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## Governance of the public procurement function in the State of Mexico

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This chapter analyses the governance structure of the public procurement function in the State of Mexico, including the way public procurement is organised and the main stakeholders, as well as the normative and institutional framework. The chapter also discusses co-ordination and communication mechanisms to facilitate the good governance of the procurement function. Likewise, it discusses current approaches to engage with suppliers and the business community to understand the markets and facilitate their planning and participation in tender opportunities. Finally, it assesses the use of better regulation standards, particularly related to public consultation, when reforming public procurement rules.

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## 1.1. Procurement structure and governance

Out of a total budget of MXN 291 059 million for the State of Mexico in 2019, 25% was dedicated to public procurement, that is MXN 71 968 million. The Organic Law of the Public Administration for the State of Mexico (*Ley Orgánica de la Administración Pública del Estado de México*, LOAPEM) establishes that the state government will carry out its functions through ministries (*dependencias del Ejecutivo*) and auxiliary bodies. There are 16 ministries which form the central administration, while auxiliary bodies comprise decentralised bodies, state-owned enterprises (SOE) and public funds (*fideicomisos públicos*).

According to the Public Procurement Law of the State of Mexico and Municipalities (*Ley de Contratación Pública del Estado de México y Municipios*, LCPEMyM), the 16 ministries can carry out procurement operations through their Administrative Units and the General Directorate of Material Resources (*Dirección General de Recursos Materiales*, DGRM) of the Ministry of Finance. However, the 90 auxiliary bodies, including 84 decentralised bodies, three public funds, one SOE and two civil associations, carry out their own procurement activities, unless they have signed an agreement with the Ministry of Finance to buy specific goods or services through DGRM.

Most of the procurement for the central administration (the ministries) is centralised in the Ministry of Finance, which has the following responsibilities relative to public procurement:

- Registering and regulating the acts and contracts which stipulate the rights and liabilities for the state government.
- Purchasing the goods and services required for the functioning of the executive branch, with federal or state resources.
- Timely provision of the elements and materials required to carry out functions in other ministries.
- Administering, controlling and supervising state government warehouses.
- Enforcing the guarantees, under any modality, in favour of the state government through the processes established in law.

In addition, the Ministry of Finance is the policy maker regarding public procurement and issues regulation applicable throughout the state public administration, such as the Agreement setting the policies, basis and guidelines relative to acquisitions, leasing and services of the ministries, auxiliary bodies and administrative tribunals of the Executive Branch of the State of Mexico (*Políticas, Bases y Lineamientos, en Materia de Adquisiciones, Enajenaciones, Arrendamientos y Servicios de las Dependencias, Organismos Auxiliares y Tribunales Administrativos del Poder Ejecutivo del Estado de México*, POBALINES). It also has the power to define the meaning of procurement regulations. During 2018, the Ministry of Finance established 246 contracts for goods, to an estimated value of MXN 6 560 million, and 159 contracts for services, to an estimated value of MXN 7 274 million. The Ministry of Finance executes the annual procurement plans and centralises the purchase of goods and services required by most ministries, such as printing of documents, uniforms, school supplies, food products, security services, leasing of vehicles, professional services, ICT services and services related to conventions and events. These purchases should be carried out either through direct award (value of the contract is below MXN 500 000), restricted invitation, (value of the contract is MXN 500 001 – MXN 1 500 000) or public tender (value of the contract exceeds MXN 1 500 000).

In addition, the Ministry of Finance can establish agreements with auxiliary bodies and municipalities to include them in the centralised purchases. Participation by auxiliary bodies in centralised purchases varies and often depends on the good or service to be procured; for example all auxiliary bodies participate in the centralised procurement for telephone services. During 2018, the Ministry of Finance established 52 agreements with 27 decentralised bodies and one autonomous body to carry out their procurement procedures for goods and services and join the contracts in force for printing and copying services, fuel, cleaning services, security, insurances (life, vehicles and buildings), telephone and Internet services,

human resources management and leasing of vehicles to name a few. During 2019, 87 agreements were signed with 42 decentralised bodies and one autonomous body. However, only 46.6% of the procurement value disbursed by the state is centralised. Furthermore, no municipality has signed an agreement to join the centralised purchasing scheme.

The auxiliary bodies with the highest procurement budgets in 2018 were the Health Institute of the State of Mexico (*Instituto de Salud del Estado de México*, ISEM) with MXN 10 254 million (3.5% of the total budget), the Institute for Social Security of the State of Mexico and Municipalities (*Instituto de Seguridad Social del Estado de México y Municipios*, ISSEMYM) with MXN 9 125 million (3.1% of the total budget) and Integrated Education Services of the State of Mexico (*Servicios Educativos Integrados al Estado de México*, SEIEM) with MXN 4 307 million (1.5% of the total budget).

However, different ministries usually carry out some procurement directly through their administrative units. Such purchases are called “ordered contracts” (*contratos pedidos*) and should not exceed MXN 570 000. *Contratos pedidos* evolved from a previous practice called “inclusive spending” (*compras solidarias*), which aimed to benefit SMEs and businesses from the State of Mexico in procurement processes.

The following table describes the role of the different entities of the State Government in each of the stages of the public procurement cycle.

**Table 1.1. Participation by the different entities of the State Government in the public procurement cycle**

Stage	Activity	Responsible entity
Pre-tendering	Procurement planning	Ministries of the central administration and auxiliary bodies.
	Needs definition	Ministries of the central administration and auxiliary bodies.
	Market research	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Determination of reference prices	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Producing tender documents	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
Tendering	Issuing the call for tender	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Clarification meetings	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Modifications to tender documents	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration, along with the users or technical areas from such ministries. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Tender	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
	Bid evaluation	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration, along with their Acquisitions and Services Committees ( <i>Comités de Adquisiciones y Servicios</i> ). In the case of procurement carried out by auxiliary bodies themselves, their Acquisitions and Services Committees complete this task.
	Contract award	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task.
Post-tendering	Signature of contract	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration. In the case of procurement carried out by auxiliary bodies

		themselves, their administrative units complete this task.
	Subcontracting management	In general, subcontracting is not allowed and requires previous authorisation by the Ministry of Finance for processes pertaining to the central administration.
	Modifying agreements	The Ministry of Finance carries out this activity for the procurement of the ministries of the central administration, along with the users or technical areas from such ministries. In the case of procurement carried out by auxiliary bodies themselves, their administrative units complete this task, along with the users or technical areas from such bodies.
	Dispute resolution mechanisms and complaints ( <i>inconformidades</i> )	Ministry of Control ( <i>Secretaría de la Contraloría</i> , SECOGEM)

Source: Information provided by the Government of the State of Mexico.

