and social sustainability – among others: contracting workforce with any disability a system to manage safety at work an environmental management system Others established in the standardised tender documentation approved by OSCE:
	Other criteria referred to the object of the procurement	training of the entity's workforce improvements to the technical requirements or the conditions established in the tender documentation quality management system
	General and specific experience of the bidder – from 25 to 35 points	Proposed methodology
	Experience and qualification of the proposed workforce for the provision of the service – from 30 to 40 points	Experience and qualification of the key workforce
<i>Works (mandatory for L.D. 1017)</i>	Improvements to the conditions established in the tender documentation – from 20 to 25 points	Criteria referred to the object of the procurement, such as equipment and infrastructure: risks plan Others established in the standardised tender documentation approved by OSCE
	Compliance of the service (optional)	
	Experience in general works – from 15 to 20 points	Price (mandatory)
	Experience in similar works – from 30 to 35 points	
	Experience and qualification of the proposed workforce – from 30 to 35 points	
<i>Selection of individual consultants</i>	Compliance of the execution of works– from 15 to 20 points	Specific features offered for the object of the procurement, such as environmental and social sustainability and improvements: system to manage safety at work environmental management system Others established in the standardised tender documentation approved by OSCE: training
		Specific experience Qualifications Interview

Note: According to Legislative Decree No. 1017, the unique evaluation criterion for the economic proposal is the total amount of the offer.

Source: Information provided by the MEF.

With the new Law No. 30225, evaluation can be based on the price and other criteria established by the entity in the tender documentation. The competition criteria established by the new legislation are referred to as: i) the environment, ii) social goals, iii) improvements to the technical requirements, iv) delivery terms, v) the experience of key staff, etc. It is important that public officials in Peru are trained in applying these new criteria. Still missing from the new legislation are criteria such as innovation or life cycle costs. The main changes to the criteria concern the technical and economic scores for goods, services and works. For consultancy works, score weighting remains the same. The changes to the regulatory framework clearly indicate that the economic part of the offer can account for up to 100% of the total score, compared to only 40% before (Table 4.2) However, some of the technical aspects are now compulsory as part of the requirement – for example, the supplier’s experience, equipment, staff experience and qualifications in the procurement of works – instead of being voluntarily included by public entities as part of the evaluation criteria. Public entities must guarantee that participants accomplish all “qualification requirements” and are technically able of executing the contract. Furthermore, the new legislation includes specific selection procedures for specialised (individual) consultancy services. Here, different evaluation criteria are applied as relates to experience and qualifications; there is also an interview.

Table 4.2. Scores depending on evaluation criteria

	Legislative Decree No. 1017		Law No. 30225	
	Technical score	Economic score	Technical score	Economic score
Goods, services and works	<i>Minimum weighting</i>	<i>Minimum weighting</i>	<i>Minimum weighting</i>	<i>Minimum weighting</i>
	60% of the total score	30% of the total score	0% of the total score	50% of the total score
	<i>Maximum weighting</i>	<i>Maximum weighting</i>	<i>Maximum weighting</i>	<i>Maximum weighting</i>
Consultancy	70% of the total score	40% of the total score	50% of the total score	100% of the total score
	<i>Minimum weighting</i>	<i>Minimum weighting</i>	<i>Minimum weighting</i>	<i>Minimum weighting</i>
	70% of the total score	20% of the total score	70% of the total score	20% of the total score
	<i>Maximum weighting</i>	<i>Maximum weighting</i>	<i>Maximum weighting</i>	<i>Maximum weighting</i>
	80% of the total score	30% of the total score	80% of the total score	30% of the total score

Source: Information provided by the MEF.

The technical requirements are established by the procuring entity and should contain an objective and precise description of the functional features and/or conditions that are essential to fulfil the public purpose of the procurement, as well as the terms for executing the contract. It is allowed in the definition of the requirements for entities to include environmental or social sustainability conditions deemed appropriate, as long as these do not limit the participation of suppliers. In addition, the requirement may further include the evaluation criteria deemed necessary. Thus, Law No. 30225 has established that the tender documentation for the procurement of goods, services and works may include environmental or social sustainability criteria.

Awarding criteria are developed in the tendering documentation that is published in the Electronic System for Government Procurement and Contracting (Sistema Electrónico de Contrataciones del Estado, SEACE) with the contracting notice. Public entities can make changes to the selection or award criteria after the publication of the tendering documentation in the contracting notice due to consultations and the observations of participants. Furthermore, if any of the participant’s notes that the methodology provided

in the contract notice is not in line with the provisions of the regulation, they can make an observation before the selection committee, who in such cases may adjust the evaluation methodology to the provisions specified in the regulation. If any of the participants in a public tender or open bidding considers that the amendment performed by the selection committee violates the regulation, they can request that the public entity refer their queries or observations to OSCE for the risk management directorate to issue a judgement. The directorate may evaluate the legality of the methodology and adjust it to the provisions of the public procurement regulation, for which a document called “judgement” will be issued within seven working days. After registering the judgement in SEACE, the selection committee of the public entity issuing the call for tenders must incorporate within the original text all the corrections, clarifications and/or amendments provided in the judgement, under penalty of nullity that is without prejudice to any liability resulting therefrom.

The first supervision level of the selection processes is the responsibility of the public entity, which should take the necessary actions for its implementation. Public entities have the power to declare an *ex officio* nullity of the selection procedures when justified by an existing defect. Second-level supervision is performed by the Government Procurement Supervising Agency (Organismo Supervisor de las Contrataciones del Estado, OSCE) through the risk management directorate. However, when a violation of the public procurement regulation cannot be corrected under certain circumstances, the case is then referred to the National Control System (Sistema Nacional de Control, SNC).

During the fact-finding mission several issues were raised by suppliers strongly indicating that the tender evaluation process needs to be improved. Among the issues raised were concerns over the abilities of smaller public procurement entities to follow proper and transparent procedures. There were claims of practices resulting in limited opportunities for suppliers an disqualification on unfair grounds. In fact, these practices are common to many countries and can hinder competition significantly. It is therefore important to ensure equal treatment and symmetry of information for potential bidders during the preparation and evaluation of bids. (See Box 4.1 for an example of objective award criteria).

Box 4.1. Objective award criteria

Ensure that award criteria are clearly and objectively defined by:

- i) using as a basis for evaluation what is economically most advantageous, unless this is a commodity purchase for which the basis of the lowest may be used
- ii) specifying the relative weightings of each criterion and justifying them in advance
- iii) specifying the extent to which these considerations are taken into account in award criteria when using economic, social or environmental criteria
- iv) including any action that the procuring agency is entitled to make with regard to the criteria (such as negotiations, specific conditions, etc.) and recording them.

Source: OECD (2009), *Principles for Integrity in Public Procurement*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264056527-en>.

Part of the evaluation process relates to the qualification criteria set forward for each specific purchase. The OECD Recommendation on participation encourages buyers to

engage in dialogues with suppliers and business associations in order to develop more realistic and effective tender specifications by better understanding market capabilities (OECD, 2015a). Public entities should consider holding pre-procurement engagement with the market prior to inviting bids, following a transparent process. Market consultation should be used when there is a need for a technical dialogue and when the public entity does not have full knowledge of the market, or when it is procuring a high-value or complex item for the first time and it has limited knowledge on the subject. Care must be taken, however, to avoid inadvertently handing unfair advantage to one or more suppliers, and to ensure that all exchanges are transparent and compliant with the procurement regulations.

