

**PUBLIC GOVERNANCE AND TERRITORIAL DEVELOPMENT DIRECTORATE
PUBLIC GOVERNANCE COMMITTEE**

LEARNING FROM CASE STUDIES

Progress made in implementing the OECD Recommendation on Enhancing Integrity in Public Procurement

**Meeting of the Network on Public Sector Integrity
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The case studies were provided by OECD and Observer countries as part of the process of reporting back on progress made in implementing the 2008 Recommendation on Enhancing Integrity in Public Procurement. This document will provide background information for discussion on recent initiatives in specific country contexts.

Delegates of the Public Sector Integrity Network are invited to provide further information to complete these case studies as well as submit case studies for those who have not already done so by 28 November 2011.

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TABLE OF CONTENTS

TRANSPARENCY IN PROCUREMENT	4
PROMOTING THE TRACEABILITY AND TRANSPARENCY IN PUBLIC PROCUREMENT: THE EXPERIENCE OF ITALY	5
ENHANCING TRANSPARENCY IN PROCUREMENT PROCESSES IN CHILE.....	7
ENHANCING INTEGRITY IN PUBLIC PROCUREMENT IN MOROCCO	8
FOSTERING THE FLEXIBILITY OF PROCUREMENT PROCESSES IN SWITZERLAND.....	10
FOSTERING THE USE OF THE E-PROCUREMENT SYSTEM: THE EXPERIENCE OF NORWAY.....	11
USING NEW TECHNOLOGIES IN PUBLIC PROCUREMENT: THE EXPERIENCE OF KOREA ..	13
REGULATING THE PRICE OF DRUGS THROUGH COMPETITIVE PROCUREMENT.....	15
REGULATING PROCUREMENT IN THE OIL SECTOR IN MEXICO.....	16
ACHIEVING EFFICIENCY GAINS.....	18
COORDINATED PROCUREMENT CONTRACTING FRAMEWORKS IN AUSTRALIA.....	19
ALL-OF-GOVERNMENT CONTRACTS: THE EXPERIENCE OF NEW ZEALAND	21
CENTRALISING THE PURCHASING FUNCTION: THE EXPERIENCE OF IRELAND	23
FRAMEWORK PROCUREMENT IN SPECIFIC SECTORS: THE EXPERIENCE OF IRELAND	25
ESTABLISHING WORKSTATIONS: THE EXPERIENCE OF BELGIUM.....	26
PROMOTING EFFICIENCY THROUGH NATIONAL PROCUREMENT ASSISTANCE AND DEVELOPMENT: THE EXPERIENCE OF SWEDEN	28
THE CENTRAL PROCUREMENT PROGRAMME IN DENMARK.....	30
CENTRAL PURCHASING: THE EXPERIENCE OF PORTUGAL	32
PROMOTING EFFICIENCY THROUGH EXECUTIVE CENTERS IN THE NETHERLANDS.....	34
CENTRALISING PURCHASING: THE EXPERIENCE OF POLAND.....	36
ENHANCING ACCOUNTABILITY AND CONTROL IN PROCUREMENT PROCESSES	38
STRENGTHENING RECOURSE MECHANISMS FOR PUBLIC PROCUREMENT IN CANADA ..	39
CENTRALISING CONTROL OVER PUBLIC PROCUREMENT IN HUNGARY	42
REFORMING THE RECOURSE MECHANISM IN FRANCE: THE EXPERIENCE OF FRANCE ..	43
INNOVATION THROUGH PROCUREMENT	44
PROMOTING ENERGY SAVINGS THROUGH THE USE OF INNOVATIVE PUBLIC PROCUREMENT IN ITALY.....	45
PROMOTING COMPETITIVENESS THROUGH INNOVATIVE PUBLIC PROCUREMENT: THE EXPERIENCE OF AUSTRIA	48
BRIDGING THE PRE-COMMERCIALISATION GAP THROUGH PUBLIC PROCUREMENT IN CANADA.....	49
GREEN PROCUREMENT	51
REVIEWING THE IMPLEMENTATION OF THE POLICY ON GREEN PUBLIC PROCUREMENT IN CANADA	52

PROMOTING THE SUSTAINABLE DEVELOPMENT NATIONAL STRATEGY THROUGH PROCUREMENT IN AUSTRIA.....	58
PROMOTING ENVIRONMENTAL AND SOCIAL RESPONSIBILITY THROUGH PROCUREMENT IN NORWAY	60
BALANCING ENVIRONMENTAL AND ECONOMIC CRITERIA IN PUBLIC PROCUREMENT: THE EXPERIENCE OF NEW ZEALAND.....	62
PROMOTING THE USE OF ECO-FRIENDLY GOODS IN PROCUREMENT IN JAPAN	64
PROMOTING CARBON REDUCTION THROUGH PUBLIC PROCUREMENT IN ESTONIA.....	66

TRANSPARENCY IN PROCUREMENT

PROMOTING THE TRACEABILITY AND TRANSPARENCY IN PUBLIC PROCUREMENT: THE EXPERIENCE OF ITALY

Context

1. Recognising the necessity of enhancing transparency in public procurement in order to prevent corruption, in 2008 Italy adopted a set of new laws and measures. The most significant laws issued to enhance transparency are:

- Law n. 136 “Extraordinary Plan against organised crime”, and
- Law n. 217 transposing the Law Decree n. 187/2010 on “Urgent Measures on National Security”

2. Both of these laws were adopted in 2010 and aim at reinforcing the traceability of financial services in public procurement. With this in mind, the Law n. 136/2010 requires that any payment made in the framework of a public contract or any transfer of EU funds to beneficiaries (e.g. contractors, subcontractors) must be executed using a verified postal or bank account, through bank or postal transfer, or any other legal means as long as the traceability of the operation is guaranteed.

3. The Authority for the Supervision of Public Contracts (ASPC)¹ ensures the effective implementation of this law by providing, the Competition Identification Code (CIG, Codice Identificativo Gara) for payments and issues. Guidelines are also available to support the laws’ application (e.g. “Guidelines on the traceability of financial services” n. 8/2010”; “Further guidelines on the traceability of financial services after the Law 2010 n. 217 n. 10/2010”; “Guidelines on the traceability of cash flow, art 3 L. 136/2010” n. 4/2011).

The National Database on Public Contracts

Objectives

4. The Authority for the Supervision of Public Contracts is currently implementing the National Database on Public Contracts in line with law n. 136/2010. It aims at collecting and processing data on public procurement in order to provide indications to the supervising departments and to inform regulators on measures that need to be taken to promote transparency, simplification and competition. It collects data on information technology and conducts market analyses. In particular, it collects and assesses data on:

- The structural characteristics of the public procurement market and its evolution. Statistics about the number and value of procurement awards are grouped by localisation, procurement entities, awarding procedures; the different typologies of procurement are periodically published.
- The criteria of efficiency and value for money during the procurement process. Modifications to contractual conditions are recorded in the Data Base of the Authority which, in turn, detects dysfunctions and anomalies of the market.
- Dysfunctions and anomalies of the market through fixed measures. These dysfunctions and anomalies are detected through a) the assessment indexes of excessive tendering rebates, with respect to the average rebates; b) the number of bids to be presented in each awarding procedure;

¹ The Authority for the Supervision of Public Contracts has been established by law n. 109/1994 with the aim of supervising public contracts in order to promote principles of transparency, rightfulness and competition among operators in the public procurement market.

c) the localisation of awarded companies with respect to the localisation of contracting authority. Similarly, the Data Base is an important instrument for supporting the SOAs certifying activity, with reference to the procedures of verification of the requirements prescribed by art. 17 of D.P.R. 34/2000 (and following modifications). According to OECD guidelines², it also aims to find a balance between the objectives of ensuring transparency, providing equal opportunities for bidders and, in particular, efficiency.

2 www.avcp.it/portal/public/classic/_english/marketAnalysis#ancoraNote.

ENHANCING TRANSPARENCY IN PROCUREMENT PROCESSES IN CHILE

Context

5. In 2003, Chile embarked on a major reform of its public procurement system. With this, the Law no. 19,886 was enacted to enhance transparency, efficiency and integrity. The new Law promoted the use of electronic tools, allowing different users - either suppliers or civilians without any direct interest in a particular bidding process - to be aware of the administrative decisions and their rationale, along with access to many documents related to procurement procedures. From an economic point of view, the law has also significantly contributed to enabling the access of micro and small enterprises to the government procurement market.

6. While the procurement system as a whole has become more transparent, some areas still need to be reformed and legislated. These include the conditions under which a potential tender can interact with a procurement official and the necessity of keeping records of these interactions.

7. The issue of increasing transparency in public procurement became apparent when many suppliers started complaining to the Public Procurement and Contracting Bureau of the lack of timely information. The Bureau's analysis of these complaints demonstrates that:

1. The average time and deviation (maximum) on awarding, registered at www.mercadopublico.cl, exceeded the desirable term- not clear.
2. Nearly half of the complaints focus on the lack of clear information on the evaluation criteria;
3. An important percentage of complaints concern the eventual contacts between suppliers and the bidding entity.

Decree No. 1763, 2008: promoting further transparency in public procurement

Objectives

8. From this perspective, new amendments to the Law were introduced in Decree No. 1763 by the Ministry of Finance in order to:

1. Regulate queries addressed to suppliers by public entities prior to the disclosure of bidding documents;
2. Keep mandatory records of all suppliers awarded a framework agreement with value exceeding UTM 1000 (USD 80, 000);
3. To foster access to information by requiring public entities to publish as much information as possible on the evaluation process and delays in the award as well as their justifications;
4. Regulate the appointment and operation of evaluation committees;
5. Establish the evaluation factors and their influence;
6. Regulate the interaction between suppliers and contracting authorities;

7. The main objective of the Decree was to increase transparency in government procurement as imposed by law no. 19,886, by creating a regulation of new steps and procedures.

Implementation Process

9. The Decree No. 1763 came into effect on 6 October 2009. The Public Procurement and Contracting Bureau submitted a proposal for the Decree, which was then enacted by the Ministry of Finance. The Bureau prepared this Decree after consulting with academics and professionals related to the field of administrative law. The whole project, from the development of a draft to its publication and enactment, including the stages of internal discussion within the Ministry of Finance, the signature by the President of the Republic, and finally, a legal review by the Supreme Audit Organization (the Contraloría General de la República) took 12 months,

Impact and Monitoring

The Decree had the following impact:

1. More information was made available to all users of the Information System, at www.mercadopublico.cl;
2. It provided information on the identity of the officials responsible for awarding contracts in an effort to improve transparency and avoid a potential conflict of interest;
3. A stronger link was created between the evaluation criteria and award criteria

10. As beneficiaries, the government believes this reform is broad enough to assure that all users of the system will directly benefit, including the approximate 200,000 companies that take part in tenders in the public market each year, as well as the thousands of people who hold social control functions, have access to related information, and who have the possibility to complain to the competent authorities about any irregularities that the bidding process could have eventually generated.

Challenges and Risks

11. One of the main challenges faced in developing the new Decree was avoiding an over-regulation of the procurement process, which could have ended up creating more bureaucracy.

ENHANCING INTEGRITY IN PUBLIC PROCUREMENT IN MOROCCO

12. The government of Morocco requested a country review (the “Review”) in 2007 – the Joint Learning Study- of public procurement reforms, in particular of the newly adopted Decree for public procurement and to provide proposals for actions based on the OECD Principles on Enhancing Integrity in Public Procurement. The Review supported the Moroccan government in identifying the loopholes of the 2007 Decree.

13. The 2007 Decree provides a detailed framework for public procurement and was developed in line with international good practices and standards. It applies to central government and local authorities. However, state-owned enterprises and establishments can adopt their own specific regulations provided they comply with the requirements of competition and transparency set by the Decree. These discrepancies required some effort from the government to harmonise the implementation of the Decree’s provisions in all government institutions.

14. The main objective of the Decree is to foster:

- greater transparency in the procurement cycle by introducing new measures such as e-procurement, the establishment of a commission to conduct negotiated contracts, an automatic notification for unsuccessful tenderers and a more systematic record of documents relating to awarded contracts;
- promote integrity and corruption prevention through measures such as conflict of interest declarations for both the tenders and the contractor;
- the establishment of a fair appeal mechanism for complaints;
- to operate a shift from control of compliance to performance-based control;

15. Five priority lines have been identified throughout the Review to support an effective implementation of the Decree:

- Strengthen professional skills in public procurements in order to give authorising officials sufficient management capacity as part of the process of relaxing ex ante controls;
- Increase the powers of the Public Procurement Review Board both for compliance and control mechanisms;
- Continue with the assignment of responsibilities and auditing process;
- Ensure the harmonised interpretation and implementation of the 2007 Decree;
- Introduce specific measures to prevent corruption in public procurement.

