

Annex D

The governance of public procurement in Northern Ireland

This case study discusses the governance of public procurement in Northern Ireland and its reform. This case study explores the principal stages of reform which have contributed to improving public procurement in recent years. The findings and recommendations of this case study form part of the overall recommendations of the Northern Ireland Public Governance Review.

Introduction

With expenditure of around GBP 2.7 billion per year, public procurement represents a significant economic activity in Northern Ireland. Given this impact on the economy, Northern Ireland has embarked on a series of reform efforts since 2002, designed to further economic growth and maximise economic and social outcomes for the local community.

These efforts are reflected in the current governance structure of public procurement within Northern Ireland. In 2002, the Executive adopted a revised Northern Ireland Public Procurement Policy (NIPPP) for Northern Ireland Departments, their Agencies, non-Departmental Public Bodies and Public Corporations. From adoption of the NIPPP, public procurement in Northern Ireland has been overseen by a Procurement Board (the Board), chaired by the Minister of Finance and Personnel with membership including the Permanent Secretaries of departments and independent representation. The Board oversees development and implementation of overarching policy, with support from the Department of Finance and Personnel's (DFP) Central Procurement Directorate (CPD) and the Centres of Procurement Expertise (CoPEs). CPD provides procurement service to all Northern Ireland departments, and is a central purchasing body under the United Kingdom Public Contracts Regulation.¹ Each CoPE is responsible for managing procurement within specialist sectors, and CoPE status is obtained through an independent review and accreditation process. In part, support for the Board takes the form of a Procurement Practitioners Group (PPG), which has a broad membership among interested procurement specialists and assists CPD in the development of procurement guidance.

In this context, the Board agreed in June 2014 that a review of the arrangements for leadership and strategic direction on public procurement was timely. While the NIPPP has been subject to amendments through time and supplemented by a wide range of Procurement Guidance Notes, the Board is interested to determine whether the current structure is achieving the desired outcomes and whether changes could further increase effectiveness to maximise the return on public expenditure and ensure that Northern Ireland is receiving the best value for money. As part of this review, and as part of a broader review of public governance, the OECD was invited to conduct this case study focused on the governance of public procurement.

Specifically, the OECD was asked to provide a review of five areas, including:

1. best practices in governance, including the appropriate roles of politicians and officials in the governance of public procurement policy and strategy
2. the role of procurement in driving value for money
3. the role of those responsible for commissioning procurements
4. the proper balance between standardisation, centralisation and delegation
5. the commissioning and delivery of major infrastructure projects.

While these each represent specific focus areas for review and recommendation, there is also a great deal of interplay among them. Many of the elements of a well-functioning public procurement system involve achieving the proper balance between competing policies, processes or structures, and the priorities identified here reflect this need for appropriate balance. In particular, policies regarding standardisation, centralisation and

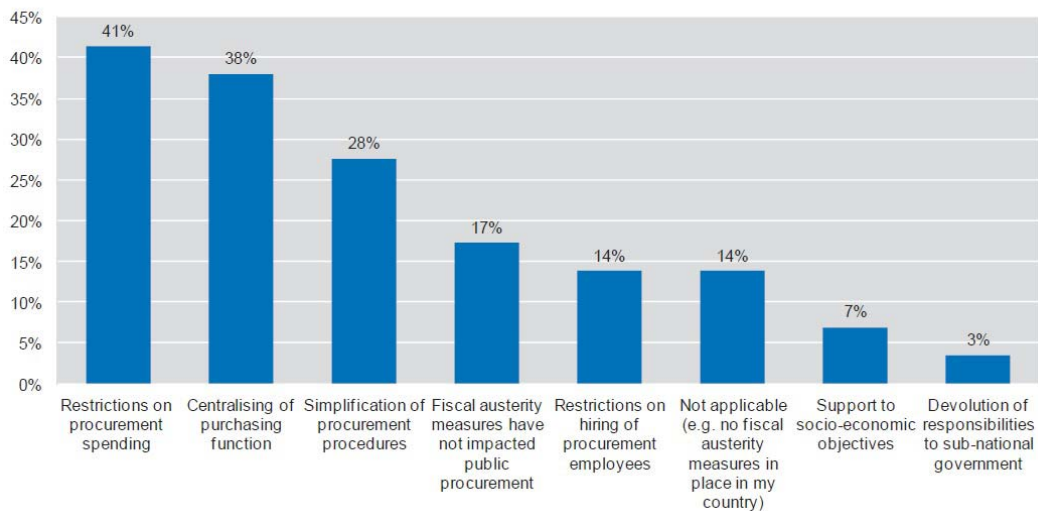
delegation (element four) form a central core around which the remaining areas can be addressed. By focusing on identifying the centralisation roles of the Board, CPD and CoPEs, insights into achieving the remaining policy goals can be illuminated.

Organising procurement governance for best value

As a means of aggregating demand, reducing administrative duplication and driving value for money, many OECD countries and countries around the world have created or further empowered central purchasing bodies (CPBs). In fact, as countries use public procurement as an instrument to control spending as part of austerity measures, centralisation of the procurement function is a key tool (see Figure D.1). Recognising the value that can be created by such entities, the 2015 OECD Recommendation on Public Procurement identifies centralised purchasing as a key tool for driving efficiency (see Box D.1).