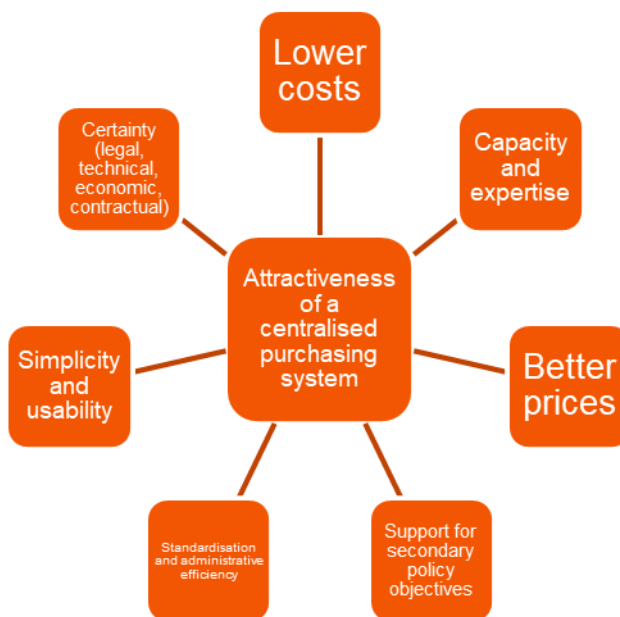
The Ministry of Control (*Secretaría de la Contraloría*, SECOGEM) is the internal control and audit institution of the government and, as such, audits public procurement activities. In the case of administrative breaches, SECOGEM can apply administrative sanctions to public servants for non-severe failures (*faltas no graves*), while severe failures (*faltas graves*) are transferred to the Administrative Tribunal of the State of Mexico (*Tribunal de Justicia Administrativa del Estado de México*, TJAEM).

### **1.1.1. The Government of the State of Mexico should be able to demonstrate the value added of the centralised procurement scheme (and other procurement strategies or tools to be implemented in the future) to the different stakeholders**

During the fact-finding mission, the OECD team heard from different entities that they sometimes have to carry out small purchases directly as they need to factor in delays from the Ministry of Finance in the tendering and delivery of materials needed for daily operations. On the other hand, the Ministry of Finance claims that the interactions between the DGRM and its users are agile. For example, if DGRM finds that the files provided by user units requesting a purchase are incomplete, it will ask user units to provide the missing information through a written request or through the Integrated system of procurement and asset administration of the State of Mexico (*Sistema Integral de Contratación y Administración Patrimonial del Estado de México*, SICAPEM). Such contrasting perceptions may undermine the fundamental logic of centralised procurement, which consists of, among other things, aggregating demand to access better prices. Some entities claimed that they would prefer a decentralised procurement scheme, as they do not detect enough value added from the Ministry of Finance.

Indeed, the value of a centralised purchasing system for the users relies upon several factors. The extent to which benefits accrued are visible to the public entities relying on a centralised purchasing body (CPB), in this case the Ministry of Finance, will determine the acceptance and support of it (see Figure 1.1)

**Figure 1.1. Factors determining the attractiveness of a centralised purchasing system**



Source: (OECD, 2015<sup>[1]</sup>).

One of the main challenges faced by the Government of the State of Mexico is demonstrating the convenience for ministries and auxiliary bodies to rely on the Ministry of Finance to carry out their procurement. Convenience could be illustrated as access to better prices and quality of goods and services, simplified procedures, increased certainty and fewer challenges by bidders, and the ability to provide expert advice to leverage public procurement strategically.

Based on the services the Ministry of Finance provides as a CPB, the Government of the State of Mexico should clearly identify what the value added of centralised procurement is and design a strategy to develop and communicate it. For example, if one of the added values will be access to lower costs, the State Government could develop a methodology to measure savings derived from the centralised scheme. Likewise, for example, if the Ministry of Finance were to demonstrate its value added by providing advice to user units on the management of the pre-tendering stage (i.e., procurement planning and needs definition), it would have to create a workforce of procurement professionals with the expertise to do so. Indeed, the Ministry of Finance may already have several opportunities to demonstrate its value added. For instance, it could work with its user units to illustrate how market analyses shape the procurement strategies to deliver value to them.

Similarly, if the State of Mexico were to adopt further procurement strategies and tools, they could demonstrate clear benefits for the different stakeholders to garner further support. For example, the State of Mexico is in discussion for the development of a reform to allow the implementation of framework agreements and indeed, during the fact-finding mission, the OECD team found that the State Government could raise awareness about the benefits of framework agreements to facilitate buy-in by contracting authorities and advance a potential reform.

Currently, the Ministry of Finance circulates the benefits of the centralised procurement scheme on a more ad hoc basis through meetings with the Administrative Co-ordinators of the ministries and auxiliary bodies participating in centralised purchases. These meetings are carried out within a prescribed programme and are useful to communicate guidelines and decisions taken from DGRM. For example, in early 2020, the meeting consisted of communicating decisions stemming from austerity measures to be applied throughout the state public administration, including centralised purchasing of printing and mobile communication

services, as well as leasing of vehicles. These meetings could be leveraged to obtain feedback from the administrative co-ordinators regarding previous centralised purchases, as well as to identify opportunities for more agile processes and the actions that need to be taken by both, DGRM and its user units. Indeed, they are an established channel to communicate the benefits of centralised procurement.

However, the Administrative Co-ordinators are only intermediaries between the user areas and DGRM. Therefore, the Government of the State of Mexico could be more proactive in communicating the potential benefits of the centralised scheme to the user areas, and to other stakeholders, including suppliers, business chambers, municipalities (so that they are more eager to sign agreements to participate in centralised purchases), and the general public. This could for instance be done through an annual report (or even interim reports during the year) specifically focusing on the added value of centralised procurement.

Improving the results obtained from the centralised scheme demands strong institutional leadership. If procurement is to be treated as a strategic activity, government entities will need to operate under a clear mandate, and align political will. For instance, the Government of the State of Mexico must advance reforms to remove obstacles for upgrades (e.g. the possibility of engaging in framework agreements and the establishment of alternative dispute resolution mechanisms) and make the funds available to improve e-procurement. But more importantly, government officials will have to realise that these reforms are worth the effort and, if implemented correctly, will deliver long-term savings that outweigh the short-term costs.

The OECD has identified several critical factors possessed by successful centralised purchasing organisations that obtain savings. Firstly, it is important for CPBs to have a clear mandate to operate. The mandate may be broad or narrow, but it must be clear. Secondly, good relations with both users and suppliers is important for building confidence in the operations of the CPB, which in turn is important to motivate tender participation. Thirdly, and in relation to the second factor, it is important to actually obtain favourable purchasing terms and products, thereby creating legitimacy and loyalty towards the centralised purchasing systems established. Specifically, the more inclined procuring entities are to use the CPB services, the more attractive it is for potential suppliers to compete for contracts. As the average number of bids in State of Mexico tenders is quite low (2.35 in 2018), this factor is key for the Ministry of Finance. Indeed, the CPB competency and behaviour are important drivers of success.

Contrary to what happens in states such as Nuevo León, where public works are undergoing a similar centralisation process to the one applied for goods and services, in the State of Mexico the procurement of public works is not centralised. This may be due to the fact that the centralised scheme for goods and services has yet to demonstrate its value added. In any case, the experience of centralised procurement of goods and services should be useful to assess if, in the near future, the State of Mexico also wants to centralise the procurement of public works and, if so, establish the pillars required to make the system attractive for users and potential bidders.

## 1.2. The normative framework for public procurement in the State of Mexico

### **1.2.1. The State of Mexico should allow for a review of the normative framework for public procurement to upgrade it and incorporate innovations that would advance efficiency and trust**

Article 134 of Mexico's Constitution (*Constitución Política de los Estados Unidos Mexicanos*, CPEUM), establishes the principle that the procurement of goods and services should be carried out through public tenders in order to achieve the best terms with regards to price, quality, financing, opportunity and other applicable circumstances. The principles set out in the CPEUM are then detailed in a set of normative instruments, applicable for procurement financed through federal or state funding.