16. These recommendations were discussed during a national workshop in 2009, following which the Moroccan government decided to review the Decree accordingly. The government recognised the role of the Review in supporting all stakeholders in reaching a consensus based on evidence, data and international good practice.

FOSTERING THE FLEXIBILITY OF PROCUREMENT PROCESSES IN SWITZERLAND

Context

17. The Federal Government of Switzerland embarked on a process of unifications of the law on public procurement. On 17 June 2009, the Federal Council decided to waive the partial unification of the procurement law at the national level because of the opposition of most cantons although it was approved by the majority of business associations. As a result, the Federal Council revised instead the ordinance on public procurement in order to modernize and clarify public procurement procedures.

Ordinance on public procurement

Objectives

18. The Ordinance aimed at responding to the growing need for modern and flexible procurement processes in the Swiss Confederation in particular in the context of economic stimulus programs and to support Small and Medium Enterprises. It also addressed certain loopholes in the public procurement law and is intermediary step before reforming the law itself. It came into force on January 2010.

19. The new ordinance for procurement simplified the tender procedures and defined the legal conditions applicable to tenderers and public authorities. In particular the following measures were introduced to simplify the bidding process: a) purchases of urgent public works of national importance, should no longer be blocked and delayed by abusively using suspensive procedures, b) draft revised law reflects changes made to the WTO Agreement on Government Procurement.

FOSTERING THE USE OF THE E-PROCUREMENT SYSTEM: THE EXPERIENCE OF NORWAY

Context

20. Recognising that the National e-Procurement system has not been effectively used by all public entities, although it has been operational since 2009, the Norwegian Government decided to review its system and address the implementation challenges faced by public entities.

21. From this perspective, the government adopted a plan for 2010- 2014 to address the two major obstacles to the effective use of e-procurement: i) strengthening professionalism and building capacities in the daily use of the e-procurement system in public organisations and ii) sharing the financial costs of the e-procurement system, which has been covered so far by each organisation.

Reforming the e-procurement system: overcoming implementation challenges

Objectives

22. The objective of this reform is to bolster the use of the e-procurement system by public organisations, both at the central and local levels of government, in order to increase the efficiency and transparency of public procurement.

Implementation process

23. The Agency for Public Management and eGovernment (Difi) is leading this reform on a 2009 - 2014 horizon.

Impact and Monitoring

24. Although the reform has been recently introduced, the Agency for Public Management and E-Government is closely monitoring its first results on a monthly basis by:

- Measuring the number of public entities seeking information on e-procurement;
- Measuring the number of public entities signing up for the e-Procurement Platform Service (ePP-service);
- Measuring the transaction volume running through the ePP-service (per entity and total);

25. Following up on entities based on measuring results and enquiries; early results showed an increased use of the e-procurement system by several new public entities.

Challenges and Risks

26. The main challenge for the effective implementation of the e-procurement system in public entities is ensuring that the entities make an appropriate effort and allocate enough resources to ensure a systematic use of the e-procurement system. The level of commitment required to successfully implement the e-procurement system is often underestimated.

27. To overcome this challenge, the government has set up a central, competent team with a large amount of experience with procurement processes and change management to provide information,

GOV/PGC/ETH(2011)6

guidance and support to public entities. Additionally, information campaigns focusing on change management are also conducted within the public sector.

Source: www.anskaffelser.no/e-handel/in-english/electronic-converse.

USING NEW TECHNOLOGIES IN PUBLIC PROCUREMENT: THE EXPERIENCE OF KOREA

Mobile Bidding Service (2008)

28. PPS has provided mobile bidding service since November 20, 2008, which allowed businessmen to check bidding information of all public organizations via wireless internet on their cell phones on a real time basis and submit bidding documents. As cutting edge technologies such as e-certificate and encryption were applied in mobile phones, PPS made effort to introduce the mobile bidding service.

29. In the past, bidders were required to visit KONEPS on PC to participate in biddings. But after the launch of the mobile bidding service, it contributed to enhancing work efficiency and operation process of companies helping them get information and make decisions more quickly.

30. In particular, the biggest achievement is that there was a big increase in the system users among SMEs and independent businessmen who are in a difficulty in employing personnel full charge of bidding process despite frequent external business activities.

Corrupt Activity Analysis System (2008)

31. Based on the analysis of success rates, nos. of bidders, contract types, nos. of unsuccessful bids, characteristics of past bidding cases etc., any signs and symptoms of collusion, e-Certificate lending, etc. are analyzed and the results are reported to the Fair Trading Committee and other relevant organizations.

Introduction of Fingerprint Recognition System (2010)

32. KONEPS (Korea ON-line E-Procurement System) has led the advance of the public procurement service, and contributed to an increased efficiency of public administration. However, as it has eliminated face-to-face contact between contract officials and suppliers in the entire procurement process, the potential for illegal practices and collusive acts caused by borrowed e-Certificates has arisen, leading to concerns over increased budget waste and damaged public confidence. In order to eradicate the source of the corruption, PPS of Korea has introduced "Fingerprint Recognition e-Bidding" which, after 2 years of preparation, was initially implemented in public tenders which were conducted by PPS undertook from April 1, 2010. And in July 1, 2010, it was applied in all tenders carried out via KONEPS by local governments and other public organizations for procuring goods, services, and construction projects. In the Fingerprint Recognition e-Bidding System, each user can represent only one company by using a biometric security token. Fingerprint information is stored only in the concerned supplier's token, thus avoiding any controversy over the government's storage of personal biometric information.

Smartphone bidding service (2011)

33. PPS launched smartphone bidding service on May 12, 2011 which allowed bidders to search bidding information at KONEPS and participate in biddings via smartphone. Users of this service can not only obtain bidding information but also participate in biddings on their smartphones through newly developed security token and applications.

34. With some exceptions where separate bidding documents such as statement tendering of construction works are required, any other bidding can be made through a smartphone. It means in most of the biddings at KONEPS, bids can be submitted on a smartphone.

35. In addition, uses of application service which enhanced bidding management functions including search on KONEPS bidding information can obtain all bidding information from bid notice, bid

submission, through to successful/unsuccessful bidders based on each category of goods, services, and construction works on a real time basis. After users set their categories of interest, the related bid notice at KONEPS will be informed through their smartphone immediately.

36. Users can also use bidding schedule management functions which reminds them of bid closing time when it is imminent if they put important bid notices in a bidding box in advance. There are others convenient services such as SMS service as well as alarm service which provide the result of bid opening as soon as the bidding ends.

REGULATING THE PRICE OF DRUGS THROUGH COMPETITIVE PROCUREMENT

37. A 2011 study of the French Social Security system highlighted the correlation between the price of drugs and the type of procurement procedure used in European countries.

38. Through a study on generic drugs and their financial impact on health expenditure, the Social Security system concluded that the use of competitive or negotiated procurement significantly decreases the price of generic drugs which ultimately contributes to achieving significant savings in its overall expenditures on medicine. From this perspective, the French Social Security system is moving towards using competitive procedures to achieve further savings.

39. The study showed that France generic medicines are amongst the most expensive in Europe. Of the 74 main generic molecules, the average price by standards unit in France is EUR 0.15 compared with EUR 0.12 in Germany, EUR 0.07 in the United Kingdom and EUR 0.05 cents in the Netherlands.

40. These differences result from the method used to regulate the price of these drugs. Indeed, countries like France, Belgium or Austria decided to simply adopt a discount system where the generic drugs are 55% cheaper than the price of the *princeps* drugs.

41. In the United Kingdom and the Netherlands, the price of the generic drug is determined by a competitive procurement process open to all suppliers and conducted by pharmacies. Savings are then shared between the pharmacies and social security system. This method allows the social security system to achieve substantive cost savings by increasing the collective buying power of pharmacies and bolstering the competition between suppliers.

42. In some countries, such as Germany or the Netherlands, the health insurance companies are even using negotiated procurement procedures with generic drugs manufacturers to negotiate the lowest prices possible.

Source: Sécurité Sociale, la Caisse Nationale d'Assurance Maladies, point d'information, 29 Septembre 2011.

REGULATING PROCUREMENT IN THE OIL SECTOR IN MEXICO

43. In Mexico, specific legislation was enacted to regulate the procurement of the national oil company PEMEX. The objective of the legislation's creation was to provide PEMEX with more flexibility as a major economic operator while, at the same time, attracting foreign investments to the oil sector.

44. *Petroleos Mexicanos*, or better known as PEMEX, is the most important decentralised organism (*parestatal*) of the Federal Government of Mexico and, since 1938, is the unique national oil company in the country. It is composed of four subsidiary bodies:

- PEMEX Explorations and Production (PEP),
- PEMEX Refinery (REF), PEMEX Gas and Basic Petrochemical (PGPB), and
- PEMEX Petrochemical (PPQ).

45. PEMEX is entitled by the federal government to carry out exploration, exploitation, distribution and refining of oil and natural gas. The Organic Law of the Federal Public Administration defines decentralised organisms as those that pursue a public or social utility to which the government provides resources.

46. PEMEX contributes to almost 10% of the country's GDP, as well as to approximately a third of the federal fiscal revenues and employs on average 141,000 people. It is a major contractor of the private sector's goods and services and is considered to be amongst the eleven biggest buyers in Mexico.

47. As new economic and social challenges emerged in the oil sector. Mexico had to address certain challenges regarding its own oil sector, such as its production levels and competitiveness on the international level. PEMEX requires flexibility in its operation in order to address these issues.

48. The specific regulatory framework on procurement activities for PEMEX was part of a major reform of the hydrocarbons sector carried out in Mexico towards the end of 2000. The main objective of the reform was to provide PEMEX with a more flexible legal framework in order to promote investment in the hydrocarbons sector while, at the same time, keeping it a public resource, increasing productivity in the production of hydrocarbon goods, and raising the efficiency of PEMEX. It was recognised that, due to the nature of PEMEX which, despite being a state-owned company, concentrates directly on industrial and economically-productive activities, a distinct legal framework for its procurement system and processes was needed. The common regulatory framework for procurement activities established in the LAASSP and the LOPSR that applies to all line ministries and other federal government bodies was deemed to be unsuitable for PEMEX. In contrast to other government bodies, which concentrate on the maximisation of social welfare, the procurement needs of PEMEX are wider in range and focus on specific commercial and productive activities.

49. The new procurement law enacted by the Congress reiterated PEMEX's monopoly over all hydrocarbon reserves and the exploration and production of these reserves, while introducing a new service contract which promoted foreign investment. Some of the flexibility introduced by this law includes:

- Taking into account the variations of the international petroleum process
- Contractors' compensation will be fixed or tied to a previously agreed formula. However contractors may contemplate a bonus scheme whenever PEMEX receives greater profits, benefits from new technology or saves costs

- Arbitration in jurisdictions other than the Mexican courts. PEMEX can agree on the applicability of this clause whenever they execute international contracts.

ACHIEVING EFFICIENCY GAINS

COORDINATED PROCUREMENT CONTRACTING FRAMEWORKS IN AUSTRALIA

Context

50. In 2008, the Ministry of Finance and Deregulation issued updated *Commonwealth Procurement Guidelines* under the Financial Management and Accountability Act 1997 (FMA Act). These guidelines are the core procurement policy framework which clearly defines the Government's expectations for all departments and agencies subject to the FMA Regulations when performing duties in relation to procurement.

51. These Guidelines aims at helping the Government in achieving value for money when procuring. Coordinated procurement contracting is a key measure of these Guidelines.

Objectives

52. The Australian Government has established a coordinated procurement contracting framework for the range of goods and services in common use by it agencies with the aim of delivering efficiencies and savings. The aggregation of government purchasing allows agencies to obtain volume pricing discounts. It also generates efficiencies and reductions in the administrative cost of procurement for agencies and industry through fewer approaches to market.

53. The Coordinated procurement will aim at a) reducing the price of supply to agencies; b) meeting business needs of agencies; c) contributing to a competitive and viable industry; and d) promoting positive behavioural change in procurement.

Implementation Process

54. The coordinated procurement has been primarily undertaken by the Department of Finance and Deregulation but the framework does not prevent other agencies' involvement. For example, a Volume Sourcing Arrangement was negotiated jointly by the Department of Finance and Deregulation and the Department of Defence.