Figure D.1. **Impact of austerity measures on procurement**

% of responding OECD countries



Source: OECD (2013), *Implementing the OECD Principles for Integrity in Public Procurement: Progress since 2008*, OECD Public Governance Reviews, OECD Publishing, <http://dx.doi.org/10.1787/9789264201385-en>.

Box D.1. OECD Recommendation on Efficiency

VII. RECOMMENDS that Adherents develop processes to drive **efficiency** throughout the public procurement cycle in satisfying the needs of the government and its citizens.

To this end, Adherents should:

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Develop and use tools to improve procurement procedures, reduce duplication and achieve greater value for money, including centralised purchasing, framework agreements, e-catalogues, dynamic purchasing, e-auctions, joint procurements and contracts with options. Application of such tools across sub-national levels of government, where appropriate and feasible, could further drive efficiency.

Source: OECD (2015), “Recommendation of the Council on Public Procurement”, www.oecd.org/gov/ethics/Recommendation-on-Public-Procurement.pdf.

CPBs take on a variety of roles in different country contexts, from central policy making through aggregated purchasing and training. In most of the OECD member countries, CPBs undertake the role of acting as a contracting authority aggregating demand and purchasing (85%), and as manager of the system for awarding framework agreements or other consolidated instruments, from which contracting authorities then order (73%). In contrast, in fewer OECD member countries CPBs co-ordinate training for public officials in charge of public procurement (38%) and establish policies for contracting authorities (31%). CPBs in several OECD countries, including the United Kingdom, exercise all the above-mentioned functions whereas CPBs in nine other OECD member countries (35%) have a single role, e.g. in Estonia, Luxembourg, and Poland (see Table D.1).

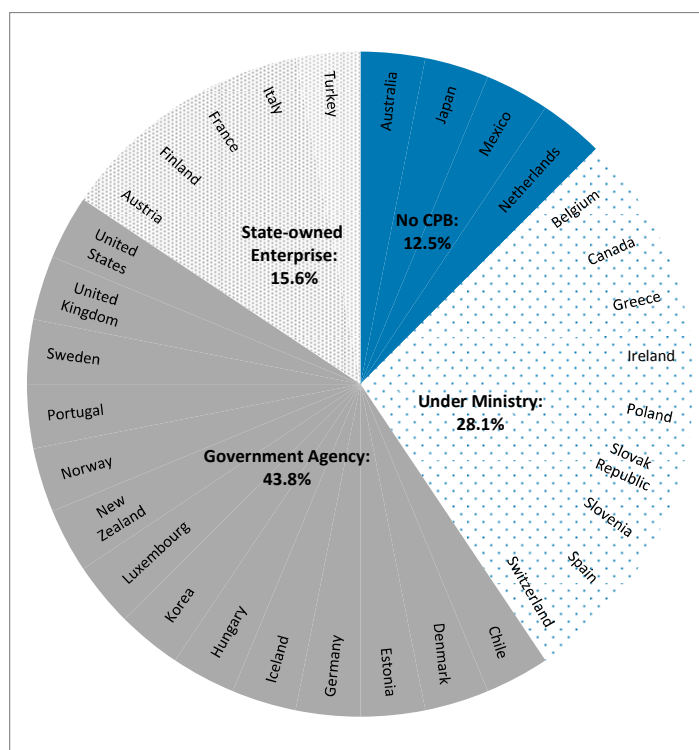
There is also variety in the legal status of CPBs in different country contexts. In many countries, CPBs operate as government agencies (43.8%), while they operate under a ministry in many others (28.1%). A smaller proportion (15.6%) have CPBs that operate as state-owned enterprises (see Figure D.2).

Table D.1. Role of central purchasing bodies

	Contracting authority aggregating demand and purchasing	Manager of the national system awarding framework agreements or other consolidated instruments	Co-ordinate training for public officials in charge of public procurement	Establish policies for contracting authorities
Austria	●	●	○	○
Belgium	○	●	○	○
Canada	●	●	○	○
Chile	○	●	●	●
Denmark	○	●	○	●
Estonia	○	●	○	○
Finland	●	●	○	○
France	●	●	●	○
Germany	●	○	○	○
Greece	●	●	●	●
Hungary	●	●	○	○
Iceland	○	●	●	○
Ireland	●	●	●	●
Italy	●	●	○	○
Korea	●	●	●	○
Luxembourg	●	○	○	○
New Zealand	●	●	●	○
Norway	●	○	○	○
Poland	●	○	○	○
Portugal	●	●	○	○
Slovak Republic	●	○	○	○
Slovenia	●	●	○	○
Spain	●	●	○	●
Sweden	○	●	○	○
Switzerland	●	●	●	●
Turkey	●	○	○	○
United Kingdom	●	●	●	●
United States	●	●	●	●
OECD Total Yes ●	22	22	10	8
No ○	6	6	18	20
Brazil	●		●	●
Colombia		●	●	●

Source: OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

Figure D.2. Legal status of central purchasing bodies



Source: OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

While centralising the public procurement function can offer a number of benefits, there are also potential risks or disadvantages that must be addressed (see Table D.2).

Table D.2. CPBs and PP aggregation: Key trade offs

Advantages	Disadvantages
Savings (economies of scale)	Reduced competition
Lower transaction costs	Concentration of power
Greater bargaining power	Decrease chances of success for SMEs
Strategic procurement	Increases damages if corrupted
Rationalisation of the PP system	Excessive standardisation of goods and services
Training/advisory role	
Budget management	
Information hub	

Source: Nikita Stampa (2015), "Presentation to the Leading Practitioners on Public Procurement", Head of Unit DG GROW, European Commission, April.