Procurement entities are not obliged by law or regulations to require the potential supplier or contractor (participating in a tendering) to present quality certifications during the selection process. However, public entities are obliged to require documents to verify that companies are authorised to operate. It is important that the selection and qualification criteria are developed in accordance with the needs identified during the preparation process. If the process of needs assessment is not carried out properly, the criteria could be based on inaccurate information and set either too high or too low. Setting criteria too low can jeopardise the execution of projects, leading to extra cost if the supplier is incapable of fulfilling their commitments. In Peru there are examples of public authorities setting too-high demands compared to the actual need for projects. Furthermore, suppliers sometimes need to certify their experience over a period longer than needed for projects. This kind of behaviour not only excludes capable suppliers from participating, but also can diminish trust in the process if executed deliberately to favour a specific supplier. If evaluation of minimal technical requirements is overly specific or basic, that can signal a discriminatory process tailored towards one company. Regarding the qualification process, the National Registry of Suppliers (Registro Nacional de Proveedores, RNP) filters out suppliers prohibited from working with the government, i.e. sanctioned companies. Whenever there is a sanctioned supplier, the Administrative Tribunal communicates with the RNP in order to have that information included in the registry.

4.2. Enhancing the role of selection committees

Peru should enhance the role of selection committees by enlarging them for more extensive procurement and introduce a social witness scheme to ensure better transparency and increase efficiency.

All entities publish annual procurement plans (Planes Anuales de Contrataciones, PAC) and, except under special circumstances, can only issue tenders that are included in the annual plan. Prior to issuing an open request for tender, a procuring entity establishes specifications and a budget, develops evaluation criteria, undertakes market research, and creates a selection committee. The selection committee is in charge of elaborating the tender documentation and responsible for conducting and executing public bidding and public tenders. Furthermore, selection committees are in charge of conducting and executing the simplified tender for works consultancy and execution of works, and the selection of individual consultants. The committee can also conduct and execute simplified tenders for goods and services and reverse auctions. (See Table 4.3 for more information on the responsibility of committees.) The office in charge of procurement within a public entity, on the other hand, is in charge of the electronic reverse auction; the simplified tender for goods, services and consultancy; price comparison; and direct awarding. In the case of

electronic reverse auction and the simplified tender for goods, services and consultancy, the entity can designate a selection committee when doing so is considered necessary.

Table 4.3. **The responsibility for different activities at each phase of the procurement cycle**

Phases	Activity	Office in charge
Pre-tendering	Planning of the procurement	User offices and Office for planning and development
	Definition of the requirements	User office
	Market research	Office in charge of procurement
	Determination of the estimated value or the reference value	Office in charge of procurement
	Elaboration of the tender documentation	Selection committee or the office in charge of procurement, as correspondent.
	Notice of the procurement	Selection committee or the office in charge of procurement, as correspondent
	Clarification of the tender documentation	Selection committee or the office in charge of procurement, as correspondent
	Modification of the tender documentation	Selection committee or the office in charge of procurement, as correspondent
Tendering	Integration of the tender documentation	Selection committee or the office in charge of procurement, as correspondent
	Tendering	Selection committee or the office in charge of procurement, as correspondent
	Evaluation	Selection committee or the office in charge of procurement, as correspondent
	Awarding	Selection committee or the office in charge of procurement, as correspondent
	Consent of the awarding	Selection committee or the office in charge of procurement, as correspondent
Post-tendering	Dispute settlement in open tenders	Administrative Tribunal or head of the entity
	Signing of the contract	Office in charge of procurement
	Subcontracting	Office in charge of procurement
	Additional and reductions	Office in charge of procurement
	Extension of the agreed term	Office in charge of procurement
	Complementary contracting	Office in charge of procurement
	Mechanisms of dispute settlement: conciliation and arbitration. With the Law No. 30225, the mechanism of dispute boards has been included	Office in charge of procurement

Source: Information provided by MEF

Selection committees participate in the assessment of proposals received. However, each public entity is the body in charge of procurement and is responsible for conducting the award, which includes the evaluation of tenders. The selection committee is formed by three members: one must represent the office in charge of procurement, and at least one must have technical knowledge of the object of the procurement. However, with the procurement of consultancies and works, at least two of the three members must have technical knowledge with regard to the object of procurement. A report must be prepared on the basis of the evaluation of proposals, which should be signed by all members of the selection committee and published on SEACE. The public entity must keep a procurement record containing all proceedings concerning the procurement process, from the user requirements to contract completion, as well as the non-winning tenders. The office in charge of procurement has the procurement record in its custody, except for the period when the custody is in charge of the selection committee (during the tendering process). To offer an example from an OECD member country in the region, in Mexico the committee can include up to seven members and

has the possibility to set up sub-committees (see Box 4.2). Peru should consider the option of enlarging the selection committees in circumstances where that is called for, for example in large infrastructure projects and projects so complex that more opinions and views are likely to enhance the legitimacy of the decision-making process.

Box 4.2. Selection committees and mechanisms for public procurement in Mexico

During the public procurement cycle, the corresponding regulations of the Federal Public Administration provide for the permanent existence of committees in some phases, while in others responsibilities are distributed among different public servants.

I. Phases previous to the procurement procedure

All public institutions must set up an Acquisition, Lease and Service Committee, and whenever the number of public works and related services justifies doing so, it must also set up a Public Works Committee. The latter has the following main functions: a) to review the procurement programme and budget for each fiscal year; b) to decide whether to award the contract through public tender exception procedures before the procurement procedure begins; c) to authorise the creation of subcommittees; d) to analyse the conclusions and general results for the procurement contracts awarded on a quarterly basis, and e) to issue recommendations to verify that the procurement programme and budget are duly fulfilled and complied with.

Each committee is chaired by the head of the administrative department of the institution, who shall have the deciding vote in case of a tie. The committee is composed of up to seven full-time mid- and high-level members, including the heads of the planning and budgeting or finance departments and the contracting department. The remaining members shall be appointed by the head of the institution from among public servants who have a connection to or knowledge of the matters handled by the committee and who are not part of the institution's administrative department. Mid- to high-level representatives of the legal department and the internal control unit of the institution itself shall act as committee advisors. Also, the committee may invite the necessary people to its meetings to clarify technical, administrative or other kinds of issues related to the matters under discussion. Such persons shall have the right to speak but not to vote on these matters.

A good practice has been adopted that enables each committee to authorise the creation of a subcommittee with public servants who will review public call to tender processes for, or invitations to tender to, with at least three people, in order to make sure that all related documentation complies with applicable regulations.

II. Phases of the procurement procedure

The area responsible for the procurement procedure is the contracting department of each public institution. Thus, each stage of the procedure shall be presided over and led by a public servant from that department, except for any technical aspects connected to the procurement procedure, which shall be handled by the public institution's technical department. That department will be tasked with establishing the technical specifications to include in the call to tender; answering any technical questions raised in clarification meetings; and assessing the bidders' technical proposals. The award decision shall include the name and job role of those in charge of the assessment.