55. Furthermore, these coordinated procurement framework are available to the whole of government however the purchasing function remains with the agencies to determine how they access coordinated procurement, such as centralised contracts.

56. Before establishing a coordinated procurement, the Department of Finance and Deregulation conducts scoping studies to determine the suitability of goods and services for coordinated procurement contracting. These studies examine the government procurement arrangements, agencies requirements and current expenditure, good procurement practice in relation to the supply targeted (including price and service levels that can be expected), contract management issues and the potential market impact of a coordinated approach.

57. Coordinated procurement arrangements currently cover six areas, including Travel, Major Office Machines, Telecommunications, Desktops, Data Centres and the Microsoft volume software agreement

Impact

58. Coordinated procurement will deliver nearly AUS 300 million in savings to the Australian Government budget and benefits to agencies over the period 2010-11 to 2012-13.

59. In addition to savings, coordinated procurement arrangements facilitate improved business practices, reporting and data management, allowing a more strategic approach to the delivery and management of the relevant goods and services.

Challenges and Risks

60. Establishing coordinated procurement arrangements involves procurement risks, including implementation, timetable and market risks that need to be addressed by good planning and project management.

61. One of the most significant challenges is to create an arrangement that meets the requirements of the 107 FMA Agencies in particular as most agencies had developed their own procurements for more than ten years. Consultation and collaboration with agencies to encourage 'buy in' is a key strategy to address risk. This includes a governance structure that involves agencies in the processes.

62. Another challenge is to obtain accurate and consistent expenditure data from agencies to develop a baseline and measure savings. One strategy to manage data quality and verification issues is to also seek data from suppliers.

Key Lessons Learned

63. A key learning is that coordinated procurements are complex and resource intensive to establish. Therefore significant aggregate expenditure is required to generate sufficient savings to offset the implementation costs. Coordinated procurement may not be viable if:

- The value of the aggregated annual spend is relatively small;
- All or most FMA agencies would not benefit;
- There is limited scope for savings; and
- Resourcing (time and cost) to establish an arrangement could outweigh potential savings.

ALL-OF-GOVERNMENT CONTRACTS: THE EXPERIENCE OF NEW ZEALAND

Context

64. In 2009, the Cabinet launched a four year *Government Procurement Reform Programme* aiming at making procurement a strategic activity which supports better, smarter public service while ensuring value for money for taxpayer funds. This reform would initiate a change in the way procurement is perceived, thus promoting a shift from the traditional focus on process compliance to focusing further on its strategic outcomes.

65. The reform's main goals are achieving cost savings, building procurement capability and capacity, enhancing New Zealand business participation and improving governance, oversight and accountability of the public sector's procurement policy and practice. It is led by the Government Procurement Solutions group, part of the Commercial Solutions Branch of the Ministry of Economic Development, with the support of Treasury and State Services Commission. The Cabinet's Expenditure Control Committee (EEC) is overseeing the implementation of the programme.

All-of-Government Contracts: a key achievement of the Government Procurement Reform Programme

Objectives

66. One of the key achievements of the Government Procurement Reform Programme is the establishment since 2010 of All-of-Government (AoG) contracts in order to create a single supply agreement between the Crown and the approved suppliers for the supply of selected common goods and services purchased across government. By aggregating the purchasing function, these contracts support the government in achieving cost savings and increasing productivity gains, ultimately leading to a more competitive economy.

- Cost savings: the AoG allowed the government to increase the collective buying power of over 200 State sector agencies thus making it an important customer and achieve substantial cost savings. These savings are used by agencies to implement other priorities with a small portion (1.5%) utilised to fund the Government Procurement Reform Programme, including the establishment of additional AoG.
- Productivity gains: the AoG allowed the state organisations to streamline the purchasing process for suppliers. In fact, organisations no longer develop their own tenders but buy directly from selected panel suppliers and maintain day-to-day operating relationships with them.
- Building competitiveness: the AoG consolidates the government procurement thus increasing its size and volume of procurement and building a real market for industry to invest further in labour, equipment, research and development which may lead suppliers to develop more innovative products.

Implementation Process

67. The contracts are developed and managed by procurement Centres of Expertise (currently located in the Ministry of Economic Development and the Department of Internal Affairs) with oversight by the reform programme management team in the Government Procurement Solutions Unit of the Ministry of Economic Development.

68. The Cabinet has specified [Cab Min (10)22/7] that the term All-of-Government contract can only be used when the contract is co-ordinated through the Government Procurement Reform Programme, has been approved by Cabinet and the award of the contract is approved by the Cabinet prior to signing.

69. So far, four AoG contracts have been established covering the following items: a) office consumables, b) passenger vehicles, c) laptop/desktop computers, d) Single and multi-function print devices. The contracts are closely monitored with regular updates provided to the Cabinet. New AoGs are currently being designed for the following areas a) external legal services) air travel, c) travel management services, d) energy management services. Because of the success of the first four contracts, as well as the success of the cross-ministry cooperation that has enabled large fiscal savings to accrue, the negotiation of these contracts has been accelerated.

Impact and Monitoring

70. The first four AoG contracts have been successfully implemented and savings are on track to reach \$115million over the contracts' five year term. The three AoG contracts whose negotiation has been accelerated (mobile telephony, media buying and recruitment services) are expected to achieve further savings of \$12.5 - \$15million over the next five years.

Challenges and Risks

71. One of the challenges faced in designing and implementing the AoG contracts by the government was the level of take up of agencies. Many had existing multi-year contracts for the products targeted and were reluctant to change their arrangements (especially that, unlike core departments, agencies in the wider state sector could not be mandated to adhere to AoG contracts). In the case of the AoG desktop computer/laptop contract, some agencies were unwilling to change to a different brand of computers.

72. These challenges were largely overcome by proactive work by MED officials to brief agencies on the benefits of AoG contracts (MED estimates that more than 2,400 officials have been briefed since the programme's inception). Eventually high participation was achieved, providing the critical mass required to achieve significant savings.

Key Lessons Learned

73. Success in negotiating contracts on this scale requires high standards of professionalism and capability, as well as specialist market expertise, on the part of the procurement staff leading the negotiation. Effective engagement with agencies and the relevant industry sectors in setting up the contracts is crucial. Systematic monitoring/collection of costs savings data encourage wider enrolment in the AoG contracts by non-mandated agencies.

CENTRALISING THE PURCHASING FUNCTION: THE EXPERIENCE OF IRELAND

Context

74. Recognising the need to enhance efficiency and value for money in the Irish public procurement system, the Irish Government has adopted a strategic decision to increase momentum in the area of demand aggregation and professionalisation of procurement staff in this complex field by establishing the National Procurement Service in 2009.

75. Prior to this reform the Government policy for promoting e-Government in 2001-2002 aimed at addressing these challenges by promoting electronic procurement as a way to increase transparency and efficiency. However, a government assessment showed that a national system of e-Procurement could not be implemented without major reform and restructuring of the function.

76. The National Procurement Service (NPS) is located in the Office of Public Works and has been tasked with centralising public sector procurement arrangements for common goods and services.

The National Procurement Service

77. The National Procurement Service (NPS) was established in 2009 in order to reform the public procurement function in regard to supplies and services.

78. The principal objective of the National Procurement Service is to achieve best value for money in procurement of supplies and services. It takes a strategic approach to public procurement through:

- The aggregation of purchases across government departments, agencies and the non - commercial State sector to reduce prices paid for goods and services;
- Providing procurement training and advice to the public sector, organising networks of procurement professionals and assisting, where possible, with specialist procurement needs;
- Promoting of simplification and standardisation of the tendering process;
- Reducing the fragmentation of the Irish public sector procurement ;
- Managing the national public procurement website (*www.etenders.gov.ie*) and developing appropriate and cost effective e-Procurement measures;
- Incorporating whole-of-government policies, as appropriate, into public procurement (e.g. SME participation, green procurement, innovation etc.).

79. On the basis of market analysis, the NPS has identified the top 50 categories of procurement expenditure that can be targeted for intervention. This can involve demand aggregation to leverage public sector buying power, nominating / supporting lead procurement organisations for particular categories (such as pharmaceuticals, catering security) and facilitating collaboration by public purchasers.

Implementation Process

80. The NPS currently has 40 national frameworks in place for high spend requirements with a total value in excess of EUR 400 million. These frameworks and contracts include energy, office supplies / ICT consumables, vehicles, fuel, advertising, clothing and footwear, print services etc. A national framework

for ICT hardware and peripherals, mobile voice and data transmission services and associated services, currently managed by the Centre for Management and Organisation Development, Department of Public Expenditure and Reform, is also in place. Savings across all these areas are being achieved from a combination of price reductions, administrative efficiencies and demand management. The NPS is also active in the area of education of both procurement officials and suppliers to the Irish public service.

81. Recognising the importance of a well informed supplier base, the NPS has participated in seminars/workshops and conferences throughout the country aimed at educating small and medium enterprises (SMEs). To date, in excess of 1,000 SMEs have attended such sessions.

82. The NPS is governed by a board of senior procurement stakeholders chaired by a Minister of State with responsibility for public sector reform. An advisory panel of three procurement experts (two from the private sector) has been established to ensure access to leading edge procurement practices and market developments. It has been implemented by the Department of Public Expenditure and Reform, in consultation with the Office of Public Works and other key stakeholders (such as the Law Offices of the State, non-commercial state sector bodies, business representative organisations). The consultation was conducted through the network of procurement officials from departments and public bodies with a significant procurement function. A core implementation group was set up with representation of the main procuring sectors (including from Northern Ireland, where a centralised system was in place).

Impact and monitoring

83. Savings across all focus areas of the National Procurement Service have been achieved with a combination of price reductions, administrative efficiencies and demand management.

84. The NPS input and output statements indicate levels of savings for 2010 and 2011 and further methodologies for quantifying savings are being developed. The statements are available but unpublished and indicative. More comprehensive savings indicators are being developed by the NPS.

Challenges and Risks

85. One of the main challenges faced when implementing the national Procurement service was determining the appropriate structures and ensuring public sector wide acceptance of proposed new arrangements. However, through consultation and discussion with the relevant stakeholders and selling the benefits of the proposed new arrangements, public sector organisations adhered to the reform. In the event of reluctance on the part of contracting authorities to avail of new national arrangements (i.e. such as national frameworks for certain requirements described above), consideration will be given to making their use mandatory.

Source: www.procurement.ie.

FRAMEWORK PROCUREMENT IN SPECIFIC SECTORS: THE EXPERIENCE OF IRELAND

86. Ireland has also developed national policy in relation to construction procurement and in recent years undertook a programme of reform involving the introduction of a new Capital Works Management Framework.

87. The main objectives of this reform initiative are:

1. greater cost certainty at tender award stage
2. better value for money in works contracts and
3. more efficient delivery of public works projects

88. The new framework is a key value for money measure that has been put in place to help address concerns about the extent of cost overruns (i.e. the increase in project costs between the accepted tender price and the final outturn costs) on public works and construction consultancy contracts, and to eliminate such cost overruns through better planning and greater use of new standard works contracts and conditions of engagement by means of optimal risk transfer to contractors and consultants who are best placed to manage and control such risks.

89. A website: www.constructionprocurement.gov.ie has been developed and contains material in relation to the reform of public sector construction procurement. It includes an integrated set of contractual provisions, guidance material, technical templates and procedures which cover all aspects of the delivery process of a public works project from inception to final project delivery and review.

90. The Capital Works Management Framework is for the use by contracting authorities involved in the expenditure of public funds on construction projects and related consultancy services. The use of the framework should result in a more cost effective delivery of public works projects because of the more systematic and detailed approach to, among other things, planning (both initial and detailed), capital budgeting as well as design and construction cost control.

ESTABLISHING WORKSTATIONS: THE EXPERIENCE OF BELGIUM

Context

91. There are a number of entities within the Federal Public Services Personnel and Organisation which provide support for initiating and managing public procurement as follows:

- The Federal Procurement Central (FPC), which is responsible for designing and management of group contracts on behalf of the federal public services;
- The Federal Service e-Procurement, which ensures that procurement processes and transactions are made electronically;
- The Purchasing Policy and Advice Cell (PPA), which provides advice and procedural support to officials that are designing and managing public contracts.