This context is useful in examining the governance structure of public procurement in Northern Ireland. Working together, the Board, CPD and PPG combine to conduct the primary functions of a CPB, including developing public procurement policies, conducting aggregated procurement and establishing framework agreements, while CoPEs are responsible for buying sector-specific products and services. Given this structure, the following sections examine the balance of roles among the relevant parties in evaluating the effectiveness of the governance structure.

Harnessing the Procurement Board

Central to the development of procurement policy in Northern Ireland is the Procurement Board. Chaired by the Minister of Finance and Personnel, the Board is comprised of the Permanent Secretaries of the six largest spending departments and two independent members who are selected through a merit-based application process. The Board meets in-person twice per year, and has a role in approving procurement policies in the interim.

This structure represents an evolution during the time of the Board's existence, as it was originally open to the permanent secretaries or a representative from each department. The change in structure was designed to produce a more focused atmosphere by requiring high level attendance and targeting the most relevant departments. Interview participants indicated that it has achieved this goal, and now functions as a more engaged and effective forum for discussion.

The agenda for Board meetings is prepared by CPD, though there is no prohibition on others asking to add items. There is also an opportunity during meetings for other items to be brought forward, and the agenda is generally split between items designed for discussion and others designed simply to keep members up to date on developments. Some indicative examples of recent Board topics include reporting on the current three-year strategic plan and developing the next, discussion on social and community clauses, and the development of a proposed audit model for determining the operational effectiveness of CoPEs.

Interview participants in a variety of positions relative to the Board indicated that, while it generally functions well, there are areas for improvement. Specifically, some stated that the matters presented to the Board are often focused on the specifics of compliance or the right way to procure something, while this level of conversation is not particularly suited to the membership of the Board. Instead, it was suggested that the conversations of the Board should focus on the larger picture for strategic procurement, with one interview participant recommending topics like the drive for value for money generally or encouraging consistency, and another recommending topics like attitude toward risk and driving an innovative culture. Further strategic topics for consideration could include monitoring planned strategic procurement across government to elevate consideration to benefit the whole of Northern Ireland rather than specific organisations or sectors (crossing silos), improving relationships with suppliers by monitoring expenditures and performance across government (with help from improved procurement data), and discussing key procurements to ensure effective co-ordination with cross-departmental policies or objectives. These topics are all generally consistent with the direction of procurement reform across OECD countries, identified in the Recommendation as a “growing interest in the governance of public procurement to achieve efficiency and economy, and to foster secondary policy objectives” (OECD, 2015).

Another consequence of the focus of the Board's role with respect to compliance and procedural business is a potential for overload. One interview participant indicated that with so much coming through for review and approval by the Board, it is possible for potentially large issues to be buried among the traffic, leading to policy decisions being made without the right discussion. Some stakeholders have indicated that the limited membership of the board leads to a feeling among non-members of having policy decisions forced upon them, though participation in the PPG is more open. Finally, one

interview participant indicated that the momentum that comes from good conversations at the meetings of the Board tends to be lost as they only meet every six months. Concern about the function of the Board was summarised by one interview participant as serving the settling process of integrating policy into the established institutions rather than as an agent for driving dynamic improvement.

Addressing risk aversion to fuel innovation

In addressing the role of risk avoidance in public procurement systems, “[a]voiding undue risk is a fundamental responsibility of any governing body.” However, if taken too far, “improper obsession with risk avoidance can suffocate creativity, stifle innovation and render an institution ineffective” (Schooner, 2011).

This concern is consistent with the responses provided by interview participants throughout the public procurement system in Northern Ireland. One of the primary sources of this concern is procurement complaints; stakeholders in many different roles indicated that the risk of a procurement complaint from an unsuccessful bidder was a major factor in ensuring that procurement processes were conducted without change or innovation. In addition to the formal complaint mechanism, interview participants also indicated that questions from MLAs in response to constituent complaints can involve a substantial amount of time to answer. Finally, there is a perception among interview participants that compliance is a critical element in responding to reviews from oversight bodies, including the Public Accounts Committee.

Focus on strict compliance rather than on a more managerial approach to pursuing value for money has been identified as a common problem in procurement systems reviewed by the OECD (2013). This can hinder innovation in at least two principle ways. First, the focus on compliance restricts opportunities for new and innovative public procurement processes that could yield savings through reduced duplication or lessened administrative burden. Second, it can restrict the willingness of procurement officials to attempt satisfying government needs with new or innovative approaches to structuring contracts for goods and services, as legal clarity regarding an innovative contract approach may be difficult to obtain. Each of these problems was identified as a common thread throughout interviews with stakeholders.

One of the best means of supporting innovative steps, either in procurement processes or in targeting innovative solutions, is the development of good data and a strong business case to support any risk that will be taken. This includes both data on procurement activity as well as developing market understanding of the goods and services regularly purchased, especially those targeted for potential centralisation. In the case of procurement processes, CPD currently collects procurement data, and is in the process of implementing a new e-procurement solution that will standardise data collection. As more – and more reliable – data becomes available, it will be important to prioritise uses for that data that can drive efficiency and process improvements. This is an important element of the OECD Recommendation on Public Procurement, which instructs adherents to “Develop indicators to measure performance, effectiveness and savings of the public procurement system”. For information on the development of key performance indicators, see Box D.2. By including such indicators in contracts throughout the procurement system in a manner that allows aggregation of the data over time, the health of the procurement system can be measured. Identifying where there are consistent trouble spots (for example, if delivery is consistently late, or if products underperform their

specifications), arguments for procurement reform and innovation in procurement processes can be strengthened.