In this context, federal states in Mexico have a dual legal framework for the procurement of goods and services, and for public works, depending on the source of funding (federal resources or state funds). As illustrated in Figure 4.2, 70% of public procurement spending in Mexico is executed at the sub-national level (i.e., by federal states and municipalities). Procurement of goods and services funded with federal resources (very common, for example, in the health sector) are consequently subject to federal regulations, notably the Law for Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASP) and its corresponding Bylaws (*Reglamento de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*). Likewise, procurement of public works financed with federal resources (quite common, for example, in the education sector) is also subject to federal rules, notably the Law for Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*, LOPSRM) and its Bylaws (*Reglamento de la Ley de Obras Públicas y Servicios Relacionados con las Mismas*). Even if there is a mix of resources funding the procurement, as long as federal resources involved and regardless of the amount, these federal regulations apply.

On the other hand, procurement of goods and services financed by state and/or municipal funds is regulated mainly by the LCPEMyM and its Bylaws (*Reglamento de la Ley de Contratación Pública del Estado de México y Municipios*). Likewise, public works procured exclusively with state and/or municipal funds are regulated by the Administrative Code of the State of Mexico, 12<sup>th</sup> Book (*Código Administrativo del Estado de México, Libro Décimo Segundo de la Obra Pública*). Some other laws applicable to procurements funded with state and/or municipal resources are the following:

- Political Constitution of the Free and Sovereign State of Mexico (*Constitución Política del Estado Libre y Soberano de México*): Article 129 reiterates Art. 134 of the CPEUM by establishing the duty to ensure the best conditions for the state in terms of price, quality, financing, opportunity, and other applicable circumstances.
- LOAPEM: It regulates the organisation and functions of the central administration and auxiliary bodies. It also establishes the centralised procurement scheme for goods and services and the powers of the Ministry of Finance in this regard.
- Financial Code of the State of Mexico and Municipalities (*Código Financiero del Estado de México y Municipios*): It regulates the financial activities of the State of Mexico and its municipalities, including the collection, management and application of public funds, as well as the transparency and disclosure of financial information relative to budgeting, execution, evaluation and accountability.
- Expenditures Budget of the Government of the State of Mexico (*Presupuesto de Egresos del Gobierno del Estado de México*): It is issued every year to allocate the budget to state institutions and programmes.
- POBALINES: It establishes guidelines to comply with the LCPEMyM and provides detailed information about how to carry out procurement procedures.

In addition to the above laws and regulations, there is a set of rules establishing ethical norms and standards applicable to procurement officials. These will be described in more detail in Chapter 4 but are largely the following:

- Law of Administrative Responsibilities for the State of Mexico and its Municipalities (*Ley de Responsabilidades Administrativas del Estado de México y Municipios*).
- Code of ethics for public officials of the executive power and auxiliary bodies (*Código de Ética de los Servidores Públicos del Poder Ejecutivo del Gobierno del Estado de México y sus Organismos Auxiliares*)
- Protocol for public servants intervening in public procurement or granting licenses, permits, authorisations or concessions (*Protocolo de actuación de los servidores públicos que intervienen*

en las contrataciones públicas, prórrogas, el otorgamiento de licencias, permisos, autorizaciones, concesiones y sus modificatorios nacionales como internacionales), the Protocol hereinafter

- Code of Conduct of the Ministry of Finance (Código de Conducta de la Secretaría de Finanzas).

Although some of the laws composing the regulatory framework for public procurement have been reformed recently, for example specific articles of the LCPEMyM were reformed through decrees 496 (24 August 2015), 178 (20 December 2016), 267 (15 December 2017) and 11 (21 December 2018), in general the regulatory framework is outdated and requires significant reform to modernise public procurement and free it from binding constraints hindering efficiency and trust.

The LCPEMyM, for example, was originally published in May 2013 and the POBALINES on December 2013 (latest reform on August 2017). Likewise, the 12<sup>th</sup> Book of the Administrative Code of the State of Mexico was published on 2 September 2003. Despite the recent reforms, some important opportunities for upgrading include the following:

- Specific provisions to allow framework agreements (*contratos marco*) and alternative procurement strategies.
- Removing limits on the participation of international bidders to allow for greater competition.
- Favouring e-procurement over paper-based procedures.
- Allowing and clarifying the use of different award criteria (i.e., Most Economically Advantageous Tender, MEAT).
- Upgrading the participation of social witnesses in procurement procedures.
- Allowing the use of alternative mechanisms (i.e., arbitration, mediation, etc.) for dispute resolution to save time and resources of the state government in the case of challenges (51 challenges or *inconformidades* were filed from 2016-2018).

In light of such opportunities, the State of Mexico should undertake a comprehensive review of the normative framework for public procurement. Reforms requiring amendments of primary laws will even imply legislative action. Evaluations of regulations after a period of implementation should be primarily focused on whether the intended outcomes of regulatory intervention have been achieved. This is the main purpose of retrospective analysis, and its systemic application that is recommended in the 2012 *Recommendation of the OECD Council on Regulatory Policy and Governance*. The *OECD Regulatory Policy Outlook 2015* provides a set of evaluation criteria that could form the basis for an evaluation framework (Box 1.1) (OECD, 2015<sup>[2]</sup>).



### Box 1.1. Principles for setting an evaluation framework

#### General criteria

- **Relevance:** Do the policy goals cover the key issues at hand?
- **Effectiveness:** Was the policy appropriate and instrumental to successfully address the needs perceived, as well as the specific problems the intervention was meant to solve?
- **Efficiency:** Do the results justify the resources used? Or could the results be achieved with fewer resources? How coherent and complementary have the individual parts of the intervention been? Is there scope for streamlining?
- **Utility:** To what degree do the achieved outcomes correspond to the intended goals?