Public Procurement Workstation

Objectives

92. In 2007, a Public Procurement Workstation was established by the Federal Public Services Personnel and Organisation under the Purchasing Policy and Advice Cell. This Workstation is a permanent cell which supports officials in managing public contract in an efficient manner and in line with legal requirements.

93. This procedural support provided by the Workstation is complemented by a technical support provided by an independent service called "Project Leader".

94. The support provided by the Workstation aims at:

- Increasing the efficiency of designing and managing public contracts;
- Ensuring compliance with legal requirements, thus enhancing integrity in public procurement;

Implementation Process

95. The Workstation within the Purchasing Policy and Advice Cell has been established in three phases:

- Setting the framework for the Workstation through the identification of a)actors which will contribute to the establishment of the Workstation and its expansion, b) beneficiaries c) stakeholders to be consulted and involved;
- Launching the Workstation on a restricted field of activity and with limited number of staff;
- Consolidating the Workstation by conducting a first assessment of the effectiveness of its work (i.e. human capacities, scope of activity)

96. The Workstation provides support to officials in all phases of the procurement cycle, but does not however initiate a public contract or design the technical specifications. Rather, it manages the public contracts for its internal clients and project leaders.

97. The Workstation will ensure a regular consultation with its clients and project leaders as well as with the Federal Procurement Central Network to exchange good practices and lesson learned concerning the application of procurement procedures.

98. The Workstation is a structure that has been initiated and implemented in the Purchasing Policy and Advice Cell but similar structures were established or partially implemented in the following public institutions:

- Information and Communication Ministry (Fedict)
- Ministry of Justice
- Ministry of Finance
- Ministry of Economy
- Ministry of Interior
- Ministry of Budget
- Ministry of Mobility (which as a purchasing unit in which the workstation is integrated)

Source: www.publicprocurement.be/portal/page/portal/pubproc.

PROMOTING EFFICIENCY THROUGH NATIONAL PROCUREMENT ASSISTANCE AND DEVELOPMENT: THE EXPERIENCE OF SWEDEN

Context

99. In the financial plan of 2009 (prop. 2008/09:1), the Government of Sweden adopted new objectives for national procurement in Sweden which brought forward specific reform measures to strengthen rule of law, effectiveness and increase transparency and good practice in public procurement in Sweden. This was implemented by establishing the function National Procurement Assistance and Development at Kammarkollegiet (Legal, Financial and Administrative Services Agency). The main goals were to increase the effectiveness, transparency and rule of law of public practices in public procurement. Another measure identified in the financial plan was to increase competition in the market and value for money for the tax payer.

National Procurement Assistance and Development

Objective

100. The Legal, Financial, and Administrative Services Agency is, as of the 1st of January 2009, responsible for a national function for procurement assistance and development. It has three main objectives:

1. Provide practical guidance and support to both public sector contracting authorities and businesses regarding the public procurement of goods, services, construction and healthcare. This is done by developing in-depth guidelines, practical tools and presenting the latest legislation, all published on our website;
2. Promote and accelerate the use of electronic procurement in Sweden and participate in the common European initiatives and standardisation projects on this topic;
3. Develop and manage a national database for procurement notices for contracts applying to the Act on System of Choice in the Public Sector. Examples of such contracts include part of the healthcare sector and employment counsellors offered by the Public Employment Service. This database can be accessed on www.valfrihetswebben.se.

101. The aim of this initiative is to contribute to an efficient public procurement process which emphasizes quality, adheres to legislation and government policy and promotes market competition. The agency developed guidelines promoting the use of coherent procurement documents aiming to reduce the administrative burden for small businesses and lowering the threshold for bidding for public contracts. It also aims to promote the development of an EU-wide interoperable public electronic procurement process.

Implementation Process

102. The target group of the Agency are: public purchasers at contracting authorities and businesses interested in becoming suppliers to the public sector. It focuses its activities towards relatively inexperienced purchasers and small and medium sized businesses. Its budget is allocated through government grants.

Challenges and Risks

103. One of the challenges in implementing the National Procurement Assistance and Development Initiative is the capacity to take into account the various objectives and diverging demands and agendas of parties of interest which can go from multinational corporations to small businesses from various industries as well as contracting authorities of varying size and level of experience.

104. On the other hand, being financed through government grants creates a predictability which is strength for the Agency function and our projects.

Source: www.upphandlingsstod.se.

THE CENTRAL PROCUREMENT PROGRAMME IN DENMARK

Context

105. Prior to 2007 there was a long tradition of decentralised procurement in the Danish central government. Every ministry, governmental agency and state institution planned and carried out separate procurement policies and practices and there were not any national system for gathering information on procurement across the states bodies.

106. The establishment of National Procurement Ltd. in 1994 provided the state institutions and municipalities the first option of procurement through national framework contracts on many standardised commodities. The National Procurement Ltd. is owned by the Ministry of Finance and Local Government Denmark. It supports procurement in the municipalities, state institutions as well as semi-public corporations, and the contracts are optional to use for the clients.

107. In 2006 a state audit as well as an analysis conducted by the Ministry of Finance indicated large potential cost savings through coordinated tenders and mandatory contracts regarding goods and services. The analysis by the Ministry of Finance estimated a potential for budget cuts for the procurement programme to be 10% of the cost on all common central procurement, equivalent to EUR 135 million.

The Procurement Programme

108. The Central Procurement Programme was launched in 2006 to achieve the cost savings indicated by the analysis by the Ministry of Finance and to realise these funds for other public purposes.

109. The programme is managed by the Procurement Office in the Danish Agency for Governmental Management under the Ministry of Finance.

110. The three principles of the Governmental Procurement Programme are:

1. Coordination – awarding contracts with few suppliers in each category.
2. Standardisation – few products.
3. Commitment – all ministries and institutions under the ministries are obligated to use the contracts.

111. The analysis by the Ministry of Finance indicated which commodities and services that were in common and most suited to start with such as office furniture, office paper and printers. The programme was planned in stages to gradually realise the potential, starting with the most standardised commodities to build up experience and trust, and then the commodities and services that were more complex in the following stages. For these categories the central government institutions (ministries and agencies) are obliged to use the contracts. For the remaining categories the ministries conduct their own tenders – either individually or in cooperation with other ministries.

112. The Central Procurement Programme develops EU-tenders for framework contracts within each type of commodities and services, and carries out the tendering process. Through coordination the programme ensures that large volumes are awarded to a limited number of suppliers which in turns results in reduced prices due to economies of scale. According to Circular on Government Procurement the state institutions are all obliged to use the framework contracts within the commodities and services that are included in the programme.

113. However the actual procurement activity is still carried out by individual institutions directly to the suppliers. The direct procurement ensures a smooth flow of orders and delivery, without the administrative burdens of centralized procurement activities.

Impact and Monitoring

114. A new reporting system with quarterly reports from suppliers and state institutions has been established, and shows turnover on each commodity and service bought all together and on the framework contracts. This system provides valuable inputs for the calculations of the expected turnover on each product used for future tenders, as well as for calculations of compliance, which is reported to the ministries.

115. Many examples from The Central Procurement Programme indicate the how this method achieved savings for the public sector. For instance the procurement of adjustable work chairs which were bought at an average price of EUR 360 each in 2007 (before the framework contract for office furniture) were bought at EUR 100 each in 2011 resulting in a cost reduction of 71%. Furthermore a standard laptop computer was priced at EUR 1,240 in 2007 and was reduced to EUR 680 after the first computer framework contract in 2007, but the cost reductions continued in 2011 with standard laptops priced at EUR 410 each.

116. E-auctions are used on quarterly basis on the computer framework contracts to increase competition and lower the price. The state institutions provide information on how many computers of each predetermined type of computers they want to purchase to the Central Procurement Programme who conduct auctions among the suppliers. These E-auctions are an effective means in lowering the price even more, e.g. the price for standard computers was reduced by 18 % from the framework contract price in the auction of the second quarter of 2011.

117. In 2011 the Central Procurement Programme has provided cost savings to the national budget at approximately EUR 124m annually. These additional funds are automatically included in the national budget for other public purposes which highlight the importance of an effective and cost efficient national procurement policy.

118. The tenders included in the Procurement Programme all comply with the EU procurement directives in regard to transparency and accountability, but also in regard to corporate social responsibility. Since 2008 an appendix on ethical and environmental criteria has been a mandatory part of all procurement contracts under the Danish Agency for Governmental Management. The appendix is based on the ten principles in the UN Global Compact concerning international human rights, environment and anticorruption as well as ILO's conventions on labour rights. Furthermore national standards on environment, energy efficiency and ecology are used in several framework contracts. The programme hereby takes social responsibility into account on all contracts in accordance with international and national standards.

CENTRAL PURCHASING: THE EXPERIENCE OF PORTUGAL

Objectives

119. The setup of the National System of Public Procurement aimed at:
1. Centralising the purchase of a number of categories of goods and services;
 2. Increasing value for money in public procurement;
 3. Fostering market competition;
 4. Enhancing transparency and accountability.

Implementation Process

120. The National Agency for Public Procurement (ANCP) is the implementing authority of the National System, however the following stakeholders were involved in designing the system:

- Central Government / Public Administration (15 Ministerial Purchasing Units)
- Economic Operator (tenderers and contractors)
- Trade associations

121. An initial phase of three years (2008-2010) has been foreseen to put the National System of Public Procurement in place. This comprised three main pillars:

- 15 Ministerial Purchasing Units legally established and functioning (within the system network managed by the Agency)
- 17 framework agreements covering the following categories of goods and services: (mobile communications, fuel, stationary, copy and printing, hardware, software, vehicle insurance, vehicles, energy, e-procurement tools, furniture, security and surveillance services, cleaning services, fixed voice and data communications, meals, electric vehicles, travel and accommodation)
- A mandatory e-procurement based system offering electronic contracting platforms.

Impact and Monitoring

122. The National system of Public Procurement achieved EUR 168 Million between 2008 and 2010 and a saving rate of 16% in purchases under framework agreements.

123. It also achieved:

- Standardisation of demand: move from a fragmented procurement system into a centralised network purchasing model based on a number of framework agreements ;
- Fostering of competition: more than 270 suppliers qualified within the framework agreements awarded following international public tenders conducted through e-procurement tools;

- Promotion of SMEs: more than 2/3 of qualified suppliers are SMEs. Furthermore, most of guidelines of the “Small Business Act” are implemented by the National Agency for Public Procurement;
- Effective implementation of green public procurement: all objectives and targets set by the National Strategy of Green Public Procurement have been achieved, namely in what concerns the number and value of public procurement procedures including environmental awarding criteria.

Challenges and Risks

Key challenges persisted:

1. Maverick buying
2. Change management and resistance from established public procurers
3. Comparison of economic conditions, mostly the price, obtained through the call-offs under the framework agreements and the direct purchase (out of framework agreement)

124. The legal rules approved in 2007 (Decree-Law 37/2007, that established the National System of Public Procurement) comprise a very strict control mechanism and a very tough sanction to “maverick buying” wherever a framework agreement is in force.

125. The law provides that a contract made in breach of the mandatory centralised purchasing system (by means of a framework agreement) is null and void. A contracting entity can only buy outside a framework agreement following a specific exemption granted by the Minister of Finance, and upon ANCP analysis and endorsement. A large communication campaign aimed at the public sector was developed, including roadshows through the major cities, direct flyers, emails and workshops with key personnel.

Key Lessons Learned

1. Political drive. To be effective, the public procurement reform has to be put on the governmental agenda as a decisive move towards: i. A better fulfilment of the public needs; ii. A better use of public money (savings); iii. Fostering competition in the market and facilitate the SME’s access to public procurement; iv. Last but not least, enhancing transparency and accountability (the broad coverage of e-procurement contributes to this end);
2. Clear and coherent legal framework (EU Directives and Code of Public Contracts);
3. Stakeholders involvement (sharing the same vision and values)

Source: <http://www.ancp.gov.pt>)

PROMOTING EFFICIENCY THROUGH EXECUTIVE CENTERS IN THE NETHERLANDS

Context

126. In the Cabinets “Compact Government” programme for making the government more smaller, stronger and improve its service delivery presented by the Minister of the Interior and Kingdom Relations to the parliament on February 2011, one of the measure suggested is to establish “Inkoopuitvoeringscentra” (IUC) = Procurement executive centres and develop category management for all general purchases.

127. Currently there are hundreds of procurement offices functioning within the central government (“het rijk”). The Cabinet strives to limit this number to several dozen. The first IUC will start the 1st of January 2012. This IUC consists of the combination of the local procurement offices of three Ministries. They will be called “Haagse Inkoop samenwerking”, The Hague Procurement Cooperation (HIC).