Source: Information provided by the Ministry of Public Administration of Mexico (Secretaría de la Función Pública, SFP).

The selection committee has full autonomy in its role, and its decision is final. The only way recognised in public procurement regulation to question their decisions is

through appealing. The appeals must be filed between the time the award is announced and the time awarding is completed. The grounds for appeals can vary; examples include unmet requirements and incorrect evaluation of bids. The Administrative Tribunal can intervene in such cases, but only when the award is above a certain threshold. Appeals against the awarding of the contract or any act issued before it must be filed within eight working days after notification of the awarding. In case of simplified tendering, selection of individual consultants and shopping, the appeal is filed within five working days after notification of the awarding. Regarding reverse auctions, the period for filing an appeal is five working days, unless its estimated value corresponds to an open tender or open bidding. In those cases, the period for filing the appeal is eight working days. In case of acts issued after the awarding, as well as the nullity, cancelation and the declaration of desert, the appeal is filed in the same terms established above however the count starts from the day after it is recognised that an act must be challenged.

Citizens should be allowed to participate as witnesses in the work of the selection committees. OSCE told the fact-finding mission that it had studied this mechanism and identified the need for citizens to be better informed so that they can contribute to the monitoring. However, there was no intention on the part of the Peruvian authorities to involve them in the work of the selection committees. The OECD recommends that the authorities consider the social witness mechanism, as it creates a culture of openness in the public sector. Mexico has been at the forefront in this context, where social witnesses are elected by the Ministry of Public Administration through public tendering, and once they participate in the procurement process, they release a final report providing comments on and recommendations for the process. Their comments are analysed and taken into consideration insofar as they are considered appropriate and would contribute to the efficient performance of the procurement activities (see Box 4.3). These reports must subsequently be published on the Mexican federal e-procurement platform (CompraNet).

Box 4.3. Social witnesses in Mexico

Social witnesses are non-governmental organisations and individuals selected by the Ministry of Public Administration (SFP) through public tendering. SFP keeps a registry of approved social witnesses and evaluates their performance; unsatisfactory performance can result in their removal from the registry.

When a federal entity requires the involvement of a social witness, it informs SFP, which designates one from the registry. As of January 2014, SFP had registered 39 social witnesses – five civil society organisations and 34 individuals – for public procurement projects. The number of social witnesses, originally 5 in 2005, grew to 40 later in 2014.

SFP notes that “the monitoring of the most relevant procurement processes of the federal government through social witnesses has had an impact in improving procurement procedures by virtue of their contributions and experience, to the point that they have become a strategic element for ensuring the transparency and credibility of the procurement system”. An OECD-World Bank Institute study (2006) indicates that the participation of social witnesses in procurement processes of the Federal Electricity Commission (Comisión Federal de Electricidad) created savings of approximately USD 26 million in 2006, and increased the number of bidders by over 50%.

Source: OECD (2013), *Public Procurement Review of the Mexican Institute of Social Security: Enhancing efficiency and integrity for better health care*, OECD Public Governance Reviews, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264197480-en>.

4.3. Implementing secondary policy objectives through public procurement

The OECD Recommendation on Public Procurement encourages balancing use of the public procurement system to pursue secondary policy objectives with the primary procurement objective, which refers to delivering goods and services necessary to accomplish government missions in a timely, economical and efficient manner (OECD, 2015a). In order to have a competitive, effective awarding process, the OECD recommends that countries facilitate access to procurement opportunities by pursuing secondary policy objectives in accordance with clear national priorities. The policy choice regarding whether to pursue secondary objectives will vary according to governments' and citizens' needs, but the Recommendation identifies steps that should be taken whenever such objectives are pursued (Box 4.4).

Box 4.4. The OECD Recommendation on Public Procurement

V. **RECOMMENDS** that Adherents recognise that any use of the public procurement system to pursue secondary policy objectives should be **balanced** against the primary procurement objective.

To this end, Adherents should:

- i) *Evaluate the use of public procurement as one method of pursuing secondary policy objectives in accordance with clear national priorities*, balancing the potential benefits against the need to achieve value for money. Both the capacity of the procurement workforce to support secondary policy objectives, and the burden associated with monitoring progress in promoting such objectives, should be considered.
- ii) *Develop an appropriate strategy for integrating secondary policy objectives in public procurement systems*. For secondary policy objectives that will be supported by public procurement, appropriate planning, baseline analysis, risk assessment and target outcomes should be established as the basis for developing action plans or guidelines for implementation.
- iii) *Employ appropriate impact assessment methodology to measure the effectiveness of procurement in achieving secondary policy objectives*. The results of any use of the public procurement system to support secondary policy objectives should be measured according to appropriate milestones to provide policy makers with necessary information regarding the benefits and costs of such use. Effectiveness should be measured both at the level of individual procurements, and against policy target objective outcomes. Additionally, the aggregate effect of pursuing secondary policy objectives on the public procurement system should be periodically assessed to address potential objective overload.

Source: OECD (2015a), Recommendation of the Council on Public Procurement, www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf (accessed 13 May 2017).

4.3.1. Using public procurement to foster secondary policy objectives

Peru should develop specific policies and measures to support secondary policy objectives, including green procurement, SMEs, and innovative goods and services, and link them to specific targets.

Examples of secondary policy objectives include sustainable green growth, innovation, standards for responsible business conduct and the development of SMEs. Introducing specific provisions can, for instance, facilitate the participation of SMEs in tender

opportunities. SME support through public procurement can also contribute to economic growth, given that SMEs play an important role in job creation and innovation. Research has indeed shown a positive relationship between the relative size of the SME sector in a country and that country's economic growth; typically, SMEs comprise over 90% of all firms in both low- and high-income countries (Beck, Demirguc-Kunt and Levine, 2005).

Peruvian national regulation (Supreme Decree No. 013-2013-PRODUCE) defines SMEs as economic units constituted as a natural or legal person taking any form of organisation or business management within the law that aims to develop extraction activities, transformation, production or commercialisation of goods or services. Public procurement regulation does not foresee procurement mechanisms especially for SMEs. However, Emergency Decree No 058-2011 created a mechanism called “executor cores” (núcleos ejecutores), which authorises some public entities to procure a list of products that can be supplied by SMEs through a special tendering method, different from the ones established in public procurement regulation. At first the Emergency Decree ran until 30 September 2012; however, with the Thirty Second Complementary Disposition of Law No. 29951, its validity was extended to 31 December 2016. The goods included were: a) school uniforms, b) school footwear, c) school jogging suits, d) uniforms and campaign equipment for the armed forces (navy, army and air force), e) uniforms for the national police. The process involves the publication of the tender notice on the Cooperation Fund for Social Development (Fondo de Cooperación para el Desarrollo Social, or FONCODES) webpage, as well as an advertisement in major newspapers. Both mechanisms are considered to be invitations to all SMEs to participate in the open tender. The tender documentation defines the requirements that SMEs must present, and in cases where the participant does not present all of them, the tender is declared unsuccessful. The tenders are assessed in three phases:

1. verification of the documents presented
2. classification of SMEs according to the criteria established in the tender documentation
3. allocation of production lots to SMEs.