Box D.2. Establishing good key performance indicators

Good key performance indicators must possess some fundamental qualities to fully benefit an organisation and its suppliers. They should be:

- **Relevant**, i.e. linked to key objectives of the organisation (critical outcomes or risks to be avoided), rather than on process.
- **Clear**, i.e. spelled-out in the contractual document and as simple as possible to ensure common understanding by the buying organisation and the supplier.
- **Measurable and objective**, i.e. expressed on pre-determined measures and formulas, and based on simple data that can be gathered objectively and in a cost-effective manner.
- **Achievable**, i.e. realistic and within the control of the supplier.
- **Limited**, i.e. as few as required achieving the objectives while minimising their disadvantages (costs, efforts and risk of dispute) to both entities. To the extent possible, the use of information and documentation already available under the contract management process should be promoted rather than requiring the collection of additional data or documentation.
- **Timed**, i.e. include specific timeframes for completion.

Procurement key performance indicators can be established for any important objective of the organisation. While a wide variety of subjects can be considered, the following ones may be appropriate:

- **Delivery:** i.e. whether the supplier delivers on time, delivers the right items and quantities, provides accurate documentation and information, responds to emergency delivery requirements, etc.
- **Pricing:** competitiveness, price stability, volume or other discounts, etc.
- **Customer service:** number of product shortages due to the supplier, training provided on equipment and products, warranty services, administrative efficiency (including order acknowledgement and accurate invoice), accuracy of performance data and reports provided by the suppliers, etc.
- **Product:** meets specifications (including percentage of rejects/defects), reliability/durability under usage, packaging, quality and availability of documentation and technical manuals, etc.

Finally, not all key performance indicators have to be monitored with the same frequency, the majority potentially being assessed on a monthly basis, with some others only quarterly or even annually.

Source: OECD (2013), *Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico*, OECD Public Governance Reviews, OECD Publishing. <http://dx.doi.org/10.1787/9789264197305-en>.

In addition to developing data to support appropriate risk taking in procurement decisions, it is also critically important to communicate the motivations, outcomes and changes in procurement processes with relevant stakeholders.

With respect to unsuccessful offerors who might file a procurement complaint or raise questions with their MLA, an opportunity to limit this situation involves providing debriefings to bidders following a solicitation process. The PCR and NIPPP require debriefing of all tenderers for procurements above GBP 30 000, and this requirement is met through the generation of written debrief reports produced by the eTenders NI system. These written debriefings include details of the process and of the relative advantages and characteristics of the winning bid relative to each tender.

Interview participants indicated that verbal debriefing of offerors is not done as a matter of course, but could serve to limit the number of cases in which formal complaints are filed. Verbal debriefing is recognised as a good practice used in some OECD countries to promote a constructive and transparent dialogue between the buying organisation and the marketplace, and to expand the supply base. Verbal debriefings can help bidders better understand the public procurement process and how to improve their offers, thereby increasing their chances in subsequent procedures. They also reassure bidders of the adequacy of the procedure and the opportunity to talk through concerns with a contracting official can reduce the chances that an unsuccessful offeror will submit a formal complaint. Communication flows both ways during a verbal debriefing, also allowing contracting officials to identify elements of the procurement process that were confusing or limited the ability of offerors to provide their best solution.

Despite the potential advantages, conducting verbal debriefings is resource intensive. For this reason, application of verbal debriefing can be applied selectively (for instance, only when procurements exceed higher thresholds, or in other particular cases where the risk of a complaint is high, or at the request of the unsuccessful tenderer), as long as all tenderers for a given procurement are treated fairly.

More broadly, some interview participants suggested the need to collect and publicise information regarding the frequency of procurement complaints to illustrate that the government is often successful in defending their procurement actions. In addition to sharing such information, it can be important to evaluate the cases where the government is unsuccessful in defending the procurement action, in order to identify potentially recurring issues that could be addressed through procurement guidance or training.

Improved commissioning for better outcomes

The OECD has identified the lack of adequate needs assessment, planning and budgeting of public procurement as a major risk area. Common risks identified in countries include:

1. failure to budget realistically
2. misalignment of procurement with the overall investment decision making
3. interference of high-level officials in the decision to procure or informal agreements on contracts. For instance, when assessing whether a new road or airport is needed, political considerations may prevail (OECD, 2013).

The OECD Recommendation on Public Procurement addresses this risk both by encouraging transparent dialogue with suppliers and by supporting sound technical processes for needs identification and proposal evaluation (see Box D.3).

Box D.3. OECD Recommendations on Transparency and Efficiency

VI. RECOMMENDS that Adherents foster transparent and effective stakeholder participation.

To this end, Adherents should:

- ii) Engage in transparent and regular dialogues with suppliers and business associations to present public procurement objectives and to assure a correct understanding of markets.** Effective communication should be conducted to provide potential vendors with a better understanding of the country's needs, and government buyers with information to develop more realistic and effective tender specifications by better understanding market capabilities. Such interactions should be subject to due fairness, transparency and integrity safeguards, which vary depending on whether an active procurement process is ongoing. Such interactions should also be adapted to ensure that foreign companies participating in tenders receive transparent and effective information.