Objectives

128. The overall goal of Compact Government is achieve EUR 6,5 billion of savings. The IUC’s and category management for all general purchases initiative aims at saving EUR 180 million.

129. These measures are expected to create a bigger volume of procurement expenses and bundle procurement capacities which will lead to more savings. Based on the experience of some ministries who are using Category Management, the mutual arrangements made for combined purchasing activities achieved significant savings. The objective of such an arrangement was that for each sort of service – for instance transport services - one of the ministries was made responsible for conducting a procurement procedure to award a framework contract for all the other ministries. This measure also contributed to strengthening professionalism in the procurement function.

Implementation process

130. The implementation of this measure is ongoing. The implementing authority is the Ministry of the Interior and Kingdom Relations, directorate-general “Organisatie en Bedrijfsvoering Rijk” (OBR) Organisation and Operational Management in the Central Government.

131. All the Ministries are involved as well as independent Public Executive Organisations who are part of the Central Government.

132. The IUC’s initiative was discussed in several inter-ministerial working groups and steering groups. The design and implementation of this initiative is still not completed.

133. There are also judicial problems, especially in relation to the independent Executive Organisations who have own legal personality. The policy plans give also cause to make a study of the functioning of a central purchasing body in the sense of the European Directive 2004/18/EC. The concept of a central purchasing body is very brief regulated and gives rise to questions as how to establish a central purchasing body and if it is necessary to mention for which contracting authorities the central purchasing body is acting.

Challenges and Risks

134. One of the consequences of establishing an IUC will be a change in ministerial responsibilities which might result in resistance to change.

135. Another challenge which will be faced when implementing the IUC is how to ensure the effective take up of IUC by ministries. Special attention has to be given to ensure that the IUC can act as a central purchasing body.

136. These risks are partly foreseen as a result of experiences with the project of buying by way of Category Management.

CENTRALISING PURCHASING: THE EXPERIENCE OF POLAND

Common Services Center

Objectives

137. A Common Services Center was established within the Chancellery of the Prime Minister on 31 December 2010 as a central purchasing body. This Center will promote the aggregation of procurement and consequently obtain the most advantageous conditions for purchasing services and supplies.

138. On the basis of Order No. 16 of the Prime Minister of 30 March 2011, the Common Services Center will:

- launch, conduct and award central procurement;
- design and award contracting framework agreements for governmental entities.

Implementation Process

139. The Common Services Center was established as the central purchasing body by the head of the Chancellery of the Prime Minister.

140. The Center carries out contracting framework agreements for the following common goods used by 6 governments units:

- Electricity;
- Fuels;
- Cars and trucks;
- Desktop and mobile PCs, servers, storage, software's, data media and network devices;
- Office equipments (printers, copiers, scanners, fax machines, multifunctional devices)
- Furniture and office accessories;
- Press;
- Airline tickets.

141. The Common Service Center also designs framework agreements for the purchase of the following services:

- Telephone;
- Mobile telephone;
- Access to the Internet;
- Cleaning services;

- Waste disposal;
- Protection of persons and property;
- Courier;
- Postal Services;
- Printing and publishing;
- Administration of buildings;
- Property health and communication insurance
- Medical devices;
- Post-warranty service of cars and other vehicles;
- Fleet cards;
- Trainings;
- Car and truck leasing, desktops, laptops, servers, storage, data media and networking equipment, office equipment: printers, copiers, scanners, fax machines, multifunction devices and furniture.

142. According to the Public Procurement Law and the Order No.16 of the Prime Minister (30 March 2011); all governments units are required to procure goods and services through the Common Services Center.

Source: www.cuw.gov.pl

ENHANCING ACCOUNTABILITY AND CONTROL IN PROCUREMENT PROCESSES

STRENGTHENING RECOURSE MECHANISMS FOR PUBLIC PROCUREMENT IN CANADA

Context

143. A Procurement Ombudsman was set-up in 2008 to increase the effectiveness and transparency of business practices in relation to procurement. This was part of a series of reforms to implement the Federal Accountability Action Plan in order to help strengthen accountability and increase transparency and oversight in federal government operations. Another measure identified in the Federal Accountability Act Action Plan was to enshrine in law a commitment to fairness, transparency and openness in the procurement process.

Objectives

144. The overall objective of the Office of the Procurement Ombudsman (the Office) is to promote fairness, openness and transparency in federal government procurement. Its mandate and role are as follows:

- Review the practices of departments for acquiring materiel and services to assess their fairness, openness and transparency and make any appropriate recommendations to the relevant department;
- Review any complaint respecting the award of a contract for the acquisition of goods below the value of CAN 25,000 and services below the value of CAN 100,000, where the criteria of Canada's domestic *Agreement on Internal Trade* would apply but for the dollar thresholds;
- Review any complaint respecting the administration of a contract for the acquisition of materiel or services by a department or agency, regardless of dollar value; and
- Ensure an alternative dispute resolution process is provided, if all parties to the contract agree to participate.

Implementation Process

145. The Procurement Ombudsman was created through an amendment to the *Department of Public Works and Government Services Act* which established the Procurement Ombudsman's authority and activities. The associated *Procurement Ombudsman Regulations* (the "Regulations"), which provide specifics on how the Procurement Ombudsman's authority is to be exercised, were developed through a consultative process and pre-published in *The Canada Gazette, Part I* in December 2007. Comments from industry associations, government departments and the Procurement Ombudsman Designate were received and taken into consideration before the Regulations were passed and the Office became fully operational in May 2008.

146. The Ombudsman reports directly to the Minister of Public Works and Government Services Canada (PWGSC) and is required to submit an annual report, by the Minister to Parliament. While the Office of the Procurement Ombudsman is a federally constituted independent organisation under the portfolio of the Minister of PWGSC, it has a government-wide mandate and operates horizontally in departments and agencies, including PWGSC.

Impact and Monitoring

147. Between May 2008 and March 2011, the Office has: handled more than 1,200 inquiries and complaints and conducted 6 investigations into contract award issues; dealt with 21 requests for an alternative dispute resolution process for contractual disputes; and conducted 12 procurement practice reviews which involved 26 different federal government departments and agencies.

148. In dealing with inquiries and complaints, the Office provides suppliers with information and assistance to increase their knowledge and understanding of the Government of Canada's procurement processes. It is also engaged in facilitating disputes amongst procurement stakeholders and is committed to proactively finding solutions before issues escalate. This early intervention helps to avoid long and costly disputes where business relationships are negatively impacted. A formal investigation is only undertaken where the Office cannot assist in resolving issues through cooperation and dialogue and the complaint meets the criteria of the Regulations related to contract award or contract administration

149. Given the significant number of contracts to which the federal government is a party, disputes between the government and its contractors are inevitable. The Office provides an alternative dispute resolution process to create an unbiased environment in which the parties to a contract can reach an amicable settlement to their dispute without resorting to an often lengthy and expensive judicial review. In keeping with its business model, the Office attempts to address concerns by encouraging dialogue before proceeding (if all parties agree) with a more formal alternative dispute resolutions process.

150. Procurement practice reviews carried out by the Office are proactive and focused on the prevention of problems. The Office selects topics for review based on input from stakeholders, either through inquiries and complaints or gathered as part of outreach activities, and the reports on results are made public. The reviews are based on the Office's business model of collegiality and cooperation and seek to highlight good practices and identify areas for improvement of fairness, openness and transparency in federal government procurement.

151. The Office is in the process of launching a formative evaluation to discern whether it has implemented its mandate as intended and is on course. Results are expected in 2012; however, feedback to-date includes the following:

- The Office of the Procurement Ombudsman is looked upon as a neutral and independent body that stakeholders are willing to work with in a spirit of mutual cooperation to make improvements;
- The collegial approach to procurement disputes has been very well received;
- Parties involved in contractual disputes have indicated they appreciate the respectful environment the Office creates and the effect this had on their ability to deal with an unfavourable situation and move forward;
- Small and medium-sized enterprises have expressed their gratitude for assistance in resolving issues without a lengthy or costly investigation or the need to go to court when they have contractual disputes with government departments;
- Suppliers appreciate the prompt response from the Office; and government departments and agencies are implementing recommendations made by the Office to improve the fairness, openness and transparency of federal government procurement

Challenges and Risks

152. There were a number of challenges and risks identified during the design and implementation phase of the Office, including overlap/duplication with other functions in government; creating expectations that couldn't be realised; creating a position that would attract high calibre executives to give the required profile and credibility; and a limited pool of qualified employees. These risks were mitigated by consulting and coordinating activities with other oversight organisations; developing and implementing a communications strategy; classifying the Procurement Ombudsman position at a senior level; and hiring a mix of levels and occupational groups for the office.

Key Lessons Learned

153. As the formative evaluation of the Office has yet to be completed, it is difficult to state whether the creation of a Procurement Ombudsman has proved to be successful in enhancing transparency, accountability or integrity in the management of public funds. The Office does, however, have the power to influence these objectives as it makes public the results of its procurement practice reviews (which identify deficiencies with regard to fairness, openness and transparency) and provides recommendations for improvement. The Office follows up on these recommendations and the results are also made public.

Source: <http://opo-boa.gc.ca>.

CENTRALISING CONTROL OVER PUBLIC PROCUREMENT IN HUNGARY

Context

154. Responding to the public's growing demand for more integrity and transparency in public procurement procedures, in April 2011 the Hungarian government introduced a new decree on public procurement aiming at reinforcing central control over procurement procedures.

Government Decree on central control and authorisation of public procurement procedures

Objectives

155. The Government Decree 46/2011. (III. 25.) on central control and authorisation of public procurement procedures defines the control mechanisms of public procurement with value exceeding HUF 50 million. The Ministry of National Development (hereinafter referred to as Ministry) was given the authority to control:

- the public procurements of budgetary organs under the control or the supervision of the government,
- economic organisations in their trusteeship and in majority state ownership, and
- public foundations of the Government.

156. At least 15 working days before the start of the contract award procedure, the organisation aiming to conduct a public procurement procedure shall send the related documents to the Ministry. Without the consent of the Ministry, the contract award procedure shall not be launched. The Ministry has the right to send an observer to any contract award procedure. At least 5 working days before the announcement of results, the contracting authority shall send a summary of the procedure results and the documents sent by the tenderer to be announced as the winner to the Ministry. Within 3 days, the Ministry shall formulate its opinion on the contract award procedure and the result shall be announced taking into account of this opinion.

Source: www.nfm.gov.hu.

REFORMING THE RECOURSE MECHANISM IN FRANCE: THE EXPERIENCE OF FRANCE***Context***

157. In line with the European Directive no.2007/66/CE, France adopted an Ordinance no.2009-515 on 7 May 2009 to reinforce the transparency and fairness of recourse procedures in public procurement.

Ordinance No.2009-515, 7 2009 on recourse procedures applicable to public contracts

Objectives

158. The aim of the Ordinance is to strengthen the judicial protection of economic operators that are unfairly excluded from government procurement, in violation with advertising and competition requirements.

159. France already reformed its recourse procedures in 1992 by facilitating the intervention of a judge in the award of a contract. The new ordinance complemented this measure by guaranteeing that the recourse automatically suspends the contract award until a final decision is taken by the judge. Additionally, it also allows an economic operator to request a judge's intervention after the award of a contract. The judge can therefore cancel or shorten the duration of a contract, or impose heavy penalties if the contract is signed in violation of advertising or competitive requirements (ex. publishing a tender notice in the Official Journal of the European Union).

INNOVATION THROUGH PROCUREMENT

PROMOTING ENERGY SAVINGS THROUGH THE USE OF INNOVATIVE PUBLIC PROCUREMENT IN ITALY

Context

160. Following the Communication from the European Commission COM (2003) 302, on the Integrated Product Policy and the Communication COM (2008) 400, on Public procurement for a better environment, by the Law n. 296 of December 27, 2006, Italy adopted a National Action Plan for Green Public Procurement (GPP NAP), providing minimum environmental criteria (CAM) on 11 categories of services and goods.

161. In order to monitor the data on those rules, the Authority for the Supervision of Public Contracts³, built an electronic system, by means of a memorandum of understanding signed with the Ministry of Environment, on October 2010 (as the independency of the Authority).

162. Additionally, Consip, the Italian central purchasing body, conducted research that showed that there is need to reduce costs of heating services as it absorbs 38% (about EUR 2.4 billion per year) of the national energy expenditure and accounts for about 5% of the Italian energy market.