4.4. Supporting SMEs through public procurement

Peru should consider developing a comprehensive policy for SME support that includes current methods to support SMEs as well as additional provisions, such as allotment, the lowering of financial requirements and the shortening of payment deadlines.

Public purchases from SMEs represent approximately 40% of overall purchases made by public entities in Peru (36% in 2015), which is in accordance with targets set in Supreme Decree No. 013-2013-PRODUCE. In Peru small purchases are common, which is likely to benefit SMEs. According to the governmental officials interviewed, close to 80% of all purchases could be below the amount of USD 9 000 dollars. Despite significant purchases from SMEs, their participation in the procurement process has encountered barriers that could be relieved if better market research were to be carried out by public entities. During the fact-finding mission the practical experience of the previous legislation was mentioned as a problem along with SEACE, which was not considered easily accessible to SMEs. Financing is another matter: it is not easy for SMEs in Peru to obtain access to letters of credit from banks or other forms of financing, as the banks tend to charge a great deal for these instruments. This problem arises in OECD countries as well, where credit conditions remain much tighter and SMEs face higher interest rates and tighter borrowing terms and credit

rationing than do large enterprises. New features have been introduced in recent years to support SMEs that the government of Peru should consider, such as offering them pre-approval of a guarantee before the loan request is made; combining financial support with coaching support; experimentation with collateralising intangible assets, such as intellectual property rights; and providing guarantees for specific innovative projects (OECD, 2016a).

The number of purchases from SMEs has been steadily growing in recent years, from close to PEN 8 billion (USD 2.5 billion) in 2008 to PEN 12 billion (USD 3.7 billion) in 2014. There is a relatively equal spread among the three main categories – goods, services and works – which all show proportional SME purchases around the 40% mark. The SMEs seem to benefit more from consultancy work than other categories, with purchasing of works consultancy rising from close to 50% in 2011 to 73% in 2014 (Table 4.4). SMEs were active participants when the procurement procedures used were public direct tender (ADP) and selective direct tender (ADS), between 65% and 85% of the participating companies. However, when public bidding (CP) or public tenders (LP) are applied, the number of SMEs participating drops to 20-25%. The Peruvian authorities will need to monitor how the new method of simplified tendering affects the participation of SMEs in tenders, since ADP and ADS have been so important for SMEs in the past. ADP and ADS were used for the procurement of goods, services and works for lower-cost purchases, which helps explain the greater involvement of SMEs.

Table 4.4. **Percentage awarded to SMEs in the General Regime and by categories of procurement**

Year	Amount awarded to SMEs	Total awarded amount in the General Regime	Goods	Services	Works	Works consultancy	Total %
2011	PEN 8 385.3	PEN 21 627.1	42.3%	39.3%	36.3%	49.1%	39%
2012	PEN 11 498.6	PEN 29 809.0	40.2%	27.4%	43.7%	55.3%	39%
2013	PEN 13 153.0	PEN 32 136.4	39.2%	40.7%	40.6%	61.3%	41%
2014	PEN 11 947.9	PEN 28 820.1	38.6%	40.4%	41.7%	72.5%	41%

Note: The general regime involves tendering processes, reverse auctions and framework agreements.

Source: Information provided by OSCE.

OSCE has been working with suppliers for over four years to develop training sessions nationwide, introducing new and different tools; explaining how to access SEACE and how to find business opportunities; explaining how to develop economical proposals; and teaching SMEs how to understand tender documents, which can be very complicated. The training programme also teaches the SMEs how to read the technical specifications. Blame for the problems of SMEs and their barriers to involvement cannot be laid entirely on the government. SMEs have to take responsibility and be more adept in these situations. It is known that SMEs often do not read certain specifications because they do not understand them.

The procedure for payments is the same for all the suppliers, independently of the tendering procedure applied. There is however a mechanism described in the regulation for fostering, promoting and incentivising the participation of SMEs in public procurement; these fostering measures are described below. In accordance with national regulation (Supreme Decree No. 013-2013-PRODUCE), economic operators should be allocated to one of the following business categories, on the basis of their annual sales:

- micro enterprises: annual sales of up to a maximum amount of 150 Peruvian Taxation Units (Unidades Impositivas Tributarias, UIT)¹
- small enterprises: annual sales from 150 UIT to 1 700 UIT

- medium enterprises: annual sales from 1 700 UIT to 2 300 UIT.

Supreme Decree No. 013-2013-PRODUCE approved the consolidated text of the Law to Promote Production Development and Business Growth, ordering the following measures related to promoting SMEs in public procurement:

1. minimum programming of procurement to SMEs
2. preference in the event of a tie in simplified tenders
3. a contract performance bond guarantee.

First, the minimum programming to SMEs by public procurement entities should not be less than 40% of their procurement of goods and services. By this provision, the entities are responsible to include in their annual plans all those procurements that shall be attended by SMEs. Second, the preference in the event of a tie should lead public entities to prefer bids made by SMEs, as long as they fulfil the required technical specifications. In order to meet the provision ordered by the previous and new legislation, the evaluation of tenders in case of a tie must prefer the SMEs, including disabled people or partnerships of companies formed entirely by both SMEs and disabled people, or partnerships comprised entirely of SMEs, as long as they prove that they have such status.

Thirdly, in the contracts for the provision of goods or services, as well as the contracts for execution of works and consultancy that are signed by public entities with SMEs, the regulation has ordered that SMEs can choose, as an alternative tool to the obligation to submit the performance bond guarantee, the holding of 10% of the total contract amount by the entity. The amount is retained on an equitable basis during the first half of the total number of payments. This amount should be returned at the completion of the contract. Regarding contracts for the execution of works, such benefit will only be applicable when:

- a) For the amount, the contract to be signed corresponds to an awarded open tender of lesser amounts, a selective direct award, or a public direct award (Legislative Decree No. 1017), or corresponds to a simplified tender (Law No. 30225).
- b) The term of execution of the work is not less than 60 calendar days.
- c) The retained payment amount factors in at least two regular valuations based on the work progress.

The regulation has also established a mechanism to promote the participation of regional and local enterprises outside Lima and Callao provinces, by giving an extra score equivalent to 10% over the total sum of the technical and financial bids to suppliers residing in the province where the work will be executed or the service provided or in neighbouring provinces, whether or not the enterprise is in to the same department or region. This benefit is only given in simplified tenders of services and consultancies with an estimated value that does not exceed PEN 200 000, and works with a referential value that does not exceed PEN 900 000. The framework that has been set up to support SMEs shows that the Peruvian authorities consider it important to have SMEs competing for and enjoying the benefits of public procurement. However, one of the barriers frequently raised by SMEs is access to the process: small companies with limited resources tend to see the rules and requirements as complex and costly. The process in Peru could be streamlined from all the different thresholds, categories, assessment criteria, deadlines, etc.