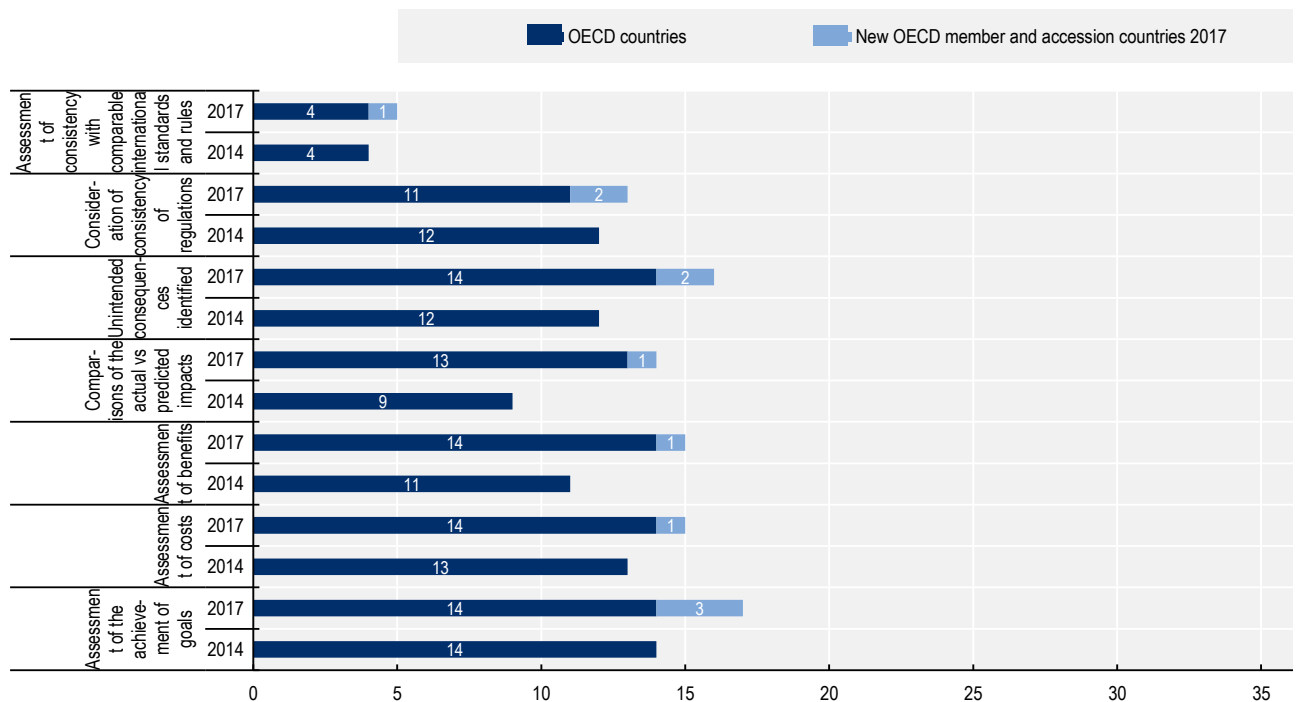
#### Additional criteria

- **Transparency:** Was there adequate publicity? Was the information available in an appropriate format and at an appropriate level of detail?
- **Legitimacy:** Has there been a buy-in effect?
- **Equity and inclusiveness:** Were the effects fairly distributed across the stakeholders? Was enough effort made to provide appropriate and equitable access to information?
- **Persistence and sustainability:** What are the structural effects of the policy intervention? Is there a direct cause-effect link between them and the policy intervention? What progress has been made in reaching the policy objectives?

Source: (OECD, 2015<sup>[2]</sup>).

Methodologies used in OECD countries for ex post regulatory evaluation usually concentrate on the achievement of policy goals, the unforeseen consequences of a regulation and the assessment of costs and benefits (see Figure 1.2).

**Figure 1.2. Objectives of ex post regulatory evaluation in OECD and accession countries**



Notes: Data for OECD countries is based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries in 2017 includes Colombia, Costa Rica, Latvia and Lithuania.

Source: (OECD, 2018<sup>[3]</sup>).

During the normative review process, the State of Mexico should be mindful of overregulation. There is a difficult balance to strike between flexibility and control. Recent integrity failures at the national and state level in Mexico have led to the flawed assumption that more regulation will definitely lead to less corruption. In fact, the current strong compliance approach has perhaps limited the ability of procurement officials to achieve value-for-money. When reviewing the regulatory framework, the State of Mexico should bear in mind regulatory burdens imposed on procurement officials. It should then seek controls with clear indicators to evaluate the effectiveness of these regulations.

### **1.2.2. The State of Mexico could apply better regulation standards, particularly public consultation and ex ante impact assessment, when introducing reforms to procurement regulations**

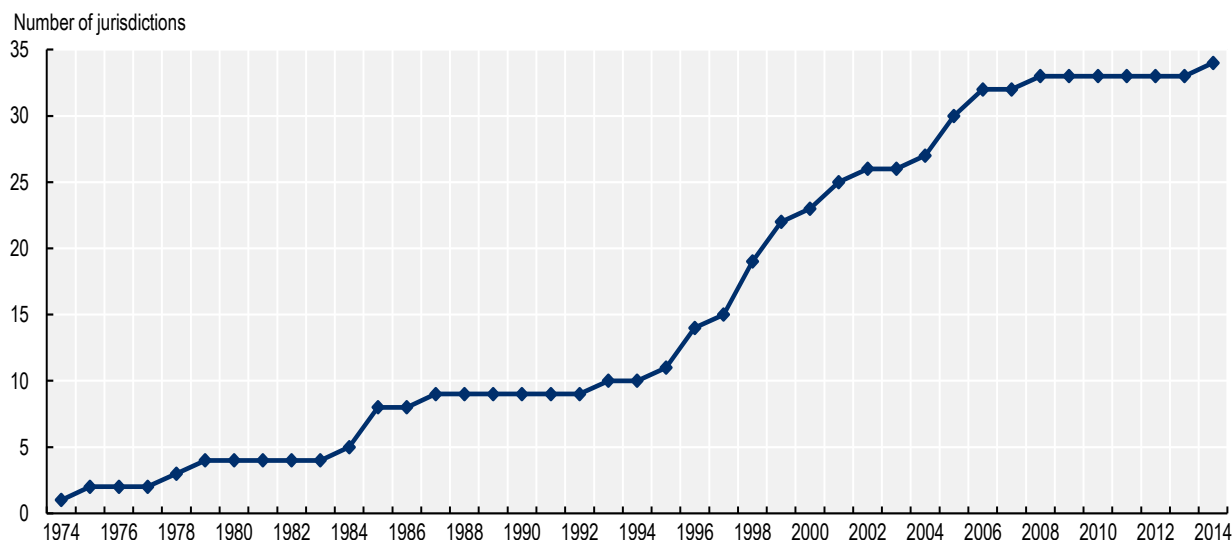
The OECD *Recommendation on Public Procurement* 2015 encourages adherents to “develop and follow a standard process when formulating changes to the public procurement system. Such standard process should promote public consultations, invite the comments of the private sector and civil society, ensure the publication of the results of the consultation phase and explain the options chosen, all in a transparent manner” (OECD, 2015<sup>[4]</sup>).

Additionally, the OECD *Recommendation on Regulatory Policy and Governance* suggests that adherents “Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient<sup>[5]</sup> in achieving those goals” (OECD, 2012<sup>[5]</sup>).

Better regulatory standards can lead to multiple benefits as they subject governments to the discipline of evidence-based rulemaking. First of all, such standards help governments assess, together with the relevant stakeholders, the extent to which a regulation addresses the public policy problem at hand. They also give governments an idea of potential unintended consequences and alternatives to mitigate costs and risks. Public consultation in particular can build buy-in for reform and therefore facilitate compliance from the target audiences. Along with RIA, these instruments provide information on the distributive effects of the costs and benefits of regulation, allowing for a more fair distribution. Finally, better regulation standards advance the transparency of the rulemaking process and prevent capture, maintaining first and foremost the public interest.

Ex ante assessment processes for regulatory proposals, such as RIAs, applied to either new regulations or reforms to existing rules can underpin the capacity of governments to ensure that regulations are efficient and effective in a changing and complex world. As illustrated in Figure 1.3, some form of RIA has now been adopted by all OECD members, although they have all nevertheless found the successful implementation of RIA administratively and technically challenging.

**Figure 1.3. Trend in RIA adoption across OECD jurisdictions**



Notes: Based on data from 36 countries and the European Commission.

Source: 2014 and 2017 Regulatory Indicators Survey results.