163. Combining the necessity to achieve cost savings and incentives for innovation in the energy sector's procurement, Consip launched a framework contract on integrated energy management services (i.e. heating services including improvement of energy efficiency, consumption reduction and CO₂ emissions avoidance).

The Integrated Energy Management Services

Objectives

- The Integrated Energy Management Services aimed at promoting innovation in procurement area of the energy sector in order to decrease the energy consumption of the public administration.

Implementation Process

164. Pre-procurement market consultations were carried out using online questionnaires addressed to the public administration, businesses and the main trade associations by Consip, in collaboration with the Ministry of Economy and Finance.

165. Consip then undertook a market analysis based on historical data, questionnaires responses published on Consip's portal. Suppliers were engaged and involved in the design of this initiative.

166. Consip moved from an initial tender, designed in 2002, for heating services only, to a more sophisticated tender, in 2006, named "Integrated Energy Management Services", offering a combination of heating services and energy management tools. This tender was designed and implemented in around one year.

3 Authority responsible to ensure the collection and processing of national data on public procurement

Impact and Monitoring

167. The tendering process was an open procedure; split into twelve geographical lots which were awarded to five different suppliers on the basis of the most economical advantageous tender (MEAT), whereby 70% was allocated to price and 30% to quality.

168. The main feature of this performance contract was to reach and maintain a consistently held temperature (i.e. 20°C) throughout public buildings (public offices, schools, prisons, universities, etc.) during a period of five years' time.

169. This initiative allowed the public administration to improve the efficiency of energy consumption and consequently reduce pollution. Therefore, the supplier was required to ensure a minimum level of energy reduction for primary energy consumption of the whole building/heating plant system, measured in tonnes of oil equivalent (TOE). The supplier was also required to provide evidence of the results obtained; credibility was certified by the AEEG (Italian Regulatory Authority for Electricity and Gas) who operate and maintain heating facilities.

170. The Integrated Energy Management Services achieved:

- 27% cost savings for public administrations involving approximately 5 000 buildings;
- Executed contracts had a total (estimated) financial value of EUR 800 million;
- Enhanced competition on technical features was included in the tender;
- Contract duration of five years.

171. The principle environmental impacts are related to CO₂ emissions caused by energy consumption. In order to reduce these impacts, the contract included a performance clause requiring a minimum amount of energy saved (375 TOE). Actual energy saved reached 6 000 TOE, which is much higher than the minimum required, resulting in saving 4 800 tonnes of CO₂ emissions.

172. The procurement process will also have the following long term impact:

- At the end of the contract, the public administration owns the equipment installed by the suppliers;
- If all Italian public authorities would use Consip's framework contracts, the cumulative effect would be around EUR 100 million worth of savings.

Challenges and Risks

173. In order to save energy consumption at a national level, Consip adopted a strategy based on energy performance contracts. The basic idea is that the supplier of the energy service is motivated and encouraged to optimise energy consumption and resource management to improve his profitability. The biggest challenge was to continuously monitor the suppliers' performance in the framework of the contract.

174. A set of green measurements were introduced in the following elements of the tender.

- Technical specifications:

- Consistently held temperature (e.g. 20°C) to be preserved inside public buildings (public offices, schools, prisons, universities, etc.) during the average Italian heating season (i.e. 8 hours for 4 months);
 - Installation of electronic meters and constant monitoring for the buildings' indoor temperatures;
 - Online monitoring activities (using eMeters) and online assistance;
 - Assessment of the optimal level of consumption for heating and energy services;
 - Energy audit performed for every building.
- Award criteria:
 - Technical report (for each building receiving energy services) including a specific study on the interaction between building users and its energy system;
 - Publication of the environmental assessment and/or social budget and/or sustainability report;
 - Infrared photography report for each building receiving the energy services.

175. The supplier is compensated at the end of the service delivery, having achieved the predetermined levels of performance. The award criteria are aimed at encouraging suppliers to reduce primary energy consumption and CO₂ emissions of the entire building/heating plant system by measures such as substitution of hot-water heating, insulation, renewable thermal sources, etc. All the suppliers involved were able to comply with the technical criteria requested.

Key learning aspects

176. The success of this framework contract has helped Italian public authorities to play an exemplary role in energy savings while complying with Directive 2006/32/EC on energy end-use efficiency and energy services as well as their procurement obligations.

177. In the new edition of this framework contract, energy savings will be monitored both by Consip and the public administrations which occupy the buildings where a consistently held temperature of 20° C is held, with penalties potentially being applicable. The main changes expected are:

- Remuneration of the suppliers will take into account both physical and architectural features of buildings (for example, type of windows, insulation);
- Variable duration of contracts to increase the pay-back period for the supplier (from five to seven years);
- Increase in the minimum level of reductions requested (in TOE);
- Multiple services offered by the supplier (for example, energy certification)

PROMOTING COMPETITIVENESS THROUGH INNOVATIVE PUBLIC PROCUREMENT: THE EXPERIENCE OF AUSTRIA

Context

178. The Austrian government has developed an innovation and technology policy to increase the competitiveness of Austrian companies, in particular small and medium sized enterprises, and therefore contribute to developing their employment potential.

179. This innovation and technology policy focused on using public procurement to promote innovation. A survey conducted by the Federal Ministry for Economic Affairs and Labour showed that public procurement in Austria accounts for approximately 14% of GDP (EUR 40 billion) and that more spending on innovation would generate up to amounts of EUR 0.8 to 2 billion of added value. This orientation towards using public procurement to promote innovation was already encouraged in 2007 through a “procure innovatively” policy and was further developed in line with international standards and good practices (EU directives, OECD Recommendation).

Fostering innovation through public procurement (IÖB)

Objectives

180. Created to increase innovation activities in enterprises and create new markets for innovation, the *Innovation through public procurement (IÖB)* guiding concept of the federal government’s Innovation and Technology Policy will support:

- The purchasing of pre-commercial innovations to support research and development by providing a market to newly developed products;
- The purchasing of innovative products for common used goods and services by the federal and local public institutions.

181. This measure will allow Austria to bolster its competitiveness, modernise its infrastructures and encourage companies, including small and medium enterprises, to develop innovative products.

Implementation Process

182. The development of the *Innovation through public procurement (IÖB)* guiding concept was lead by the Federal Ministry for Economic Affairs and Labour and the Federal Ministry for Transport, Innovation and Technology in cooperation with the Federal Procurement Office and the Austrian Institute of Technology. A wide consultation was also undertaken with governments’ agencies, local governments and the private sector (including small and medium enterprises).

183. An inter-ministerial Task Force will also be established to mainstream procurement policy instruments and processes to effectively implement this measure along with other procurement policies and goals. This task force will set the strategic orientations of this guiding concept in order to set the evaluation and impact indicators, the implementation timeframe and the necessary policy adjustments.

Source: <http://www.bmwjf.gv.at/ForschungUndInnovation/InnovationsUndTechnologiepolitik/>.

BRIDGING THE PRE-COMMERCIALISATION GAP THROUGH PUBLIC PROCUREMENT IN CANADA

Context

184. In the framework of the *Canadian Government Federal Budget of 2010*, a two year pilot program was launched to support Canadian businesses to commercialize their innovative products and services. The Canadian Innovation Commercialization Program (CICP) promotes the purchase of Canadian pre-commercial products and services in the late stages of research and development with the intent of testing and evaluation.

185. This programme responds to the demands of Canadian businesses to develop marketplaces for innovative goods and services through the purchasing power of the government.

The Canadian Innovation Commercialization Program (CICP)

Objectives

186. Created to bolster innovation in Canada, the *Canadian Innovation Commercialization Program* will help companies bridge the pre-commercialisation gap for their innovative products and services by:

- Awarding contracts to entrepreneurs with pre-commercial innovations through an open, transparent, competitive and fair procurement process;
- Testing and providing feedback to these entrepreneurs on the performance of their goods or services;
- Providing innovators with the opportunity to enter the marketplace with a successful application of their new goods and services;
- Providing information on how to do business with the government.

187. The CICP will target innovations in four priority areas: a) environment, b) safety and security, c) health, and d) enabling technologies.

Implementation Process

188. *The Canadian Innovation Commercialization Program* is managed by the Department of Public Works and Government Services Canada (PWGSC), and implemented by the Office of Small and Medium Enterprises (OSME). OSME was created, within the Department of Public Works and Government Services, in 2005 as an organisation that would support the accessibility of Small and Medium Enterprises in federal government procurement activities. Since its creation, OSME has worked extensively with Canadian companies to identify their challenges in doing business with the Canadian Federal Government. This knowledge and ongoing dialogue with industry has been incorporated into the design and implementation of the programme to provide a unique procurement opportunity that is open and accessible to businesses of all sizes. Throughout the development of the program, Canadian Federal Government Departments and Agencies, Canadian Businesses, with a focus on small and medium enterprises and Industry Associations, have been consulted on an ongoing basis. To support the implementation and operation of the CICP, the programme is working with Canadian federal government departments and agencies, Canadian businesses and industry associations who can participate or support the promotion of the program.

189. The pilot programme was announced in the Canadian Federal Government Budget in March 2010 to fund up to 20 projects. Its first Call for Proposals was released in October of 2010, with the first group of 19 pre-qualified proposals announced in February 2011, and an additional 8 announced in July 2011 allowing the program to meet its Budget commitment in its first round. A second round of Call for Proposals was announced in July 2011, and a third and final round is planned for winter 2011.

Impact and Monitoring

190. The experience of the Office of Small and Medium Enterprises, in conjunction with support from contracting experts within the Department of Public Works and Government Services, and external support from the Canadian Federal Government organisation, the National Research Council – Industrial Research Assistance Program, has allowed the Program to successfully address the challenges faced by businesses who wish to sell their innovative products and services to the Canadian federal government. The mix of contracting and technical expertise, in addition to the industry knowledge of the Office of Small and Medium Enterprises, allowed for the mix of different experts to design an innovative approach to public procurement.

191. The tools employed by the programme allow for straightforward data collection and active monitoring at no additional cost. To support efficient program operation, an internal evaluation has been conducted, but it is too early in the program to determine the tools' impact on value for money.

Challenges and Risks

192. The Programme in itself is considered to be innovative, requiring legal and policy support in its design, implementation and operation to ensure it is compliant with Canada's trade agreements, both domestic and international, and does not conflict with Canadian federal policies and regulations. The Programme was also launched in a period where governments, both in Canada and globally, are seeking to reduce spending, making the approach to the programme reflective of these challenges and ensuring that it provides good value for money.

193. The Office of Small and Medium Enterprises have been actively working with barriers that exist in federal procurement, both in Canada and internationally. This experience has supported the Programme to be responsive to these challenges. Additionally, the Programme has worked with central organisations within the government to ensure its approach is synchronised with the government's objectives.

194. From a value for money perspective, the programme has been designed to be cost effective from an operational perspective. Examples include the use of an electronic proposal submission system that allows businesses to electronically submit proposals and evaluators to review, resulting in reduced paper and travel requirements. The integration of the programme's website include elements included in a Call for Proposals document to increase the accessibility of its information, while reducing the size of its solicitation documents; and the outreach strategy of the program hosts national bidders conferences online to answer specific questions on the program as well as partnering with organisations with similar mandates to co-host promotional events. These outreach efforts allow for more accessibility and consistency of critical program information.

Key Lessons Learned

195. Entrepreneurs and innovative businesses experience significant barriers to their success and, in many cases, they just need someone to take a chance on them. Following the first round of Call for Proposals, it became apparent there is a significant interest from industry with 375 proposals submitted. The response from industry has shown that there is a strong desire for a program like the Canadian Innovation Commercialization Program.

Source: <https://buyandsell.gc.ca/initiatives-and-programs/canadian-innovation-commercialization-program>.

GREEN PROCUREMENT

REVIEWING THE IMPLEMENTATION OF THE POLICY ON GREEN PUBLIC PROCUREMENT IN CANADA

196. The *Policy on Green Procurement* was developed in 2006 in response to the issues highlighted by the Commissioner of the Environment and Sustainable Development:

- Central direction on green procurement is missing
- There is no federal green procurement policy or strategy
- The government is not using green procurement as a tool to achieve sustainable development objectives
- Key federal documents do not address the responsibilities of buyers and suppliers as they relate to green procurement
- There is no basis for assessing progress on green procurement.