The vast majority of OECD member countries use public procurement as a tool to implement policies or strategies fostering secondary policy objectives. In fact, 28 OECD member countries have developed strategies or policies to support one of the following categories or all of them: green public procurement, SMEs, and innovative goods and

services. These strategies are predominantly developed at the central level (Table 4.5). Peru has taken steps towards supporting SMEs as well as green procurement but has no dedicated policies or strategies in place, even less work has been done on innovative goods and services. Among the OECD member countries surveyed who have a strategy or policy developed at the central level or by procuring entities (line ministries) in 2014, 20 OECD member countries (71%) measure the results of their strategy or policy to support green public procurement. 17 OECD member countries (61%) measure the results of their strategy or policy to support SMEs (2015b).

Table 4.5. Development of public procurement strategies/policies to support secondary policy objectives

	Green public procurement		SMEs		Innovative goods and services	
	2016	2014	2016	2014	2016	2014
Australia	■	●	●	●	●	●
Austria	◆◆	●	◆◆	◆	◆◆	●
Belgium	◆◆	◆◆	●	●	●	●
Canada	◆◆	◆◆	●	●	◆	●
Chile	◆◆	◆◆	◆◆	◆◆	○	●
Czech Republic	“ ”	“ ”	“ ”	“ ”	“ ”	“ ”
Denmark	●	●	●	●	●	●
Estonia	●	○	●	○	●	○
Finland	◆◆	●	◆	◆	◆◆	◆
France	“ ”	◆◆	“ ”	◆◆	“ ”	◆◆
Germany	●	●	●	●	●	●
Greece	◆	◆◆	◆	●	○	○
Hungary	●	◆	●	●	●	●
Iceland	●	●	○	○	○	○
Ireland	●	●	●	●	●	●
Israel	●	“ ”	●	“ ”	○	“ ”
Italy	●	◆	◆	◆	◆	◆
Japan	●	●	●	●	○	●
Korea	●	●	●	●	●	●
Latvia	●	“ ”	●	“ ”	◆	“ ”
Luxembourg	“ ”	◆◆	“ ”	◆◆	“ ”	◆
Mexico	●	●	●	●	●	●
Netherlands	◆	●	◆	●	◆	●
New Zealand	◆◆	◆◆	◆◆	◆◆	◆◆	◆◆
Norway	◆	■	◆	◆◆	◆◆	◆◆
Poland	◆◆	●	●	●	●	●
Portugal	●	●	●	◆	◆	◆
Slovenia	●	◆◆	●	●	●	●
Spain	●	◆◆	●	◆◆	●	◆◆
Sweden	●	◆◆	●	●	●	●
Switzerland	“ ”	◆◆	“ ”	◆◆	“ ”	◆

Table 4.5. **Development of public procurement strategies/policies to support secondary policy objectives** (*continued*)

	Green public procurement		SMEs		Innovative goods and services	
	2016	2014	2016	2014	2016	2014
Turkey	●	●	●	●	●	●
United Kingdom	●	●	●	●	●	●
United States	“..”	●	“..”	●	“..”	◆◆
OECD Total						
● Strategy/policy developed at the central level	25	26	24	24	19	22
◆ Internal strategies/policies developed by some procuring entities	11	14	8	12	9	11
■ Rescinded	1	1	0	0	0	0
○ Never been developed	0	2	1	3	6	4
India	○	0	●	0	◆	0
Russian Federation	0	○	0	●	0	○
Colombia	●	◆	●	●	●	●
Costa Rica	●	●	●	●	○	○
Lithuania	●	0	●	0	●	0

Note: “..” represents where data is not available

Source: OECD (2017a), *Government at a Glance 2017*, OECD Publishing, Paris.

http://dx.doi.org/10.1787/gov_glance-2017-en

4.5. Towards a more innovative and sustainable public procurement

4.5.1. Procurement for innovation

Peru should consider developing a procurement policy for innovation, identifying a number of categories that allow for preferential purchasing of products with new technology, and introduce more flexibility within the tendering process to foster the development of innovative solutions

Public procurement is no longer seen as a back office function, but instead viewed as a strategic tool for achieving key policy objectives. Innovation is one of the most important secondary policy objectives, and is identified in the UN 2030 Agenda for Sustainable Development. It is crucial for economies, as it drives job creation, productivity and growth. Countries use various measures to support innovation procurement – mostly policy instruments, regulations or legal instruments, according to a recent OECD (2017) study that looks at existing government procurement strategies and practices for innovation, collecting practices from 35 member and non-member countries. Approximately 80% of the countries participating in the study take measures to support innovation procurement, and 50% have developed a related action plan, either as part of broader innovation or procurement strategies or as stand-alone initiatives. Demand for a new product or service is the main reason for using public procurement for innovation. The second most common reason cited by countries is improving the performance of existing products or services, achieving reduced costs and/or greater energy efficiency.

Countries have to overcome a range of hurdles to implement their innovative procurement practices. The most common challenges are related to risk aversion, management, personnel and skills capacity, and political support. Sound measurement systems requiring robust data and indicators are crucial for evaluating procurement for innovation strategies and improving the return on investment as well as social benefits. Successful strategic innovation procurement requires governments to:

- communicate the positive outcomes of innovation
- co-ordinate more closely in the horizontal and vertical management of tasks
- demonstrate political leadership and political commitment
- build up the capacity and numbers of skilled staff
- cultivate a more open culture towards new ways of working
- encourage co-operation among different branches of the public procurement process.

Meeting these objectives is a challenge and a long-term process (OECD, 2017). The study collected good practice cases on how innovation procurement was triggered, how partners support the process, and what the expectations and results of the innovative practices were. Table 4.6 includes examples of some of the best practices on strategic innovation procurement within OECD countries.

Table 4.6. **Good practice examples in relation to strategic innovation procurement**

Country	Project	Subject	Keywords chosen by countries
Austria	Full range (socially) sustainable food package with dynamic allergen indication	Food database	Food; Multi-quality-strategy; Dynamic allergen information tool
Belgium	MOVEBAG and MOVEBEST - Mobile traffic management system for roadworks and major incidents	Traffic management	Mobile traffic management; Mobile traffic detection
Belgium	Smart@Fire - Smart Personal Protective Systems for fire fighters (Region of Flanders)	Smart Personal Protective System	ICT - Localisation systems; Intelligent personnel protective systems; Integrated systems
Czech Republic	Archive management for State Archives - in line with the BETA programme	Software module	Archive services; Archive process; Hard-copy documents; Safe communication; Document deposition place management
Finland	iLOQ - Energy-efficient locks (Oulu, Jyväskylä and Kuopio Regions)	Digital locks Energy	Digital locks; Energy-efficient locks; Locking system; Energy-efficiency; Digitalisation
France	Liquid LEDs (bulb for public lighting)	Liquid LED technology	Total cost of ownership; Energy savings; More functionalities (video monitoring); Efficiency; Quality
Germany	THALEA - Improve care for acutely life-threatened patients by telemedicine and telemonitoring (Region of North-Rhine Westphalia)	Telemedicine	Telemedicine; Interoperability of Patient Data Management; Systems Decision-support; Closing innovation gap; Sharing expertise
Hungary	Smart@Fire - Smart Personal Protective Systems for fire fighters (Észak-Alföld Region)	Smart personal protective system	PPS; PPE; firefighter gear; ICT; PCP
Netherlands	Robotic Bed-washing Facility in Hospitals (Erasmus Medical Centre, Erasmus University Rotterdam)	Robotic	Clean hospital beds; Lower total costs of ownership; Lower energy costs; Less detergents; CO ₂ reduction
Norway	Omsorg + Kampen - Smart house platform for senior housing residence (City of Oslo)	Technology for elderly people	Increased efficiency through user-driven integration of welfare technology
Poland	Hybrid lighting in the Jaroslaw commune (City of Jaroslaw)	Lighting	Safety; Clean energy; Environmental protection