### Box 1.2. The OECD Recommendation on Regulatory Policy and Governance with regards to RIA

- Adopt ex ante impact assessment practices that are proportional to the significance of the regulation, and include benefit-cost analyses that consider the welfare impacts of regulation taking into account economic, social and environmental impacts, including the distributional effects over time, identifying who is likely to benefit and who is likely to bear costs.
- Ex ante assessment policies should require the identification of a specific policy need, and the objective of the regulation such as the correction of a market failure, or the need to protect citizen's rights that justifies the use of regulation.
- Ex ante assessment policies should include a consideration of alternative ways of addressing the public policy objectives, including regulatory and non-regulatory alternatives to identify and select the most appropriate instrument, or mix of instruments to achieve policy goals. The no action option or baseline scenario should always be considered. Ex ante assessment should in most cases identify approaches likely to deliver the greatest net benefit to society, including complementary approaches such as through a combination of regulation, education and voluntary standards.
- When regulatory proposals would have significant impacts, ex ante assessment of costs, benefits and risks should be quantitative whenever possible. Regulatory costs include direct costs (administrative, financial and capital costs) as well as indirect costs (opportunity costs) whether borne by businesses, citizens or government. Ex ante assessments should, where relevant, (OECD, 2008<sup>[6]</sup>) provide qualitative descriptions of those impacts that are difficult or impossible to quantify, such as equity, fairness and distributional effects.
- RIA should as far as possible be made publicly available along with regulatory proposals. The analysis should be prepared in a suitable form and within adequate time to gain input from stakeholders and assist political decision-making. Good practice would involve using the RIA as part of the consultation process.
- Ex ante assessment policies should indicate that regulation should seek to enhance, not deter, competition and consumer welfare, and that to the extent that regulations dictated by public interest benefits may affect the competitive process, authorities should explore ways to limit adverse effects and carefully evaluate them against the claimed benefits of the regulation. This includes exploring whether the objectives of the regulation can be achieved by other less restrictive means.
- When carrying out an assessment, officials should:
  - Assess economic, social and environmental impacts (where possible in quantitative and monetised terms), taking into account possible long term and spatial effects;
  - Evaluate if the adoption of common international instruments will efficiently address the identified policy issues and foster coherence at a global level with minimal disruption to national and international markets;
  - Evaluate the impact on small to medium sized enterprises and demonstrate how administrative and compliance costs are minimised.
- RIA should be supported with clear policies, training programmes, guidance and quality control mechanisms for data collection and use. It should be integrated early in the processes for the development of policy and supported within agencies and at the centre of government.

Source: (OECD, 2012<sup>[5]</sup>).

The Law on Better Regulation for the State of Mexico and its Municipalities (*Ley para la Mejora Regulatoria del Estado de México y sus Municipios*) actually requires state and municipal ministries and auxiliary bodies to carry out a RIA when developing new regulations or reforms to rules in force leading to compliance costs for the private sector. According to Article 42, RIAs should include the following elements:

- A clear statement of the reasons behind the need for new regulations or reforms to existing ones;
- alternatives considered before deciding to put forward a new regulation or reform an existing one;
- problems created by the current rules and how the new regulation or the reform to existing one will address them;
- risks stemming from failing to issue the proposed rules;
- legal basis for the regulatory project and consistency of the proposed regulation with the current legal framework;
- benefits stemming from the proposed regulation;
- identification and description of the administrative procedures (*trámites*) eliminated, adjusted or created with the proposed regulation;
- resources available to advance compliance with the regulation; and
- a description of early consultation initiatives carried out in creating the regulatory proposal, as well as the opinions collected from stakeholders.

Likewise, Article 45 requires the State Commission on Better Regulation (*Comisión Estatal de Mejora Regulatoria*, CEMER) to publish the regulatory proposals, along with their corresponding RIAs, and all the opinions and comments by stakeholders expressed during a public consultation lasting no fewer than 20 days.

The approach mandated by law is consistent with international practices with regards to compliance costs for the private sector. Indeed, new public procurement rules or reforms to existing ones are probably going to have some impact on the private sector, particularly on potential participants in bidding processes. But even if such regulatory processes are deemed to have no compliance costs for the private sector, for the specific case of public procurement rules, the State of Mexico may also consider the potential costs for the public sector itself. For example, a reform to mandate the electronic processing of the application to the Supplier's Registry may not be costly for bidders, indeed it would likely lead to savings, but it would certainly entail direct costs for the government in terms of upgrading the current procedure. Therefore, good practice suggests that, bearing in mind potential costs and benefits for the private and the public sector, the State of Mexico should apply better regulation standards to new procurement rules or reforms to the existing ones.

In line with this recommendation, contracting authorities in general, and in particular the Ministry of Finance's DGRM as the CPB of the State Government, should work together with CEMER to develop their capacities to apply better regulation standards. For example, when issuing new procurement rules or introducing reforms to existing ones, DGRM should bear in mind the basic pre-requisites for a good public consultation, such as those considered by the Australian Productivity Commission (see Box 1.3).

### Box 1.3. Preconditions identified by the Australian Productivity Commission for a good consultation process

- Consultation objectives need to be set. Clear objectives help identify the target audience and select the right consultation method to assist evaluation.
- The stakeholders need to be clearly identified. In particular, the target audience may be broader than those directly affected or those who have a known interest.
- Other departments and agencies may need to be involved.
- Methods of consultation need to be determined.
- The nature and form of questions included in written consultation documents need to be considered.
- Consultation risks need to be managed. Actions may need to be taken to mitigate risks such as low participation rates and poor presentation of complex issues that may be too difficult to understand.

Source: (OECD, 2008<sup>[6]</sup>).

The DGRM could also consider the following questions in preparing to adopt better regulation standards to public procurement reforms:

- When specifically should it apply the standard process to consult with external stakeholders about reforms to procurement regulations? For instance, whenever new procurement rules are issued or if the existing ones are reformed and imply costs for either the public or the private sector.
- Who will be in charge of the standard better regulation process for procurement rules? It might be advisable to designate a specific department to liaise with CEMER and assume this role.
- What kind of public procurement rules would be subject to the better regulation process? For instance, would all rules relative to procurement that will be issued, or only the amended procurement rules with compliance costs for enterprises or citizens?
- What kind of analyses should be drawn up to launch procurement regulatory proposals?
- Where and when should the procurement regulatory proposals and their RIAs or analyses be published? For instance, on the Ministry of Finance's website, or on a special website created for the better regulation process?
- Bearing in mind the minimum legal requirement of 20 days, how long should public consultation last? For example, major reforms to procurement rules may be suitable for an extended consultation period.
- Through which channel(s) should stakeholders send their comments? Online or face to face, including information and communication technology tools used for consultation: for example, by email, on a government website, in virtual discussions or on social media. The DGRM could use such means as advisory groups or preparatory committees; meetings for formal and informal consultation with selected groups; and focus groups.
- How and when will DGRM provide feedback on comments received from stakeholders?
- What should a report of regulatory public consultation include? Ideally, it would include feedback on the comments received, indicating the input considered, explanations of the option(s) chosen, and if applicable, the new version of the regulatory proposal.

- Where could stakeholders find the report on regulatory public consultation? This might be either on the Ministry of Finance’s website or on a special website created for the better regulation process.
- How will DGRM publicise the new regulation(s) issued and the date of entry into force? It would be advisable to include in the internal process an obligation to design a communications strategy for the new procurement regulation that is to be issued or amended, to inform the relevant stakeholders.

Although there are different methods for carrying out consultation on public procurement regulations, good practice suggests they should be inclusive and allow for feedback from a wide range of stakeholders. Germany, for example, organises such consultation processes through public procurement committees (see Box 1.4).