197. As part of its ongoing commitment to improve the environment and the quality of life of Canadians, the *Policy on Green Procurement* seeks to reduce the environmental impacts of government operations and promote environmental stewardship by integrating environmental performance considerations in the procurement process.

Objectives

198. It is expected that the *Policy on Green Procurement* will:

- Demonstrate environmental leadership and influence industry and citizens to use environmentally preferable goods, services and processes;
- Stimulate innovation and market development of, and demand for, environmentally preferred goods and services, making these available and mainstream for other sectors of society;
- Support emerging environmental technologies ;
- Benefit the environment by contributing to environmental objectives;
- Result in more environmentally responsible planning, acquisition, use and disposal practices in the federal government; and
- Support a healthier working environment for employees and for citizens in general through the purchase of environmentally preferable goods and services.

199. Immediate outcomes include:

- Increased consistency and transparency in green procurement reporting requirements for all government departments
- Increased availability of appropriate information and tools for use by all government departments to implement the *Policy on Green Procurement*

Implementation process

200. The implementation strategy for the *Policy on Green Procurement* has the following principles:

- Integration of environmental performance considerations in existing procurement processes, policies, procedures, tools and instruments using a lifecycle analysis approach in the context of achieving value for money;
- Monitoring and reporting (e.g. through Reports on Plans and Priorities and Departmental Performance Reports) to support continuous improvement in the integration of environmental performance in procurement, including through the Federal Sustainable Development Strategy;
- A coordinated government-wide approach to optimize information-sharing, consistency of approach and performance measurement.

Implementation activities are focused in three key areas:

- Inclusion of environmental specifications and evaluation criteria in centrally managed procurement administered by Public Works and Government Services Canada;
- Development and sharing of green procurement information and tools such as guidelines and training to support all departments and agencies;
- Systemic integration of environmental performance in procurement decision-making processes of all departments, including establishing departmental green procurement targets that are aligned with government priorities.

201. Development and implementation support of the policy has been lead by Public Works and Government Services Canada in collaboration with Environment Canada, Natural Resources Canada, and Treasury Board of Canada Secretariat.

202. Within Public Works and Government Services Canada, support of policy implementation is divided between the Office of Greening Government Operations (OGGO) and Acquisitions Branch. OGGO leads the overall management and support of government-wide policy implementation, including interdepartmental engagement. OGGO also develops tools such as training material and guidance and leads the development and implementation of the government-wide planning and reporting mechanism for greening of government operations. Acquisitions Branch supports the achievement of the policy objectives by integrating environmental performance considerations into its centrally managed federal procurement instruments, policies, procedures and business tools, including supplier communication tools.

203. Deputy heads of all departments and agencies as defined within the meaning of Section 2 of the *Financial Administration Act* are required to ensure that the objectives of green procurement are realized in their organizations.

204. Stakeholders include federal Government of Canada employees (such as procurement and materiel management staff) and suppliers.

205. Government of Canada departments carrying additional responsibilities are Public Works and Government Services Canada, Environment Canada, Natural Resources Canada, and Treasury Board of Canada Secretariat.

206. Consultations on the policy design and implementation were undertaken through an interdepartmental task group on green procurement and bilateral meetings with a number of federal organizations.

207. Public Works and Government Services Canada conducts consultations with centralized procurement officers, client department procurement officers and suppliers throughout the process of including environmental specifications and evaluation criteria in centrally managed procurement.

Impact

208. Significant progress has been made in implementing the *Policy on Green Procurement*.

209. Fundamental policy machinery is in place, including:

- a governance structure
- an implementation plan
- guidance and tools
- free on-line training available to Government of Canada employees from the Canada School of Public Service (course C215)

210. The Government of Canada establishes government-wide procurement instruments for commonly procured goods and services. Departments purchase from these procurement instruments. Green procurement is integrated into the development process of these instruments through the use of Green Procurement Plans. Green Procurement Plans are developed in collaboration with procurement experts for the given commodity and client departments and the plans:

- Outline key environmental impacts for a given commodity;
- Indicate the procurement actions that can be taken to mitigate these impacts; and
- Gather information on the progress of implementing the *Policy on Green Procurement* for a given commodity.

211. Suppliers are actively engaged in this process to assess their readiness to respond to environmental performance criteria, through routine consultations with industry, via surveys and Requests for Information. This information is communicated in the Green Procurement Plan and taken into consideration. Environmental performance considerations are phased into the instruments such that each renewal contains increasingly stringent criteria. The Green Procurement Plan includes a scorecard that outlines the current criteria being used, the criteria being included in the current renewal and the criteria anticipated for the next renewal. This information is communicated to suppliers, allowing them time to prepare for the next renewal, thus maintaining supplier competition.

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

- All Desktop and Notebook systems as well as monitors are certified through the Electronic Product Environment Assessment Tool (EPEAT Silver level).

- Desktop systems and monitors are EnergyStar 4.0 certified.
- Monitors are TCO'03.
- Desktop systems include high efficiency power supplies (80plus).
- All manufacturers represented on the Standing Offer are members in good standing of a recognized entity specifically established to address end-of-life electronics recycling and reuse in Canada.
- Desktop Category 1.0D and 1.0A Green PCs have reduced materials (with a smaller case and integrated components) and lower power consumption. For further examples, see the Green Goods and Services List.

213. Where no centralized procurement instrument exists, the environmental considerations used for similar goods and services can be used in other procurement activity. The guidance and tools found on the Office of Greening Government Operations website and the Acquisitions Branch Green Procurement website should also be consulted.

Impact and Monitoring

214. All departments and agencies are required to report their forecasted and actual progress on green procurement annually through publically available parliamentary reports (the Report on Plans and Priorities (RPP) and Departmental Performance Report (DPR), respectively.) Beginning in 2008/09 Treasury Board Secretariat Guidance provided specific instructions to all departments and agencies on how to report their progress on green procurement in their annual RPP and DPR.

215. An evaluation framework and government-wide performance measures were developed in order to monitor the policy implementation as well as assess its effectiveness after five years of being implemented. Public Works and Government Services Canada is currently conducting an evaluation of the policy in order to assess its relevance and performance.

216. Monitoring of the inclusion of environmental specifications and evaluation criteria in centrally managed procurement administered by Public Works and Government Services Canada is ongoing.

Impact and Monitoring

217. The *Policy on Green Procurement* is founded on the principle of value for money and requires the integration of environmental performance considerations into the life-cycle costs of goods, services and construction, as opposed to focusing only on the up-front acquisition costs. Many factors are taken into consideration when assessing "value" and making procurement decisions, for example, quality, performance, price, environmental performance and availability.

218. Furthermore, using a life cycle approach to examine costs associated with a commodity allows us to consider not just the purchase price but also those costs associated with operating, maintaining and disposing of the good.

219. For example, the procurement tool for purchasing computers (Computer Acquisitions Guide) contains two columns with pricing; Price and Evaluated Price. The "Price" column is the actual cost of the base system. The "Evaluated Price" column is only used for evaluation purposes. It's this score that allows the site to rank the system according to life cycle costs. All the systems on the Standing Offer are given a

rank based on a weighted average of their Price, Performance, Hardware Features, Total Cost of Ownership (TCO) Features, Environmental Features, and Usability. The life cycle approach to costs allows users to see what the best value computer is and helps them understand that the lowest base price computer may not always be the best value computer.

Challenges and Risks

220. The main challenges faced included:

- Maintaining procurement competition while advancing greening
- Balancing environmental and other procurement objectives
- High volume and variety of purchasing and people involved
- Requires horizontal collaboration and strong engagement

221. These challenges were foreseen based on previous experience implementing socio-economic objectives in the Government of Canada procurement process. They were managed as follows:

- Competition is maintained by using a phased in approach for the inclusion of environmental performance considerations using a process that engages both suppliers and clients.
- Environmental objectives are balanced with other procurement objectives by applying a value for money approach, increasing awareness of environmental issues, and increasing maturity of the market.
- The high volume and variety of purchasing and people involved is managed by prioritizing implementation activities according to spend, environmental impact and ease of implementation. For instance, prioritizing the integration of environmental considerations into centrally managed procurement instruments.
- One organization (Public Works and Government Services Canada) has been tasked with horizontal collaboration and engagement across the Government of Canada.

Key Lessons Learned

222. Key learning aspects included:

- Centre of expertise (i.e. Public Works and Government Services Canada) that can provide:
- Foundation of training and governance
- Detailed guidance and operational tools
- Systemic integration in centralized procurement
- Partner organizations (i.e. Office of Greening Government Operations and Acquisitions Branch) that separate policy implementation roles and responsibilities into policy machinery and operational implementation.

- Leveraging of Federal Sustainable Development Strategy targets (i.e. integrating into upcoming standard processes).
- Use of a principles based approach to keep pace with advances in technology and ensure that reductions in environmental impact are measured over the lifecycle of a good or service.
- Use of a phased approach to maintain competition and seek continual improvement.

PROMOTING THE SUSTAINABLE DEVELOPMENT NATIONAL STRATEGY THROUGH PROCUREMENT IN AUSTRIA

Context

223. In line with the commitments made in international agreements aiming at reducing carbon emissions and promoting environmental friendly policies – such as the Kyoto Protocol and related European directives – the Austrian government has adopted a National Action Plan for Sustainable Public Procurement by Council of Ministers Decree on 11 July 2007.

224. According to the Action Plan, sustainable public procurement refers to:

- Environmentally friendly goods and services
- Procurement supporting suppliers who take social standards such as Fair Trade or Corporate Social Responsibility into account
- Transparent and efficient management of public resources
- Procurement that achieves social, environmental and social policy goals

225. This Action Plan builds on the 2007 Energy Efficiency Action Plan which promotes the purchasing of energy-efficient products in the public sector.

National Action Plan for Sustainable Public Procurement

Objectives

226. The National Action Plan for Sustainable Public Procurement aims at:

- Promoting the leading role of Austria in the area of sustainable public procurement;
- Promoting sustainable public procurement in the public sector;
- Mainstreaming sustainable procurement policies and measures;

Eliminating barriers / obstacles to sustainable procurement.

Implementation Process

227. The Action Plan targets all federal governments' entities. The first steps taken by the federal government to effectively implement the Action Plan included:

- Bridging different entities which are responsible for public procurement in the public sector;
- Establishing working groups which will implement the various components of the Action Plan (budget concerns, social criteria, cost benefit analysis of environmental friendly goods and services, evaluation of the progress made in implementing the Action Plan);

- Providing information on the Action Plan objectives and results to suppliers and the public at large.

228. The Action plan for Sustainable Public Procurement is structured into eight steps applicable at the organisational level:

- Complying with the European Commission Ecological Toolkit's list of goods and services for which environmental criteria should be pursued when procured, namely: paper and graph paper, cleaning supplies and cleaning services, computers, monitors and other IT devices, textiles, furniture, cars, commercial vehicles, buses and bus services, waste management, products for the construction of gardens, electricity and construction;
- Complying with the national list of environmental friendly goods and services to be procured, as defined by national policy and guidelines namely: interior design, public works, domestic appliances, toilet paper, office products, green events;
- Following the federal government guidelines, criteria, checklist and technical specifications when engaging in public procurement ;
- Evaluating the use of sustainable public procurement in public organisation;
- Taking into account scientific studies conducted by ecological associations and other environmental criteria when purchasing goods and services ;
- Since December 2009, actively participating in the discussions and experience-sharing of dedicated networks for procurement officials, ;
- Since 2010, participating in national events on sustainable public procurement;
- Contributing to the monitoring of the Action Plan for Sustainable Public Procurement.

Source: www.nachhaltigebeschaffung.at.

PROMOTING ENVIRONMENTAL AND SOCIAL RESPONSIBILITY THROUGH PROCUREMENT IN NORWAY

Context

229. In line with its commitments to international agreements to reduce carbon emission and promote environmental friendly policies, the Norwegian government adopted several environmental policies in 1990 to set long-term strategic objectives and measurable time-bounded targets.

230. In its 2006-2007 Environmental Policy, the government of Norway identified reducing public procurement's environmental impact as a key area needing to be addressed. Consequently, a three year (2007-2010) Environmental and Social Responsibility in Public Procurement Action Plan was drawn up to ensure that the environmental impact of public purchases was minimised and that the government take a pioneer role in this area. Recognising the impact of mainstreaming the different environmental public sector polices to increase their effective implementation, the Norwegian government reinforced policy and institutional coherence in the area of sustainable public procurement.