Table 4.6. **Good practice examples in relation to strategic innovation procurement** (*continued*)

Sweden	Electrified Roads - knowledge base for industrial, academic and political decisions	Heavy traffic	Electrified roads; Heavy traffic; PCP; Triple-helix co-operation; Environment
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Source: OECD (2017), *Public Procurement for Innovation: Good Practices and Strategies*, <http://dx.doi.org/10.1787/9789264265820-en>.

In Peru it is rare that the entities include the evaluation criteria in tender documents related to social goals, innovation, life cycle costs or the environment. In the Peruvian public procurement legislation is a list of principles that must be taken into consideration by the public entities in the procurement processes (see Box 2.2 in Chapter 2). These principles are meant to govern the procurement process, and serve as interpretative and integrating criteria for application of the public procurement regulation as well as parameters for the performance of the officials and agencies responsible for the procurement. One of the principles included is the environmental and social sustainability principle, which stresses that procurement processes must contribute to the defence of the environment and the development of members of society. The public procurement regulation recognises that tendering documentation for goods, services and works should, among other things, include an evaluation criterion related to environmental and social sustainability.

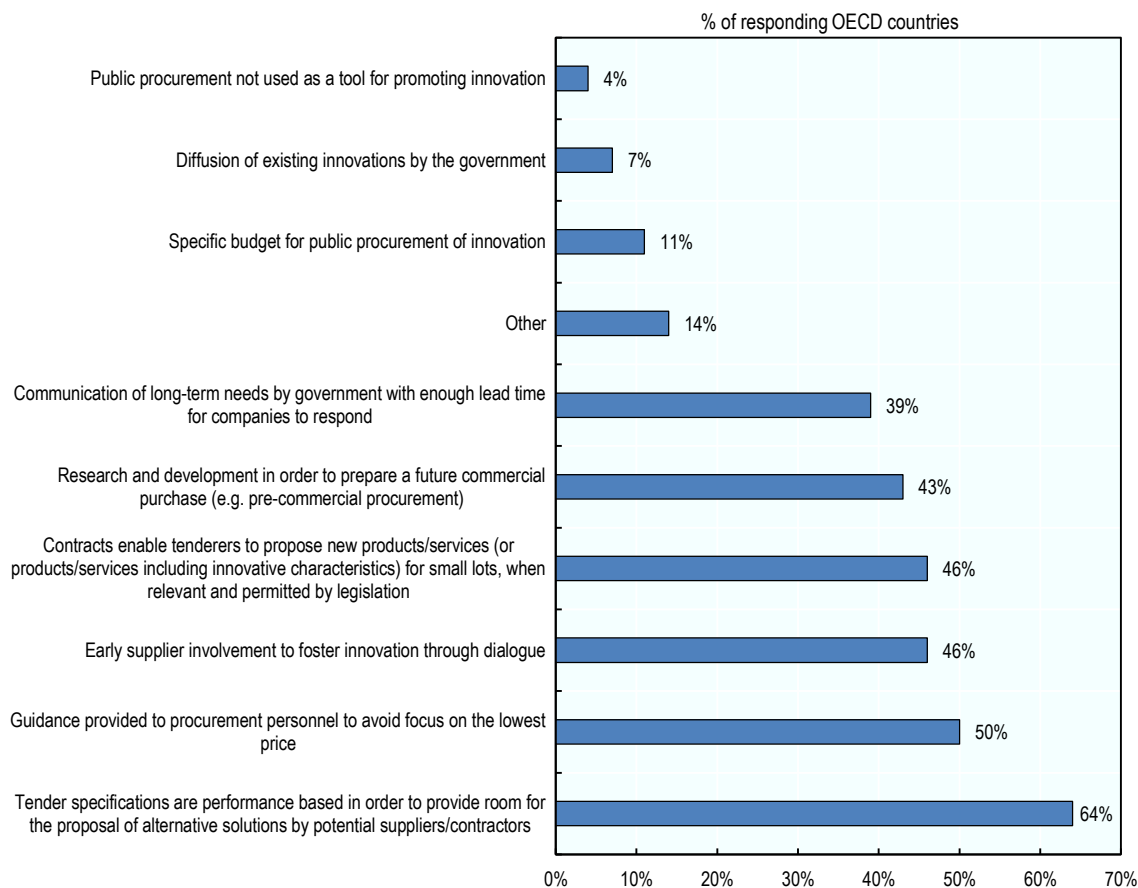
There are no policies or guidelines to foster innovation in procurement activities in Peru, nor are there established requirements involving innovative solutions in the regulations for working with suppliers. However, in order to promote innovation, Law No. 30225 establishes that goods and services for scientific and technological research, experimentation or development that results will exclusively belong to the public entity, can be purchased through direct award. With those measures, Peru is trying to encourage public entities to invest in research and technological innovation, in order to develop new technologies to enhance citizens' lives.

It is important to consider the level of standardisation and flexibility when working towards supporting and enhancing innovation within the procurement process. For some countries, an overly standardised process may become a barrier to innovation. It is not enough to pre-publish a procurement plan, which by itself is not likely to encourage suppliers to produce innovative solutions. The process of negotiation with interested suppliers to stimulate innovative solutions would allow the buyer to work with the supplier towards innovative solutions. If solutions in the market do not meet the needs of public entities, then buyers should be able to work with suppliers to develop the product or services. The prerequisite for delivering such a product would be its functionality and the cost agreed in the beginning. In general there is limited knowledge about this subject in Peru. There is a need to know more about how innovation is measured; concepts like innovation procurement and green procurement are not common, and little has been done to regulate them. In fact, the system should be doing more to support innovation than is actually being done.

A 2012 survey by the OECD suggests that while most OECD countries seek to use procurement for innovation in some way, only a few have set aside a separate budget for that purpose (Figure 4.1). Nevertheless, many had at some point used performance-based tender specifications to encourage innovation, providing guidance to procurement officers or involving suppliers at an early stage in the tender process to foster innovation. This

type of approach could be considered by Peru in the development of its procurement for innovation strategies.

Figure 4.1. Use of procurement to promote innovation



Source: OECD (2014), “Intelligent demand: Policy rationale, design and potential benefits”, *OECD Science, Technology and Industry Policy Papers*, No. 13, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5jz8p4rk3944-en>.

4.5.2. Going Green: Implementing best practices in public procurement

Peru should consider ways to make public procurement more environmentally sustainable by including environmental criteria in all tendering procedures.

