

3 Market engagement strategies

This chapter discusses market engagement policies and practices in Chile, Colombia and Mexico, particularly in the context of the procurement of computers. It analyses the benefits of such strategies, the good practices and the opportunities to further engage while mitigating risks, such as those related to integrity and conflicts of interest.

Current market engagement practices in Chile

Through market consultations with suppliers registered on the platform www.mercadopublico.cl and open citizen consultations, ChileCompra gathers information from the market in order to have updated opinions and data. In addition, due to the growing momentum of open government and citizen participation policies, a space for collaboration between buyers and suppliers has gradually emerged in Chile.

Information on the procurement of personal computers and laptops is public through the procurement information system and an open data platform, allowing potential suppliers and users to know the status and results of procurement procedures and facilitating the extraction and reuse of data.

The information and communication technology (ICT) industry maintains a fluid relationship with the Digital Government Division (*División de Gobierno Digital*, DGD) and the Budget Directorate (*Dirección de Presupuestos*, DIPRES) as designers of digital transformation and budget management policies, as well as with ChileCompra in its role as operator of the public procurement policy.

The current operating model of the public procurement system also facilitates the incorporation of new suppliers, strengthens participation and favours technological neutrality, elements that are valued by the industry. Indeed, during 2022, the average number of bidders in tenders for the procurement of personal computers and laptops reached a three-year record of 9.96.

Table 3.1. Average number of bidders in tenders for the procurement of personal computers and laptops, 2020-22

Year	Average number of bidders
2022	9.96
2021	5.80
2020	7.62

Source: Information provided by ChileCompra.

In initial interviews with representatives of the ICT sector, it has been verified that the industry does not have significant concerns regarding elements that could limit technological neutrality in public procurement. Representatives state that the processes are competitive and open.

However, as noted above, the industry has also expressed an opportunity for improvement in relation to the efficiency and effectiveness of the computer procurement strategy, both because of the aforementioned risks of the market research process, which, in the opinion of industry players, is currently carried out in a very limited manner, and because of the risks of collusion, which in ChileCompra's opinion is low given that the model focuses on manufacturers and not distributors, as well as the perception that the use of references or standards for comparison implies a very high administrative burden.

In addition, industry players have pointed out that the timing of the processes is not the most appropriate since the first iteration occurs during the year-end period and the second coincides with the phase of transition to new equipment versions.

Annually, ChileCompra sponsors supplier fairs, not only allowing suppliers to showcase their products and service offerings but also hosting workshops and discussions to gather industry experience on how to participate in the public market. The most widely known of these events is ExpoMercado Público, an annual major event organised jointly by the public and private sectors with the following objectives:

- **Matching suppliers and public buyers and communicating success cases:** Facilitating networking and providing a space for dialogue between public procurement experts and helping them to get to know the products and services offered by the industry.

- **Capacity building:** Providing training opportunities for public buyers and suppliers, on ChileCompra's digital services, methodological and regulatory updates for example.
- **Supplier display:** Creating business opportunities for suppliers in a transparent environment, free from complex restrictions and formalities.
- **Co-operation:** Building a network allowing participants to maintain active communication according to their interests, both for suppliers and public buyers.

During 2023, the event included seminars on how to participate in the public market, procurement strategies, the regulatory framework of public procurement, green public procurement, innovation and inclusion.

Meanwhile, the industry is preparing an annual meeting with the government to strengthen collaboration and encourage the exchange of knowledge.

The case of the United States National Association of State Procurement Officials (NASPO) Annual Exchange Conference also provides a good illustration of major events (expos) that facilitate market engagement in a transparent environment (Box 3.1).

Box 3.1. NASPO's Annual Exchange Conference, United States

The NASPO Exchange Conference helps build relationships among the supplier community and state governments, the largest consumers of goods and services in the United States. The conference is a place where learning, networking and partnering come together to develop business relationships to support public procurements that are effective, efficient, transparent and fair. Its objectives include:

- Providing the business community with learning opportunities through dedicated and targeted education on current trends in state procurement.
- Facilitating networking throughout the conference in one-on-one appointments, educational sessions and a networking lounge.
- Partnering between suppliers and state government representatives to support effective public procurement outcomes.

In order to address integrity risks, the conference takes place following explicit standards and expectations:

- NASPO members, as public employees directly or indirectly involved in the expenditure of public funds through the state procurement process, must always conduct themselves in a manner that promotes the highest ethical standards.
- NASPO members shall at no time accept gifts, gratuities or other things of value from suppliers which might influence or appear to influence procurement decisions.
- NASPO members attending the Exchange Conference shall commit to fulfilling all scheduled one-on-one appointments. Members are expected to participate fully in programme elements to foster engagement and education in the supplier community.
- Suppliers shall refrain from offering gifts, gratuities or other items of value to NASPO members.
- Suppliers shall refrain from contacting members before or during the conference to arrange meetings outside the one-on-one system provided by NASPO.
- Suppliers shall ensure they are familiar with and abide by the one-on-one rules and guidelines associated with the selected registration type.

- Members and suppliers shall conduct themselves in a manner that promotes the highest ethical standards and avoids activities and behaviour that would place or even appear to place a NASPO member in a conflict of interest.

Source: NASPO (n.d.^[1]), *Homepage*, www.naspo.org (accessed on 20 December 2023).