#### Box 1.4. Consultation on procurement legislation in Germany

Public procurement committees are a unique element of the German public procurement framework. These bodies serve as fora for stakeholders from the federal, Länder and municipal levels to contribute to the drafting of procurement legislation. Among the members of the committees are representatives from the public sector (federal ministries, Länder ministries and municipal associations (*Kommunale Spitzenverbände*), the private sector, chambers of industry and commerce, and unions. The main purpose of this committee-based approach is to capture the concerns of different stakeholders. While the Federal Ministry for Economic Affairs and Energy (BMWi) is the main institution responsible for devising public procurement policy and drafting primary legislation in Germany, procurement committees draft tertiary legislation. The procurement committees have been criticised for their lack of democratic legitimacy. Yet, they have allowed for the integration of business and other stakeholder interests into contract regulations.

Source: (OECD, 2019<sup>[7]</sup>).

Regarding ex ante impact assessment, the State of Mexico could explore a more streamlined approach, simpler and easier to implement than a full-fledged RIA, focusing on specific impacts stemming from procurement regulations, such as on SMEs. For example, British Columbia (BC), Canada, adopted a Regulatory Criteria Checklist (RCC), which replaced RIA in 2001, and incorporated a small business lens in 2007. The Small Business Roundtable pushed to incorporate this feature, which is important as most businesses in BC fit this description (about 83%). Questions such as “is the benefit to government or external partners worth the increased cost to small business and those who must comply?”, “has business process mapping been undertaken to streamline the requirements and lessen the time needed by small business to comply?”, “has small business had the opportunity to see and comment on the proposed requirements?”, “has the amount of time required by small business to comply been reduced?”, and “can compliance occur with existing resources of small business?” demonstrate that small businesses must be a concern of regulators when drafting and introducing new rules (García Villarreal, 2010<sup>[8]</sup>).

### Box 1.5. The Regulatory Criteria Checklist of British Columbia, Canada

The RCC is composed by 11 different categories with their respective questions:

A) Reverse Onus-Need is Justified:

- Has the scope of the public policy problem been assessed?
- Is government intervention necessary to address the problem?

B) Cost-Benefit Analysis:

- Is the benefit to government or external partners worth the increased cost to small business and those who must comply?

C) Competitive Analysis:

- Has the impact of the requirements on BC's economic competitiveness been assessed?
- Have the requirements been compared with other relevant jurisdictions?

D) Streamlined Design:

- Do the requirements avoid or eliminate duplication or overlap with federal or local government requirements or those of other ministries?
- Has business process mapping been undertaken to streamline the requirements and lessen the time needed by small business to comply?

E) Replacement Principle:

- Will one regulatory requirement be eliminated for each one new regulatory requirement introduced by the legislation or regulation?

F) Results-Based Design:

- Does the design reflect government's commitment to regulatory requirements that are results-based and use scientific evidence?

G) Transparent Development:

- Are the requirements transparent for ease of access, understanding and compliance?
- Has small business had the opportunity to see and comment on the proposed requirements?

H) Time and Cost of Compliance:

- Has the amount of time required by small business to comply been reduced?
- Can compliance occur with existing resources of small business?
- Have government service standards been set?

I) Plain Language:

- Have the requirements been drafted in plain language and in a way that facilitates compliance?

J) Simple Communications:

- Will this change be communicated?
- Can it be described in less than one page?



K) Sunset Review/Expiry Principle:

- Has a date been set to review the requirements to ensure continued relevancy?
- Does the legislation or regulation contain a sunset provision for requirements to expire?

Source: (García Villarreal, 2010<sup>[8]</sup>).

### 1.3. Co-ordination and communication

#### **1.3.1. The Government of the State of Mexico should improve co-ordination and communication relative to the centralised procurement scheme by raising awareness about the role of each institution to make it a success**

A common flaw of centralised procurement systems, particularly of emerging ones, is the lack of clearly defined roles, not only for the CPB, but actually for all stakeholders including users, hindering co-ordination. Without clear roles and every institution assuming its responsibility for success, the scheme may become a “blame game”, in which users blame the CPB of being unresponsive or too slow, the CPB blames users of submitting incomplete files or flawed information, the treasury (i.e., the unit paying the suppliers) blames the CPB of incomplete files for processing payments and the CPB blames the treasury of being too formalistic, and so on. In the end, it is the citizens who need the public services who suffer from such lack of co-ordination, as well as suppliers who do not get their payments on time.

Hence, the Government of the State of Mexico should reinforce the idea that the centralised scheme will only be successful and deliver its intended benefits if all the stakeholders assume their responsibilities. Currently, there are not many co-ordination mechanisms to raise such awareness. One of them, described above, is the meetings between the Ministry of Finance and the Administrative Co-ordinators of ministries and auxiliary bodies.

Another mechanism for co-ordination and consistency of procurement activities is the assessments (*dictámenes*) on specifications for specific goods and services. These instruments are managed from a central office to advance the consistency in the purchase of goods and services throughout the public administration. The following table illustrates which goods and services are subject to such assessments and which are the central offices in charge of them. Ministries and auxiliary bodies procuring such goods and services directly should first obtain the *dictamen* from the corresponding area.

**Table 1.2. Goods and services subject to ex ante approval assessments and central areas in charge**

Technical area	Goods and services
Ministry of Public Safety ( <i>Secretaría de Seguridad</i> )	Vehicles, security equipment and technologies, telecommunications equipment
State System for ICT ( <i>Sistema Estatal de Informática, SEI</i> )	Computers, software and related services
Directorate for Regulations and Patrimonial Control ( <i>Dirección de Normatividad y Control Patrimonial</i> ) of the Ministry of Finance	Furniture, equipment, industrial and agriculture machinery, vehicles and transport equipment
Ministry of Education ( <i>Secretaría de Educación</i> )	Printing and preparation of official publications
Social Communication	Goods using the institutional and corporate brand
Institute for Information and Geographic, Statistical and Cadastral Research of the State of Mexico ( <i>Instituto de Información e Investigación Geográfica, Estadística y Catastral del Estado de México, IGCEM</i> )	Goods containing geographic, statistical or cadastral information
Ministry of Health ( <i>Secretaría de Salud</i> )	Medical equipment, tools and furniture and auxiliary equipment for diagnostic.

Source: Information provided by the Ministry of Finance.

Sixteen ex ante assessments are processed each month on average. Once issued by the corresponding area, DGRM reviews it quantitatively.

Another mechanism for co-ordination and communication is the Procurement Committees for Goods and Services (*Comités de Adquisiciones y de Servicios, CAS*). Such committees are collegiate bodies which support the Ministry of Finance and other institutions in integrating procurement procedures for goods and services. In contrast with the federal regime, where CAS' main function is reviewing and approving exceptions to public tenders, in the State of Mexico they have the following functions, according to the LCPEMyM and its Bylaws:

- Participating in open tender, restricted invitation and direct award processes, including those carried out as reverse auctions, until before the award of the contract;
- Issuing the award notice (*dictamen de adjudicación*);
- Reviewing and approving exceptions to public tender;
- Analysing and assessing the technical and economic proposals submitted by bidders;
- Requesting technical assistance, as needed, to business chambers or federations, professional associations, research institutions or other similar entities;
- Implementing actions deemed necessary to improve procurement procedures; and
- Creating subcommittees and working groups necessary to carry out its functions.