Green public procurement (GPP), i.e. public purchasing of products and services that are less environmentally damaging when taking into account their whole life cycle, is increasingly used by countries to achieve economy, efficiency and secondary policy objectives. Nevertheless, countries have reported to the OECD that they face obstacles to successfully implementing GPP, for a number of reasons: there is a common perception that green products and services may be more expensive than conventional ones; public officials lack the technical knowledge to integrate environmental standards in the procurement process; and there is an absence of monitoring mechanisms to evaluate whether GPP achieves its goals. However, countries increasingly recognise that GPP can be a major driver for innovation, providing industry with incentives for developing

environmentally friendly works, products and services – particularly in sectors where public purchasers represent a large share of the market, such as construction, health services and public transport (2015c).

Public authorities in Peru have been working with the United Nations Environment Programme (in Spanish, Programa de las Naciones Unidas para el Medio Ambiente, or PNUMA) on implementing sustainable public procurements, and are in the process of executing the project “Stimulating the offer and the demand of sustainable products through public procurement and eco-labelling” under the leadership of the Ministry of Economy and Finance and OSCE. The main objective of the project is to prepare and support implementation of a preliminary plan of sustainable public procurement (SPP), train public officials in SPP, and execute pilots in public procurement with sustainability criteria for the prioritised goods and services.

Most Latin America and the Caribbean have been using or are starting to use public procurement as a tool to implement policies or strategies to foster secondary policy objectives. In fact, compared to 94% of OECD countries, 72.7% of LAC countries, including Belize, Costa Rica, El Salvador and Peru, have developed strategies to promote environmental objectives (Table 4.7). The impact of these strategies/policies developed at the central level in Peru is unknown, and the public authorities have limited information about common products acquired through green public procurement. In previous legislation Peru has included a list of principles, including for environmental and social sustainability, that must be taken into consideration by the public entities in the procurement processes carried out by them.

Table 4.7. **Development of strategic public procurement by objective in the Latin American and Caribbean countries (2015)**

	Green public procurement	Support to Micro, small and medium-sized enterprises (MSMEs)	Support to procure innovative goods and services	Support to women-owned enterprises
Antigua and Barbuda	○	●	●	○
Argentina	●	●	●	○
Bahamas	●	●	●	○
Belize	●	●	●	○
Brazil	◆◆	◆◆	●	○
Chile	◆◆	◆◆	●	..
Colombia	◆	●	●	○
Costa Rica	●	●	○	..
Dominica	○	●	●	●
Dominican Republic	◆◆	●	◆	●
Ecuador	○	●	●	●
Guatemala	○	●	○	◆
Haiti	○	●	○	○
Honduras	◆	●	◆	○
Jamaica	●	●	●	○
Mexico	●	●	●	○
Nicaragua	◆	○	○	○

Table 4.7. **Development of strategic public procurement by objective in the Latin American and Caribbean countries (2015)** (*continued*)

	Green public procurement	Support to Micro, small and medium-sized enterprises (MSMEs)	Support to procure innovative goods and services	Support to women- owned enterprises
Panama	●	◆◆	●	○
Paraguay	◆◆	◆◆	○	○
Peru	●	●	○	○
El Salvador	●	●	○	○
Uruguay	○	●	○	○
Total LAC countries				
◆ A strategy/policy has been developed by some procuring entities	6	4	2	1
● A strategy/policy has been developed at a central level	12	19	12	3
▣ A strategy/policy has been rescinded	0	0	0	0
○ A strategy/policy has never been developed	6	1	8	16
.. Not available				2
Total OECD				
◆ A strategy/policy has been developed by some procuring entities	13	11	10	..
● A strategy/policy has been developed at a central level	27	25	23	..
▣ A strategy/policy has been rescinded	1	0	0	..
○ A strategy/policy has never been developed	2	3	4	..
.. Not available				32

Source: OECD (2016b), *Government at a Glance: Latin America and the Caribbean 2017*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264265554-en>.

Solid green public procurement is at the heart of any sustainable procurement, as it can be used as a powerful tool in advancing the purchase of green products and removing obstacles to GPP. Peru needs to shift market thinking towards sustainability in order to succeed in increasing the demand for green products. Understanding the pros and cons of switching conventional purchases to green ones is paramount for the successful implementation of GPP. OECD countries' experiences demonstrate that without credible standards determining what products or services count as green, it may be difficult to implement GPP. EU studies show that the uptake of GPP strongly correlates with the existence or absence of an eco-label scheme and that eco-labels play an important role in implementing GPP solutions. Using standards can ease the decision-making process in public procurement and contribute to a harmonised approach to GPP. Box 4.5 illustrates how countries are applying award criteria to achieve sustainable procurement (2015c).

The ability to support long-term uptake of green solutions can be disrupted by a number of factors, such as a lack of information on green products, low buyer interest, and the absence of incentives for suppliers. Hence, the Peruvian authorities will need to monitor the results of the SPP project to confirm whether those policies work. It will be important to get the right messages across to government procurement officials and the public, as these can have a significant impact on the success of SPP and GPP. OECD

countries have reported that GPP knowledge, training and advice from the procurement workforce are important elements for successfully using procurement to achieve environmental benefits. Peru will need to take action at national and sub-national levels to build capacity and improve skills.

Box 4.5. Criteria for sustainable procurement

Estonia

The Estonian Road Administration (ERM) is a government agency operating in the administrative area of the Ministry of Economic Affairs and Communications. It is responsible for the implementation of transport policy – that is, infrastructure, traffic and public transport. The ERM carried out a procurement process in October 2010 under the Green Investment Scheme (“Promoting the Use of Public Transport”), which is funded from the agreement of the sale and purchase of the CO₂ emissions quota between Estonia and Spain. The agreement was awarded in accordance with Kyoto Protocol Article 17 and provided that the Estonian Government invest the proceeds arising from the sale of the CO₂ quota into areas where CO₂ emission reductions can be achieved. The aim was to introduce new environmentally friendly buses that will help to popularise the use of public transport and reduce CO₂ emissions caused by the transport sector. The purpose of the public procurement was to buy new cost-effective and environmentally friendly buses, suitable for running county and regular urban services (category M3 vehicles).

Award criteria

The award criteria were weighted as follows: 55% for the value of the tender (i.e. lowest price); 24% for a combination of warranty, bus engine smoke opacity and repair and maintenance work; and 21% for other technical properties of the buses, including the following:

- Points were awarded if the engines of the offered buses complied with the emission limits applicable to EURO V enhanced environmentally friendly vehicles (EEV) as specified in Directive 2005/55/EC. The tenderer had to prove compliance with this requirement by submitting an engine type approval certificate according to Directive 2005/55/EC.
- Points were awarded if the tender was accompanied by a confirmation from the manufacturer of the engines of the offered buses specifying that the engine may be used without modification with diesel fuel, complying with the standard EVS-EN 590:2009+NA:2009 (the Estonian equivalent of the corresponding European standard). Diesel fuel may contain up to 7% of fatty acid methyl esters (FAME) described in standard EN 14214.
- Points were awarded if urban buses were equipped with dual-zone (driver’s cab and passenger compartment) air conditioning equipment that enables automated regulation of the interior temperature.