Current market engagement practices in Colombia

As it is the case in the Latin American context, market engagement is an opportunity in Colombia. In the pre-tendering phase, the main tools used for market engagement are the Annual Procurement Plan (*Plan Anual de Adquisiciones*, PAA), requests for information (RFI), and the publication of draft calls for tender. Public entities must publish their PAA in January to communicate their needs to potential suppliers early and facilitate their participation. The framework agreement for the procurement of computers and accessories establishes that contracting authorities can request clarifications about the technical characteristics of the equipment offered by suppliers through RFI in the Virtual Store of the Colombian State (*Tienda Virtual del Estado Colombiano*, TVEC) or directly through *Colombia Compra Eficiente* (CCE). Likewise, the regulatory framework requires draft calls for tender to take feedback from the industry. The drafts are usually open for comments during five to ten working days and comments are recorded on the e-procurement platform SECOP.

Additionally, since 2011, the Ministry for ICT (MinTIC) has organised an annual event called Colombia 4.0, showcasing and discussing technology trends. As part of the event, the CCE organises a public roundtable with interested suppliers and listens first-hand to their concerns and suggestions. The CCE also organises workshops with the industry during the preparation of framework agreements.

During the tendering phase, any questions or comments from the market should be submitted through SECOP. Finally, at the post-tendering stage, after the award takes place in a public audience (sometimes in virtual mode), a resolution is published addressing any observations received. However, there is no process to provide direct feedback to the participating bidders.

The main mitigation element deployed to avoid integrity risks consists of structuring the framework agreement and its specifications to advance the principle of technological neutrality, allow the participation of as many bidders as possible, a diversity of brands and avoid steering the tenders to benefit specific bidders. Likewise, using SECOP to take comments on draft documents hinders the possibility of irregularities by avoiding physical contact between procurement officials and suppliers.

Current market engagement practices in Mexico

There is no robust market engagement practice in Mexico and industry fora are not leveraged. The main instruments in the pre-tendering phase, as described in chapter 2, are the Annual Procurement, Leasing and Services Programme (*Programa Anual de Adquisiciones, Arrendamientos y Servicios*, PAAAS) and the market research carried out by the Unit for Planning and Market Research (*Unidad de Planeación e Investigaciones de Mercado*, UPIM) and in which there is engagement with suppliers through request for quotes (RFQ) and a period for suppliers to ask questions or make suggestions. In general, such suggestions tend to be related to technical specifications, the availability of the good or service meeting the specified conditions (characteristics, obsolescence, etc.) and obstacles to participation (i.e. certifications, the capacity of the market to deliver within a restricted timeframe, etc.). Part of the reason for the lack of diversity in market engagement tools is that the regulatory framework to tackle corruption is rather restrictive in terms of market dialogue; the perception and practice of how restrictive it is are even stricter.

Indeed, the Protocol on the behaviour relative to public procurement, granting and extending licenses, permits, authorisations and concessions (*Protocolo de actuación en materia de contrataciones públicas, otorgamiento y prórroga de licencias, permisos, autorizaciones y concesiones*, hereinafter the Protocol) was part of a package of rules intended to respond to corruption scandals and therefore emphasises control measures. While it certainly mandates communication between individual suppliers and procurement officials in written form and official places, in the presence of the respective Control and Audit Body (OCF) officials, it does not prevent the organisation of massive events to communicate with the supplier community as a group.

No events such as ExpoMercado Público, Chile, or the NASPO Exchange, United States, are currently organised, even when in the past, the Ministry of Economy used to organise the Small and Medium-sized Enterprise (SME) Week (*Semana PYME*), where different ministries and agencies showcased their support programmes and opportunities for SMEs, including those related to public procurement. For example, the federal state of Nuevo León organises the event Supply NL 2023 (*Provee NL 2023*), which facilitates market engagement with the supplier community (Box 3.2).

Box 3.2. Provee NL

This event provides a space for interaction and learning for businesses subscribed to the state of Nuevo León supplier registry and for SMEs interested in becoming suppliers of the state government. The activities during the event include workshops, conferences, tailored assistance to register as a supplier of the state government and fulfil other administrative procedures, and the live opening of a tender procedure.

The workshops and contents in the 2023 edition are the following:

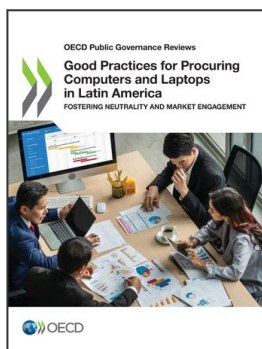
- **It is easy to supply to the state government:** Registering in the supplier registry, offering goods and services to the state and understanding the Annual Procurement Plan.
- **The ABC of the e-procurement platform (SECOP):** Includes practical exercises to access the platform and submit a bid.
- **Submitting a winning bid:** Types of procurement procedures, reverse auctions (including practical exercises), how to participate and processes to follow to comply with the call for tender and be awarded.
- **I was awarded, what is next?:** Steps to follow to deliver the good or service, signing a contract and invoicing.

Source: Provee NL (n.d.^[2]), *Homepage*, www.provee.nl.gob.mx (accessed on 20 December 2023).

The Chief Administrator's Office of the then Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*, SHCP) claimed, during OECD fact-finding meetings, that they meet industry organisations at the beginning of the market research process, even when this is not mandatory and is rather done in an ad hoc basis. Some of the measures taken to mitigate risks in the current market engagement activities include the publication of the market engagement process in CompraNet, including questions and answers from suppliers, so that any business can have access to the information, the opportunity for suppliers to provide comments on the technical specifications to avoid obstacles to participation, the fact that any contact with suppliers should happen through official means and in a limited timeframe, and the documentation of all the processes, including evidence engagement. Some of these measures – a limited timeframe for engagement for example – may restrict the use of alternative methods of engagement, for instance during the post-tendering phase.

References

- NASPO (n.d.), *Homepage*, National Association of State Procurement Officials, [1]
<http://www.naspo.org> (accessed on 20 December 2023).
- Provee NL (n.d.), *Homepage*, <http://www.provee.nl.gob.mx> (accessed on 20 December 2023). [2]



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