The CAS established in the Ministry of Finance have the following membership:

- The head of the area in charge of managing the procurement of the central administration, which is DGRM;
- A representative of the financial area of the Ministry;
- A representative of each ministry or administrative unit with a stake in the procurement of the good or service in question;
- A representative from the Office of the Legal Counsellor (*Consejería Jurídica*);<sup>1</sup>
- A representative from the Internal Control Body (*Órgano Interno de Control, OIC*); and
- An executive secretariat, appointed by the president of the CAS, in this case, the head of DGRM.

The membership of CAS in auxiliary bodies resembles the one in the Ministry of Finance. Instead of DGRM, the head of the Administrative Co-ordination presides over the CAS in auxiliary bodies and it includes, as

well the representative from the financial and legal units, the OIC, and the user unit (i.e., the one requesting the purchase).

Despite the existence of the mechanisms described above (ad hoc meetings of the Ministry of Finance with Administrative Co-ordinators, ex ante approval assessments and the CAS) to facilitate co-ordination and communication, all of them have limited functions not always clearly related to the strategic steering of the centralised procurement scheme.

The State of Mexico would benefit from establishing a high-level group (i.e., interministerial group, committee, etc.) to engage all relevant stakeholders in the strategic steering of the centralised procurement scheme, develop ownership, communicate its benefits and assign clear roles to achieve whole-of-government objectives. Such a high-level group could work through technical committees, involving operational staff and even external stakeholders (i.e., suppliers), to address the main concerns, reforms and challenges relative to the centralised procurement scheme. Such mechanisms would reiterate the idea that the success of centralised procurement lies not only in the Ministry of Finance, but also in the commitment by all stakeholders. Likewise, they would bring to the forefront a new perception of public procurement as a strategic activity for the achievement of public policy objectives, beyond a mere administrative function.

#### 1.4. Current approaches to market engagement

Market engagement is a process that allows public procurers, at all stages of the procurement cycle, to communicate institutional needs and requirements to suppliers, discuss possible solutions openly and transparently, encourage innovation in the design and delivery of a solution and understand market capacity, capability and trends. Governments, and particularly CPBs, should have a robust understanding of the size, composition and nature of their supply markets, keeping abreast of new developments and ideas, as well as emerging technologies that can help get better results.

Market engagement can not only complement market research and analysis and provide a better perspective of market trends, but also leads to multiple benefits such as (New Zealand Government Procurement Branch, 2015<sup>[9]</sup>):

- Gathering information on market structure and operations;
- allowing the market to understand better government needs;
- allowing public procurers discuss the outcomes needed and get feedback on their requirements as to inform the development of specifications and avoid limiting potential competition;
- allowing public procurers to test the feasibility of their needs against market availability and capacity;
- opening discussions about developing or enhancing solutions to meet the government needs;
- providing opportunities for suppliers to partner with others to provide enhanced solutions;
- allowing discussions on how to present government requirements to keep procurement opportunities attractive for the market;
- creating interest in government opportunities and allowing participation by SMEs;
- gathering information on risks; and
- facilitating procurement planning and an optimal approach to market strategy.

On the other hand, market engagement may entail specific risks when poorly executed, such as the following (New Zealand Government Procurement Branch, 2015):

- Giving unfair advantages to one or a few suppliers;
- encouraging accusations of favouritism from unsuccessful suppliers;

- committing to a specific solution at an early stage;
- failing to protect intellectual property and commercially sensitive information;
- engaging in a way that may put specific suppliers in disadvantage (i.e., SMEs);
- creating unrealistic expectations in the market or in specific suppliers;
- raising trust issues as a result of integrity failures and alienating potential suppliers from participating in government procurement opportunities; and
- creating opportunities for collusive behaviour from suppliers.

**1.4.1. The Co-ordination Committee of SAEMM, the Ministry of Finance and SECOGEM, should aim to develop a framework for market engagement that delivers the benefits of such a practice, at the time that mitigates the risks, particularly integrity risks**

OECD has found that the assumption that more control will inevitably lead to fewer integrity breaches is quite common in the context of Mexico (OECD, 2018b). Past bad experiences, particularly relative to public procurement, have led public servants to believe that more controls are necessary to prevent integrity failures. This has created an environment where public procurement officials prioritise compliance over value-for-money considerations, hindering innovation and practices such as market engagement.

While it is true that market engagement entails risks, as recognised above, this should not prevent the State of Mexico from gaining from its benefits, while also taking specific actions to mitigate the risks. Currently, the Government of the State of Mexico does not have a comprehensive strategy for market engagement beyond the publication of annual procurement plans and the market research carried out by the Ministry of Finance. Clarification meetings, while commonly used, are not mandatory (as they are under federal regulations).

Market engagement can happen at any time of the procurement cycle and the Ministry of Finance and SECOGEM should consider developing a framework (i.e., rules, guidelines, etc.) for market engagement. Some of the specific forms of engagement are illustrated in the following table.

**Table 1.3. Market engagement alternatives throughout the public procurement cycle**

Pre-tendering	Tendering	Post-tendering
Annual procurement plan	Briefing suppliers who submitted a bid	Debriefing suppliers
Trade shows	Clarification meetings (on site or electronic)	Contract award notice
“Meet the buyer” events		Contract and supplier management
“Show and tell” events		Strategic supplier management
Meeting industry bodies and business chambers		
Meeting with a group of suppliers or with a supplier individually		
Pre-tender briefings to potential suppliers		
Industry workshops		

Source: (New Zealand Government Procurement Branch, 2015<sup>[9]</sup>).

There are some specific alternatives easy for the State of Mexico to implement with an aim to advance interest in government procurement and increase the average number of bids, which, as mentioned throughout this report, is particularly low. For example, the annual procurement plans of ministries and auxiliary bodies could be more specific and published in the e-procurement platform COMPRAMEX

following an open format, which allows data reusability. The Ministry of Finance could organise events to “meet the buyer” or an expo (*Expo Compras de Gobierno*) where it can discuss its different needs (not a specific contract) with potential suppliers and they can provide information about their products and services and present their solutions (“show and tell”). Likewise, it could organise workshops to train suppliers to prepare bids and avoid cases where they are disqualified for failing to meet a formality (for example, a missing document or a signature) (see Box 1.6).

### Box 1.6. Market engagement methods at the pre-tendering stage

- **Trade shows:** A trade show (or expo) is an event that allows suppliers in a specific industry to showcase and demonstrate their latest products, services and examine recent market trends and opportunities.
- **Meet the buyer/meet the supplier:** An event where a range of potential buyers get to meet with a range of potential suppliers. It is not about doing a deal or getting a contract. It is an opportunity where buyers can discuss their needs, suppliers can provide information about their products and services, and supply chain networks can be created or strengthened.
- **“Show and tell” solutions:** Where an agency has an idea of what it wants to buy, it can hold a ‘show-and-tell’ to allow potential suppliers to present their solutions. Suppliers can be asked to give their views on the agency’s requirements, including whether or not they are feasible and how they might be delivered.
- **Meeting with industry bodies:** Meeting with industry bodies and representative groups enables an agency to discuss its needs and allows representatives of that industry to explain how the industry works, present possible solutions and provide contacts for relevant suppliers.

Source: (New Zealand Government Procurement Branch, 2015<sup>[9]</sup>).