VII. RECOMMENDS that Adherents develop processes to drive **efficiency** throughout the public procurement cycle in satisfying the needs of the government and its citizens.

To this end, Adherents should:

[...]

- ii) Implement sound technical processes to satisfy customer needs efficiently.** Adherents should take steps to ensure that procurement outcomes meet the needs of customers, for instance by developing appropriate technical specifications, identifying appropriate award criteria, ensuring adequate technical expertise among proposal evaluators, and ensuring adequate resources and expertise are available for contract management following the award of a contract.

Source: OECD (2015), "Recommendation of the Council on Public Procurement", www.oecd.org/gov/ethics/Recommendation-on-Public-Procurement.pdf.

Interview participants indicated that there are issues with the commissioning process in terms of training, timing and co-ordination. Often those responsible for the essential step of defining the need in the commissioning process are not properly educated in the importance of this task for a successful procurement outcome, how it fits into the larger procurement picture or how to best define needs in terms of outcomes, rather than specifications. Developing this last capacity, in particular, can help foster advances in procurement as the market is invited to offer innovative solutions.² While it is not a simple task, there are some effective strategies for managing a competency such as this across a procurement workforce (see Box D.4). Some OECD countries have developed specific training or certification requirements for officials involved in the commissioning and project management elements of the procurement process. The United States, for example, has multi-level certification requirements for contracting officer's representatives and a distinct certification requirement for programme and project managers.³

Box D.4. Roadmap for implementing competency management

This roadmap has been formed based on the experience of OECD countries in introducing competency management. It does not constitute a prescription but a checklist or guidelines on how to engage in competency management.

Step 1: Deciding to introduce competency management. This is a strategic choice and hence a long-term commitment. Competency management should be regarded as a means to achieve an objective. It is important to establish the objectives for the competency modelling project in advance. Formulating the objectives clearly can contribute to creating a shared perspective on competency management among the different stakeholders. The link to the organisational mission and vision should be made here. The decision to introduce competency management should not be taken lightly, as it is by no means an easy process. Nevertheless, competency management can serve as leverage for changing the organisational culture. The introduction of competency management can be an interesting opportunity to introduce organisational change in a period of broader government reforms.

Step 2: Organising, planning and communicating the shift to competency management. Three aspects should be considered here: i) determining the organisation of competency management which refers to the HR governance structure that is applied; ii) planning the approach for the development of a competency management system which involves defining concepts, determining the relevant parts of the organisation and selecting the development tools; and iii) developing and implementing communication plans to obtain support from staff.

Step 3: Identifying competencies and developing competency models for the specified target groups. This diagnostic phase begins with specifying the target groups of competency management. Then, the competency model is specified and the competencies are identified. There is no ideal competency management system but a good one is always aligned with the specific goals of an organisation. A government's competency model ideally includes a mix of competencies specific to the public service and competencies that appear in both public and private sector organisations. Competencies specific to public service generally take on the form of (public service) values, for example; commitment, service, integrity, transparency, accountability, and equity. Other competencies with an emphasis specific to public service are public service professionalism and probity, affinity with public sector management, political awareness, political savvy and public service motivation.

Step 4: Integrating competencies into various HR processes. The integration of competencies into the various HR processes can happen gradually or suddenly. When gradual integration is chosen, it is possible to start with a pilot project in one department, with a group of employees or in one HR process. The HR processes (selection, remuneration, workforce planning, etc.) to which the competency model(s) will be applied need to be selected. Competency management is more than simply using competencies in various HR processes. It is a system that needs to bring about organisational-wide dynamics. Therefore, the competency-based HR systems should be integrated so that they are aligned and mutually supportive. The challenge is to develop competency management as an integrated, core part of HRM and to avoid the risk of it becoming an isolated tool or an end in itself.

Step 5. Revising and updating the competency management system on a regular basis. It is particularly important to grasp the dynamic nature of individual job-related competencies. It is necessary to schedule regular updates and revisions of the competency management system. Competency modeling is a continuous process, not a one-time project. To be useful, the list of competencies needs to be revised as business strategies and conditions change. In terms of timing, there are several options, such as a periodical evaluation or a comprehensive review over several years.

Source: OECD (2013), *Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico*, OECD Public Governance Reviews, OECD Publishing, <http://dx.doi.org/10.1787/9789264197305-en>.

As important as defining the need, the commissioning official must work with the procurement officials early enough to ensure adequate timing for market research and the development of an effective procurement strategy. Interview participants indicated that, as in many countries, procurement officials are often presented with last-minute or urgent demands to conduct procurements. When government requirements are passed to the procurement official with very little time to meet them, it restricts the ability to work together to identify the best potential solutions. In many cases, the most effective solution may be determined by a formal interaction with the market to solicit input (see Box D.5 on Requests for Information, and Box D.6 on Market Research Techniques), but these interactions require time to conduct properly.

These issues were identified as part of the outputs of the Innovation Lab on Public Procurement conducted early in 2015 (Beattie, 2015), which highlighted the need to:

- be better and more attractive customers
- think in terms of problems and buying solutions
- be outcome driven, rather than process driven
- create constructive and mutually beneficial, proactive relationships
- take risks, recognising the true cost of risk avoidance, transfer and delay.