In order to avoid unequal treatment of tenderers and minimise the risk of disputes, the contracting authority decided not to include criteria on fuel consumption and CO₂ emissions of the offered buses. This was because for category M3 vehicles no compulsory testing procedure had been established to measure fuel consumption and CO₂ emissions on which the contracting authority could rely. Evaluating such criteria based on testing results provided by the tenderers or the manufacturers of buses would not have provided an adequate overview of the differences in fuel consumption and CO₂ emissions between the different buses offered. This deficiency would likely have resulted in unequal treatment of tenderers and lead to disputes.

Box 4.5. Criteria for sustainable procurement *(continued)*

Hungary

The Public Procurement Supply Directorate (PPSD) in Hungary is an autonomous central purchasing body. In 2013, PPSD planned to publish six procedures including environmental criteria (one for paper and stationary, four for IT and one for fuel procurement), the aggregated value of which was HUF 129.5 billion (paper and stationary: HUF 5.5 billion; IT: HUF 118 billion; fuel: HUF 6 billion). The terms of the contracts were for 24 and 48 months.

The green criteria applied in the procedures were:

Paper and stationary products:

- i) environmentally friendly products (envelopes, folders and other paper products for office purposes)
- ii) meeting the environmental management standard (ISO 14001)
- iii) technical specifications: environmental labels (FSC, NordicSwan, Blue Angel), eco-labels, recycling.

IT:

- i) EU standards
- ii) energy consumption (standby and switched-off mode)
- iii) noise level
- iv) waste management (delivery, recycling, extermination)
- v) re-manufactured products.

Fuel:

- i) EU standards and environmental/sustainability criteria
- ii) alternative fuels (biodiesel, bioethanol).

Canada

The Canadian Policy on Green Procurement was developed in 2006. Development and implementation support of the policy has been led by Public Works and Government Services Canada in collaboration with Environment Canada, Natural Resources Canada and the Treasury Board of Canada Secretariat. Canada has a Green Procurement Plan that includes a scorecard outlining the criteria currently being used and communicated to suppliers. This allows them time to prepare for the next renewal, thus maintaining supplier competition.

Information technology (IT) hardware is an example of a commodity where many environmental criteria have been included in the Standing Offer using this process, including:

- i) All desktop and notebook systems as well as monitors are certified through the Electronic Product Environment Assessment Tool (EPEAT Silver level).
- ii) Desktop systems and monitors are EnergyStar 4.0 certified.
- iii) Monitors are TCO'03.
- iv) Desktop systems include high-efficiency power supplies (80plus).
- v) All manufacturers represented on the Standing Offer are members of good repute of a recognised entity specifically established to address end-of-life electronics recycling and reuse in Canada.
- vi) Desktop Category 1.0D and 1.0A Green PCs have reduced materials (with a smaller case and integrated components) and lower power consumption.

Box 4.5. Criteria for sustainable procurement *(continued)*

Where no centralised procurement instrument exists, the environmental considerations used for similar goods and services can be used in other procurement activities.

Source: OECD (2015c), *Going Green: Best Practices for Sustainable Procurement*, www.oecd.org/gov/ethics/Going_Green_Best_Practices_for_Sustainable_Procurement.pdf (accessed 13 May 2017).

4.6. Proposals for action

Public entities in Peru tend to base their awarding on the lowest price and not on the most economically advantageous tender (MEAT), which can include, life cycle cost, quality, environmental performance and more. The lowest-price approach may facilitate the evaluation and selection process while ensuring that minimum requirements are met. However, awarding a tender based only on price may result in various negative impacts for the entity, such as lower quality, unsecure supply and unsatisfactory supplier performance.

Peru has made an effort to professionalise its evaluation process by creating selection committees that have helped to increase trust in the process. Overall, the new legal framework seems to be more conducive to secondary objectives than the previous one, as it provides tools for public entities to support SMEs. Despite no explicit strategy for SMEs, public authorities seem to purchase a great deal from them. However, other secondary objectives have had a lower profile in Peru and need to be explored and tested, such as an enhanced engagement of procurement for innovation and more sustainable public procurement. Peru would do well to:

- Peru should broaden the award criteria and adopt the most economical offer that reflects proportionally the best price and quality (best price/quality ratio).
- Peru should enhance the role of selection committees by enlarging them for more extensive procurement and introduce a social witness scheme to ensure better transparency and increase efficiency
- Peru should develop specific policies and measures to support secondary policy objectives, including green procurement, SMEs, and innovative goods and services, and link them to specific targets.
- Peru should consider developing a comprehensive policy for SME support that includes current methods to support SMEs as well as additional provisions, such as allotment, the lowering of financial requirements and the shortening of payment deadlines.
- Peru should consider developing a procurement policy for innovation, identifying a number of categories that allow for preferential purchasing of products with new technology, and introduce more flexibility within the tendering process to foster the development of innovative solutions.
- Peru should consider ways to make public procurement more environmentally sustainable by including environmental criteria in all tendering procedures.

Note

1. One UIT in 2016 was equivalent to PEN 3 950.

References

- Beck, Thorsten, Asli Demirguc-Kunt and Ross Levine (2005), “SMEs, growth, and poverty.” National Bureau of Economic Research, NBER Working Paper No. 11224, www.nber.org/papers/w11224 (accessed 13 May 2017).
- OECD (2017a), *Government at a Glance 2017*, OECD Publishing, Paris. http://dx.doi.org/10.1787/gov_glance-2017-en.
- OECD (2017b), *Public Procurement for Innovation: Good Practices and Strategies*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264265820-en>.
- OECD (2016a), *Financing SMEs and Entrepreneurs 2016: An OECD Scoreboard*, OECD Publishing, Paris. http://dx.doi.org/10.1787/fin_sme_ent-2016-en.
- OECD (2016b), *Government at a Glance: Latin America and the Caribbean 2017*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264265554-en>.
- OECD (2015a), Recommendation of the Council on Public Procurement, www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf (accessed 13 May 2017).
- OECD (2015b), *Government at a Glance 2015*, OECD Publishing, Paris. http://dx.doi.org/10.1787/gov_glance-2015-en.
- OECD (2015c), *Going Green: Best Practices for Sustainable Procurement*, OECD Publishing, Paris. www.oecd.org/gov/ethics/Going_Green_Best_Practices_for_Sustainable_Procurement.pdf (accessed 13 May 2017).
- OECD (2014), “Intelligent demand: Policy rationale, design and potential benefits”, *OECD Science, Technology and Industry Policy Papers*, No. 13, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5jz8p4rk3944-en>.
- OECD (2013), Public Procurement Review of the Mexican Institute of Social Security: Enhancing efficiency and integrity for better health care, OECD Public Governance Reviews, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264197480-en>.
- OECD (2009), *Principles for Integrity in Public Procurement*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264056527-en>.
- OECD-World Bank Institute (2006), *Beyond Public Scrutiny: Stocktaking of Social Accountability in OECD Countries*, The World Bank, Washington, DC, <http://dx.doi.org/10.1787/9789264040052-en>.



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