Regarding the post-tendering stage, debriefing bidders is a commonly used alternative in OECD countries. Unsuccessful bidders may want to know why their bids failed, but they currently do not have many avenues for obtaining feedback. The amount of information that can be conveyed varies according to the circumstances of the particular contract, but the procuring entities could give a broad indication of the reasons why suppliers were rejected, based on cost and where they ranked in the tender list. This alternative, coupled with the workshops suggested above, could be useful to motivate suppliers to keep participating in government tenders and do so with enhanced success perspectives.

Implementation of adequate debriefing with the suppliers provides a valuable opportunity for both parties to benefit from the tender process. Verbal debriefings can improve relationships with suppliers, as well as the quality of their offers, while providing valuable insight to both parties. A debriefing can even be made available to a successful bidder as a first step in establishing a sound working relationship – and a precedent for constructive feedback. However, verbal debriefings must be used judiciously. Debriefings must operate under a clear framework in order to reduce any associated risks and costs.

### Box 1.7. The benefits of debriefing

#### Debriefing is beneficial to bidders because it:

- helps them to rethink their approach in order to make future bids more successful;
- offers targeted guidance to new or smaller companies to improve their chances of doing business in the public sector;
- provides reassurance about the process and suppliers' contribution or role; and
- provides a better understanding of what differentiates public sector procurement from private procurement.

#### Debriefing may help the State of Mexico by:

- identifying ways to improve subsequent solicitation processes, including associated communications;
- making sure best practices and guidance are updated to reflect any relevant issues that have been highlighted;
- encouraging better bids from suppliers in the future;
- getting a better understanding of how that segment of the market thinks, enhancing the organisation's market intelligence;
- helping establish a reputation as a fair, open and ethical buyer with whom suppliers will want to do business in the future; and
- potentially reducing the number of challenges.

Source: (OECD, 2018<sup>[10]</sup>).

As mentioned before, a comprehensive framework for market engagement should also address the risks entailed. The Protocol already provides some measures to mitigate integrity risks by requiring public procurement officials to hold any meetings with private individuals in official premises, with the presence of an OIC representative, and favour written communication. However, in its current form, the Protocol may hinder market engagement activities. Therefore, the Co-ordination Committee of the Anti-corruption system of the State of Mexico (*Sistema Anticorrupción del Estado de México y Municipios*, SAEMM), as the institution entitled to issue the Protocol, in co-ordination with the Ministry of Finance and SECOGEM, should aim for a framework that better balances control and the possibility to engage. The way to approach this balance may depend on the specific market engagement activities to be pursued but, for example, the regulatory framework (including the Protocol) may need to be reformed to allow procurement officials to meet business chambers, conduct workshops, or debrief unsuccessful suppliers. In fact, during the fact-finding interviews, public servants of the State of Mexico claimed that debriefing suppliers, for example, may entail a violation of the Protocol. Evidently, there should be protocols and rules to engage based on basic principles of fairness (i.e., providing the same information to all suppliers, allowing equal access and giving all suppliers the same treatment), impartiality, openness and transparency.

Under any of the market engagement alternatives, it will be important to make the process clear to all suppliers, manage their expectations and communicate the values under which the government pursues market engagement. Keeping records of meetings also supports the transparency of the process.

In addition, Chapter 4 discusses recommendations which would support mitigating the risks of market engagement, such as prompting ethical reasoning by procurement officials and partnering with the business community to advance an agenda for business integrity. The latter recommendation, for example,

is necessary to prevent collusive agreements among potential suppliers. Indeed, some of the market engagement alternatives may provide opportunities for potential suppliers to meet each other and seek collusive behaviour.

## Proposals for action

The State of Mexico has committed to a centralised procurement scheme in whose governance participate a wide variety of stakeholders. However, the limited scope of centralisation achieved so far suggests that there is still much room for additional efficiencies, which could be supported by reviewing the regulatory framework and upgrading co-ordination and communication. The following recommendations aim to be helpful in achieving these objectives.

### Procurement structure and governance

The Government of the State of Mexico should be able to demonstrate the value added of the centralised procurement scheme (and other procurement strategies or tools to be implemented in the future) to the different stakeholders.

- The Ministry of Finance should clearly identify what will be its value added and design a strategy to develop and communicate it.
- The State Government should be more proactive in communicating the potential benefits of the centralised scheme to the user areas, and to other stakeholders, including suppliers, business chambers, municipalities and the public in general. This could be done through an annual report (or even interim reports during the year).

### The normative framework for public procurement

The State of Mexico should allow for a review of the normative framework for public procurement to upgrade it and incorporate innovations that would advance efficiency and trust.

- The State of Mexico should undertake a comprehensive review of the normative framework for public procurement based on a set of evaluation criteria that could form the basis for an evaluation framework.

The State of Mexico could apply better regulation standards, particularly public consultation and ex ante impact assessment, when introducing reforms to procurement regulations, either as a consequence of the review suggested above or as a result of other improvement initiatives.

- Even if regulatory processes are deemed to have no compliance costs for the private sector, for the specific case of public procurement rules, the State of Mexico may also consider the potential costs for the public sector itself and require the application of regulatory quality tools.
- Contracting authorities in general, and particularly the Ministry of Finance's DGRM, as the CPB of the State Government, should work together with CEMER to develop their capacities to apply better regulation standards.
- Regarding ex ante impact assessment for public procurement rules, the State of Mexico could explore a streamlined approach, simpler and easier to implement than a full-fledged RIA, focusing on specific impacts stemming from procurement regulations, such as on SMEs.

### Co-ordination and communication

The Government of the State of Mexico should improve co-ordination and communication relative to the centralised procurement scheme by raising awareness about the role of each institution to make it a success.

- The Government of the State of Mexico should reinforce the idea that the centralised scheme will only be successful and deliver its intended benefits if all the stakeholders assume their responsibilities.



- The State of Mexico would benefit from establishing a high-level group (i.e., interministerial group, committee, etc.) to engage all relevant stakeholders in the strategic steering of the centralised procurement scheme, develop ownership, communicate its benefits and assign clear roles to achieve whole-of-government objectives.

### Current approaches to market engagement

The Co-ordination Committee of SAEMM, the Ministry of Finance and SECOGEM, should aim to develop a framework for market engagement that delivers the benefits of such a practice, at the time that mitigates the risks, particularly integrity risks.

- There are some specific alternatives at the pre-tendering stage that may be relatively easy for the State of Mexico to implement with the aim to advance interest in government procurement and increase the average number of bids.
- The Co-ordination Committee of SAEMM, the Ministry of Finance and SECOGEM should aim for a framework that better balances control and the possibility to engage. This entails analysing any necessary regulatory reforms to apply specific engagement methods, such as debriefing bidders.
- Make the process of market engagement clear to all suppliers, manage their expectations and communicate the values under which the government pursues it, including integrity rules and protocols.

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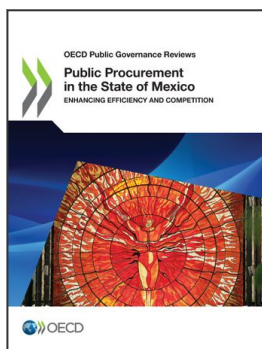
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## Note

<sup>1</sup> Even though the LCPEMyM establishes that the Legal Counsellor participates in the CAS, this office no longer exists and its functions were assumed by the Ministry of Justice and Human Rights.



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