Scaling-up success through CoPE expertise

CPD has demonstrated substantial success in efforts to centralise procurement. A Collaborative Procurement Team was established in 2013 to undertake a programme of collaborative procurement on behalf of all bodies covered by the NIPPP. The most recent evaluation of the collaborative procurement programme demonstrated savings of GBP 7.3 million identified between CPD contracts and the use of Crown Commercial Services collaborative agreements during 2014/2015. During this period, the overall percentage of contracts awarded to SMEs increased by 2% from the previous year, and 66% of common and repetitive spending is now covered by collaborative arrangements (DFP 2015). Still, more can be done to leverage the expertise developed within the CoPEs in areas of procurement overlap.

As identified in the introduction, each CoPE is responsible for managing public procurement within a specific sector. These include education, health supplies, housing, roads, transport and water. In addition, CPD houses three CoPEs, focusing on construction works, construction health projects and supplies and services.⁴

With focus in their respective areas, each of the CoPEs has built up an expertise and deep market knowledge with respect to necessary elements of their operation. As an example, the Business Services Organisation (BSO), the CoPE responsible for health supplies, has built up experience in the procurement of meals to meet the needs of hospitals and patients in other facilities. Translink, the organisation responsible for the integrated bus and rail systems in Northern Ireland, has established very successful procurement strategies for fuel by working with suppliers to streamline the logistics and dramatically cut the cost of delivery, and has developed an expertise in the purchase and long-term operation of buses.

Box D.5. Use of requests for information in public procurement

A **request for information** (RFI) – sometimes referred to as a letter of interest (LOI) or expression of interest (EOI) – is a method used by public buying agencies to obtain preliminary information and feedback from the private sector on an identified need, in order to finalise their strategy and develop achievable objectives and deliverables.

Such requests generally outline a potential and broadly defined requirement and ask suppliers to describe their ability to satisfy the requirement and to provide ideas and suggestions on how to improve the eventual solicitation. Specific information requested may include:

- availability of technologies, products or services in the market place to meet the identified need
- the willingness and interest of the potential suppliers to offer the potential products or services, and their general experience and capabilities
- whether the terms and conditions considered (including expected delivery and basis of payment) are acceptable to potential suppliers
- an indication of costs associated with providing the product or service.

RFI are beneficial to suppliers as it allows them the opportunity to:

- assess and comment on the adequacy and clarity of the requirements as currently expressed
- offer suggestions regarding potential alternative solutions that would meet the requirements
- comment on the procurement strategy and proposed conditions
- be informed of potential future requirements of the buying agency, and prepare for a solicitation that may subsequently be issued.

The information received by the public buying agency allow it to:

- assess potential alternative solutions that would meet its requirement
- determine whether to proceed with the requirements/strategy as planned, and if so, to further develop internal planning, approval and solicitation documents that may potentially lead to a solicitation
- refine the procurement strategy, project structure, cost estimate, timelines, requirement definition and other aspects of the requirement
- become a more “informed buyer” with an enhanced understanding of industry goods and service offerings in its areas of interest.

To maximise their potential benefits and avoid giving an unfair advantage to any supplier, RFIs must be disseminated through public media to as many potential suppliers as is cost effective and not be limited to a few selected or preferred suppliers. Whenever possible, the identified requirement should be defined in functional and performance terms, supported by material or technical specifications if necessary, to encourage effective competition by giving suppliers the opportunity to develop solutions capable of satisfying the public agency’s requirements.

RFIs are to be used for information collection purposes only and not as a substitute to a competitive process or as part of a prequalification process. To ensure clarity for the private sector, they should clearly indicate that they are not solicitation documents and do not represent any commitment with respect to future purchases or contracts.

Source: OECD (2013), *Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico*, OECD Public Governance Reviews, OECD Publishing. <http://dx.doi.org/10.1787/9789264197305-en>.

Box D.6. Common aims, outputs and benefits of supply market research

Supply market analysis provides a strategic understanding of:

- how a market works
- the direction in which a market is heading
- the competitiveness of a market
- the capability, capacity and performance of a market
- information on key suppliers and market shares
- how markets can be developed to better meet customer requirements
- how pricing on the market works – i.e. its cost structures and recent price trends
- what the market's risks are and how to prepare to mitigate them
- the probability, or not, of market failure.

The outputs of market analysis as regards tender procedures include:

- planning and budgeting the procurement activity
- designing tender documents which match ISSSTE's needs with the suppliers' available solutions, including the right specifications and evaluation and award criteria
- choosing the right procurement procedure and strategy – both in terms of how the market currently operates as well as how it may operate in the future in relation to new entrants or innovative technology
- structuring public tenders so as to obtain healthy competitive bids
- procuring without negatively affecting the supply base and, in particular, providing contract opportunities for SMEs.

Key outcomes are:

- improved value for money
- identification and management of supply-related risks
- more and fairer opportunities for suppliers.

The benefits of supply market analysis increase in proportion to the degree of business risk and/or expenditure on the goods or services.

Source: OECD (2016), *Improving ISSSTE's Public Procurement for Better Results*, OECD Public Governance Reviews, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264249899-en>.

In each of these cases, and many others that were identified during the course of interviews, there is both a potential and an appetite to expand this expertise beyond the CoPE itself to provide the services for other entities. To carry further the examples above, the education system also has a need for meal services, even if slightly different than that of a hospital, and also operates a separate bus fleet. And a wide variety of other government services also need fuel, so there is an opportunity to expand the expertise there in many directions. While it would be possible for CPD to undertake centralised

purchasing in these areas, stakeholders indicated a preference for an approach that would allow the CoPE with the relevant expertise to function as a central purchaser in these cases, though some recognised that changes to relevant regulations or policies may be necessary to allow this outcome.

Support for this kind of expansion was expressed at all levels by interview participants, and yet there is limited progress in actually breaking down the silos to truly aggregate the purchasing in cases like this. A number of possible explanations were provided for why this may be difficult. Some interview participants indicated a disconnection between the civil service and political leadership. Others indicated a concern on the part of those entities, asked to join an existing arrangement, that their own particular needs would not be well met. Finally, some indicated that, though there is enthusiasm from the procurement community to expand such aggregation of demand across entities, the leadership of a CoPE can view such expansion as the dilution of the primary mission of the entity.

While there is merit to these concerns, a properly planned and structured arrangement, involving all stakeholders in the development, could address the concerns while allowing access to the vast potential for additional savings which could be achieved through restructuring the provision of services to better leverage common goods and logistical arrangements.

Supporting effective infrastructure procurement

An important element of driving efficiency through public procurement reform is eliminating duplication in administrative function and institutional frameworks, as recognised in element VII of the OECD Recommendation on Public Procurement (see Box D.7).

Box D.7. OECD Recommendation on Efficiency

VII. RECOMMENDS that Adherents develop processes to drive **efficiency** throughout the public procurement cycle in satisfying the needs of the government and its citizens.

To this end, Adherents should:

Streamline the public procurement system and its institutional frameworks. Adherents should evaluate existing processes and institutions to identify functional overlap, inefficient silos and other causes of waste. Where possible, a more service-oriented public procurement system should then be built around efficient and effective procurement processes and workflows to reduce administrative red tape and costs, for example through shared services.

Source: OECD (2015), “Recommendation of the Council on Public Procurement”, www.oecd.org/gov/ethics/Recommendation-on-Public-Procurement.pdf.

Efforts to ensure efficiency in major infrastructure procurement have included the creation of a centralised procurement and delivery service in CPD following the transfer of part of the Health Estates Investment Group in late 2014. Additionally, substantial progress has been made in simplifying prequalification processes and in standardising

terms and conditions of contracts across the Government. Additionally, implementation of eTenders NI is expected to facilitate additional simplification of the prequalification stage of construction procurement.

In addition to CPD, CoPEs support construction works and construction health projects through commissioning, design, procurement and delivery; the Strategic Investment Board (SIB) has a role in some major infrastructure projects through its mandate to help develop and deliver major programmes and projects. Created in 2002, the SIB is owned by the Office of the First Minister and Deputy First Minister and was created to fast-track infrastructure and other large projects. The role of the SIB was designed to be advisory, with staffing of project managers to assist in the delivery of projects like roads, hospitals and other signature developments. Over time, the role of SIB has expanded to include increased advocacy for the development and use of social clauses to support local economic development as well.

Interview participants expressed a range of views about the relationship and potential for overlap between the work of CPD and SIB, both in terms of the advisory role in infrastructure projects and in the development of policy related to social clauses. Some indicated that this overlap at times caused tension, but others viewed the existence of both entities as complimentary, with SIB available to provide advice to Departments on complex projects, in conjunction with CPD's Construction divisions.

In this context, there are additional questions regarding the best methods of ensuring successful delivery of major infrastructure projects. Developing expertise in the specialised area of commissioning and designing major infrastructure projects across numerous departments, especially where it is not central to the mission of the entity, is duplicative and costly, but interview participants expressed that, in some cases, increased reliance on outside organisations – either CPD or SIB – for the delivery of a project was viewed with suspicion by departments concerned about retaining control of the final outcome.

Conclusion and recommendations

Through the life of the Board, substantial progress has been made in improving the context for public procurement in Northern Ireland. Strategic plans focusing on establishing governance structures and a professional approach (2002-05), pursuing value for money (2005-08) and driving economic sustainability through public procurement (2008-11) indicate a sustained interest and focus on public procurement reform. While many interview participants offered additional suggestions for improvement or were critical of various elements of the current structure, the majority were in agreement that the public procurement system in Northern Ireland has improved steadily.

In the context of this case study, the following recommendations are offered to support Northern Ireland in continuing to evolve the governance model for public procurement:

Recommendation 1: Evaluate, with relevant stakeholders, the responsibilities of the Procurement Board

Under the current structure, the Procurement Board fills a variety of roles. Specifically, the role of approving policies developed by CPD and the PPG (including agenda items focused on compliance or developing good practices), was contrasted by

stakeholders with the role of setting strategic direction for procurement policy in Northern Ireland. Each of these functions is necessary, but they need not necessarily be undertaken by the same body. With this in mind, Northern Ireland should evaluate, with all relevant stakeholders, the ongoing responsibilities of the Procurement Board. Some potential options to consider include:

- Use of the Outcome and Engagement Focus of the new NICS Board to address the issue of approving policies and developing good practices. The NICS will be chaired by the Head of Civil Service, with a broader membership than the Procurement Board. This decision could address the concern that some departments currently believe that they do not have a say in procurement policies.
- Development of an Executive sub-group of ministers to raise the profile of the strategic direction and policy setting function. While the Procurement Board operates at the level of Permanent Secretaries, elevating these issues could serve to resolve some of the political barriers to cross-silo procurement opportunities.

Recommendation 2: Address perceived risk aversion to empower innovative decisions

In many cases, driving value for money and achieving efficiency require new procurement approaches or the adoption of new solutions to satisfy government needs. Procurement officials can be empowered to pursue these opportunities through steps designed to address unnecessary risk aversion. Doing so can involve a variety of efforts, including:

A focus on detailed research and data to support the innovative approach, all documented in detail. On-going development of the e-procurement system in Northern Ireland should support this data collection, and methods of using the data to support strategic procurement decisions should be a priority. This recommendation applies to both innovative procurement processes to drive competition and value for money and the procurement of innovative products and services, where detailed data can support the decision to move toward a “tried and true” solution.

Additional communication with stakeholders is important before and during the procurement process, especially where stakeholders who may be affected can be identified, to facilitate understanding of the benefits of the new approach. Additional communication in the form of verbal debriefings with unsuccessful offerors, in limited cases, can also be an effective means of reducing the frequency of complaints.

Finally, sharing of information publicly with all stakeholders regarding the frequency of procurement complaints, their success rate and the reasons why the government is losing complaints can all help procurement officials in better supporting procurement decisions that involve risk. Sharing cases of successful legal defence to challenges is also encouraged, to ensure that both procurement officials and suppliers are more aware of the likely outcome of potential future challenges.

Recommendation 3: Further develop the role of those responsible for commissioning procurements

Properly integrating the officials responsible for identifying and defining government needs into the public procurement process is a challenge for many countries, and could be addressed through a number of specific steps, including:

Ensuring appropriate training for officials involved in commissioning procurements. While such officials do not need to become experts in the public procurement process, a general understanding of the process combined with relevant skills such as defining outcome-based (rather than specification-based) tender documents can yield substantial improvements in securing innovative solutions. Such training should also involve commercial skills such as market research, for reasons identified below.

Ensuring appropriate market expertise in decisions to aggregate procurement. In many markets, specialised expertise can yield substantial savings, for example through better understanding of logistical arrangements. Such expertise can also identify opportunities to better achieve social objectives. Identifying and leveraging sources of such expertise is critical in the commissioning phase, particularly in cases where procurement is being aggregated.

Recommendation 4: Leverage existing successes as pilots to cross silos

CPD has demonstrated success in collaborative procurement, and these efforts should continue and expand for products and services that are purchased across the entities covered by NIPPP. At the same time, substantial market and procurement understanding has been developed within the CoPEs in commodity areas that overlap with one or a few other procuring entities. Many of these could be expanded to allow the purchase of similar products by other departments or entities. By allowing the CoPEs to function as central purchasers for specific types of goods or services such as meal deliveries, busses or fuel, this deep expertise can be harnessed to provide better outcomes.

Overcoming existing barriers to working across departments will require a concerted effort to develop the necessary political will. As with addressing risk aversion, developing data in support of the expansion of these programmes and effective communication with affected stakeholders is critical to further reform. This is true not only for new entities that might join an effort (who must be assured that their specific needs will be met), but also for those entities currently conducting the effort (to ensure that broadening the focus will not detract from the primary mission). Beginning with one or a small number of pilot programmes to demonstrate the benefits can be more effective than a broader cross-cutting effort implemented too quickly. In some cases, legal barriers may need to be eliminated to allow these pilots to operate.

Recommendation 5: Clarify and harmonise the roles of relevant stakeholders in the commissioning and delivery of major infrastructure projects

Evaluating the appropriate roles of the Procurement Board, CPD, the Strategic Investment Board and commissioning entities in the procurement of major infrastructure projects could yield cost savings and better management of such projects. As an area of procurement with special considerations, numerous potential complications and heightened risk, establishing expertise in the delivery of such products, in a manner that does not require duplication across numerous entities, can drive efficiency. Such

increased centralisation must be done carefully, to ensure that the responsible entity retains appropriate control over the decision to commission such projects and the needs that such projects must satisfy.

Appendix D.1. List of organisations interviewed

- Business Services Organisation
- Confederation of British Industry
- Construction Employers' Federation
- Deloitte
- Department of Education
- Department of Employment and Learning
- Department of Enterprise, Trade and Investment
- Department of Finance and Personnel
- Department of Regional Development
- DFP Central Procurement Directorate
- Graham Construction
- NI Water
- NIPSA
- Office of the First Minister/Deputy First Minister
- Procurement Board
- Quarry Products Association
- Strategic Investment Board
- Translink

Notes

1. For more information, see www.legislation.gov.uk/ukxi/2015/102/regulation/37/made.
2. This is particularly true in complex, rapidly evolving areas such as ICT, where the market model has shifted from development of large, long-term projects to an agile development model that builds functionality over time through rapid iterations and ongoing beta testing.
3. Details about each of these programmes is available from the United States Federal Acquisition Institute at www.fai.gov/drupal/certification/certification-and-career-development-programmes.
4. Some stakeholders have questioned the number of CoPEs, but there does not seem to be excessive overlap between the areas of sector expertise embodied in the current non-CPD CoPEs. This is an issue that should be monitored in the certification of additional CoPEs, to ensure that there is not unnecessary duplication in the development of sector expertise.

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