Action plan for Environmental and Social responsibility in Public Procurement: mainstreaming environmental policies

Objectives

231. The Norwegian government launched an initiative to further mainstream the sustainable public procurement policy with general environmental policies. This reform aims at avoiding duplicate requests and strategic directions concerning implementation measures that may be given to and, in turn, confuse procurement officials.

232. This reform increases the effectiveness of sustainable procurement measures and provides further guidance to procurement officials on the policy objective to pursue.

Implementation process

233. This initiative required institutional changes in order to increase the coherence of its structure and ensure the effective implementation of sustainable public procurement measures. In particular, the responsibility of implementing the Action plan for Environmental and Social responsibility in Public Procurement was transferred to the Ministry of Environment to the Agency for Public Management and e-Government (Difi), which is the central public procurement department under the Ministry of Public Administration.

234. Additionally, several communication materials were developed to support procurement officials in implementing sustainable public procurement (e.g. handbooks, internet sites for public procurement officers).

Impact and Monitoring

235. This institutional readjustment was achieved successfully, partly due to the fact that the Agency for Public Management and e-Government (Difi) was recently established and so was able to build up staff who had the required qualifications. In addition, the Ministry of Environment made significant savings and could dedicate further resources to other policy areas.

236. In order to ensure that the sustainable procurement policy is in line with wider environmental policies, the Agency for Public Management and e-Government (Difi) as well as the Ministry of Environment organise regular monitoring meetings and are currently evaluating the implementation of the Action plan for Environmental and Social responsibility in Public Procurement. The use of GPP criteria in procurement is also monitored on an ad hoc basis (every 1-2 years – the most recent evaluation was performed in July 2011 covering the period from October 2009 to June 2011).

Challenges and Risks

237. In the implementation process of this reform, two challenges were observed: a) building multidisciplinary teams that work well together – mainstreaming requires getting procurers, lawyers and environmentalists to see each other as useful resources at both practical and policy levels and b) effects of budgetary changes at the organisational level.

Key Lessons Learned

238. A general consensus has been reached on the importance of mainstreaming environmental policies with sustainable public procurement policies.

239. GPP should be integrated within “wider” public procurement policy implementation. For example when a tool for “environmentally conscious rental of office space” were developed, some expected this to cover all aspects of the procurement (including the environmental – which are mandatory in Norway, whereas others expected it to just cover the environmental aspects. So Difi concluded that more clarity on the definition of these various concepts is needed. Additionally, the increasing use of IT-based procurement tools requires formalisation of the definition of environmental requirements and how these characteristics are documented in the offers from suppliers (e.g. in electronic product catalogues).

Sources:

Report No 26 (2006-2007) to the Storting “the Government’s Environmental Policy and the State of the Environment in Norway

www.regjeringen.no/nb/dep/md/dok/regpubl/stmeld/2006-2007/report-no-26-2006-2007-to-the-storting.html?id=521745

The Norwegian Action Plan 2007-2010 “Environmental and Social Responsibility in Public Procurement” (sustainable public procurement) www.regjeringen.no/en/dep/md/documents-and-publications/reports-and-plans/Plans/2007/Environmental-and-Social-Responsibility-.html?id=473352

BALANCING ENVIRONMENTAL AND ECONOMIC CRITERIA IN PUBLIC PROCUREMENT: THE EXPERIENCE OF NEW ZEALAND

Context

240. The Sustainable Government Procurement Project was launched in February 2006 by Prime Minister Helen Clark in conjunction with five other sustainability initiatives: Business Partnerships for Sustainability, Enhanced Eco-verification, Towards a Carbon Neutral Public Service, Towards Zero Waste, and the Household Sustainability Programme

241. The working definition of ‘sustainable procurement’: “a process whereby organisations meet their needs for goods, works and utilities in a way that achieves value for money on a whole of life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment”. This definition is taken from the report of the United Kingdom Government’s Sustainable Procurement Taskforce (*Procuring the Future, Sustainable Procurement Task Force, 2006*). It is also the basis for *the Australian and New Zealand Government Framework for Sustainable Procurement* issued in 2007 by the Australian Procurement and Construction Council (APCC), of which New Zealand is a member. The *Framework*, which is published on the APCC website⁴, sets out principles and best practice guidance by which agencies can implement sustainable procurement in a flexible and balanced manner.

Sustainable Procurement policy

Objectives

242. By aggregating government procurement and then introducing a sustainable procurement policy, the important size and volume of the state sector procurement will encourage suppliers to provide further green products. In this perspective, this policy will:

- Support government leadership in sustainability through government procurement, it will for example reduce the carbon and waste production of the government;
- Raise awareness and increase knowledge of sustainability issues in the government market through developing knowledge and methods for incorporating sustainability considerations into procurement practices and arrangements (e.g. Syndicated procurement contracts; standards tender and contract clauses);
- Develop a common understanding and consistent approach to sustainable procurement across the wider public sector
- Accelerate the adoption of more sustainable procurement practices by purchasing agencies
- Focus purchasing agencies’ sustainable procurement efforts on areas of greatest collective impact
- Improve value for money over the whole of life outcomes from departmental spending and operational costs saving through better demand and waste management, and the use of more energy, water and resource efficient goods and service.

Implementation Process

243. The programme is administered by the Ministry of Economic Development's Government Procurement Solutions team. The 32 core public service departments (plus Police and the New Zealand Defence Force) are required to follow the policies, while other public entities are encouraged to. The core departments were consulted on the design and implementation of the policy. The policy took approximately two years from the point of development to implementation.

244. Additional guidance for all public entities on sustainable procurement was produced by the Ministry of Economic Development in 2010. This includes guidance on promoting sustainable, environmental, economic and social policy goals through public procurement⁵.

Challenges and Risks

245. Sustainable government procurement can support the market towards greater availability and competitiveness of "green" products and service. However while emphasising the importance of sustainable procurement; governments need to ensure that there is not any disruption of supply or restriction of competition. Verification of the effective sustainability of product/service provided is the basis for credible and reliable standards.

246. More generally, appropriate guidance and flexibility are needed for agencies to balance "green" (environmental) criteria with economic (value for money) and social responsibility criteria in an integrated best practice sustainable procurement approach.

Key Lessons Learned

247. In a decentralised market-based system the key to effective implementation of "green procurement" in a wider sustainability context is intensive consultation with procurers and business (suppliers) in order to achieve "buy-in" and effective implementation. In New Zealand this was facilitated by targeting selected product/service categories to allow an initially focused sustainable approach rather than just a generalised approach. Linkage of sustainability with value for money savings in the context of whole-of-life costs and benefits provides a powerful incentive for government to effectively adopt a sustainable procurement policy.

5 See the series of Guides to Sustainable Procurement 1-7 beginning at www.business.govt.nz/procurement/pdf-library/agencies/Guide1.pdf

PROMOTING THE USE OF ECO-FRIENDLY GOODS IN PROCUREMENT IN JAPAN

Context

248. In line with the Kyoto Protocol Target Achievement Plan - approved by the Japanese Cabinet in 2005 - and with other related policies and law such as the Basic Environmental Law of 1992 and the Basic Law for Establishing the Recycling-based Society of 2000, Japan adopted the a law in 2000 to promote the procurement of eco-friendly goods and services by the State and other entities. This law aims at establishing an adequate legal framework to promote green purchasing.

249. The term “eco-friendly goods” refers to a) goods which contribute to reducing greenhouse gas b) goods which can be reused, recycled or generate a limited amount of waste thus contributing to the reduction of ‘environmental impacts’. Similarly, the term “eco-friendly services” refers to the use of eco-friendly products when providing services.

Law concerning the promotion of procurement of eco-friendly goods and services by the State and other entities and the basic policy on promoting green purchasing

Objectives

250. By promoting the purchase of eco-friendly goods in all state institutions, the Japanese government aims at becoming a driver for suppliers to develop more eco-friendly products by triggering a ripple effect on markets. In this perspective, the law’s focus is to:

- Provide a legal framework for the State, independent administrative institutions and local governments to procure eco-friendly goods and service;
- Promote the dissemination of information on eco-friendly goods and service;
- Promote a shift in demand towards eco-friendly goods and service;
- Move toward a sustainable economic development with a lower environmental impact.

Implementation Process

251. In order to comprehensively and systematically promote green purchasing, the Law was complemented with a basic policy which defines guidelines on how to select eco-friendly goods (e.g. recycled paper, low emission vehicles) across state institutions and local governments . In fact, on a yearly basis, each institution publishes a procurement policy defining the eco-friendly goods which will be procured. Institutions then report back to the Ministry of Environment on the percentage of eco-friendly goods purchased during the fiscal year.

252. This legislation is applicable to ministries, courts and state agencies as well as to independent administrative institutions (as defined by the Law on General Rules on Independent administrative Institutions and the Law on the Establishment of the Ministry of Public Management Home Affairs, Post and Telecommunication) and state owned enterprises.

253. The legislation also encourages companies and citizens to purchase eco-friendly goods. In this perspective, manufacturers and importers are required to provide information on the environmental impact of their product and eco-labelling is requested in order to promote eco-labelling programs and in compliance with international standards.

254. Additionally, the Ministry of Environment has established guidelines of reliability for eco-friendly goods and services. These guidelines will be expected to make those who produce and sell goods and services to make more efforts in order to assure the reliability regarding their environmental specs.

Impact and Monitoring

255. Public Institutions report back to the Ministry of Environment on the percentage of eco-friendly goods purchased during the fiscal year, The purchasing data reported by the national entities is added up.

The result of fiscal year 2009 shows that most procurement items purchased by the national entities meet the standards based on Law Concerning the Promotion of Procurement of Eco-Friendly Goods and Services.

PROMOTING CARBON REDUCTION THROUGH PUBLIC PROCUREMENT IN ESTONIA

Objectives

256. The objective is to procure eco-friendly goods in the transport sectors in particular through significantly renewing the quality of rolling stock used for provision of public passenger services and thereby reduce the negative environmental impact of transport sector and increase the popularity of public transport (which leads to further greening effect as the use of more polluting private cars should decrease).

257. In order to implement the measure the government (through Estonian Road Administration) purchased 110 new environmentally efficient buses, which shall be put into use for provision of public passenger services.

Impact and Monitoring

258. Establishing environmental requirements did not provide financial savings but on the other hand the green requirements did not increase the procurement cost substantially either. It is however predicted that introduction of efficient and more convenient buses will decrease the running costs of public passenger services and raise the number of passengers which will lead to more self-driven public transport system and hopefully reduces the need for subsidy.

259. The positive environmental impact, including achieved greening effect can yet not be accurately calculated because the purchased buses have not yet been put into use. According the preliminary calculations the introduction of new more efficient buses and the increase of public transport users should result in saving 10600 tonnes of CO₂ emissions annually. In addition, the introduction of new and more comfortable rolling stock and the resulting increase of public transport users should make the provision of public service more effective (i.e. self-driven) and reduce the need for subsidies.

260. The evaluation of this measure will be structured into by phases and conducted by Working team and an Executive committee.

Implementation process

261. The Ministry of Economic Affairs and Communication and the Estonian Road Administration are ensuring the effective implementation of this measure. However shipping companies, state institutions, public transport, public service operators), the Alliance of Estonian Automobile Enterprises, authorities in charge of organising public passenger services, bus manufacturers and marketers were also involved in the design and implementation of this policy.

262. Concerned parties suggestions were taken into account during the preparation of contract documents and technical specification. Seaports representatives were involved in the procurement process as members of procurement commission. Implementation of the contract are overseen by a working team, which involves representatives of shipping companies and seaports

Challenges and Risks

263. In the preparation phase of the public procurement it became evident that it is not possible to use some indicators characterizing the environmental efficiency of buses as an evaluation criteria. For example there is no standardized measuring methodology or compulsory laboratory tests that could be used to evaluate the fuel efficiency and CO₂ emissions of M3 vehicles (buses). The only possibility to evaluate these figures would have been by running tests by the contracting authority itself, but it would have been

too complex. An assessment based on results of different testing methods and conditions would not have guaranteed the equal treatment of tenderers therefore it was decided not to use such evaluation criteria.

264. The procurement of buses by government was a leading case in Estonian practice. Therefore the measure was initially heavily criticised by some companies acting in the field of regular passenger services. The carriers feared that the introduction of new model could affect their market position in a negative way. The model was also criticised by bus vendors operating in the Estonian market as it was clear that procurement of such a large quantity of buses will motivate bus manufacturers to take part in procurement directly and leave smaller manufacturers out.

265. These challenges were overcome by making a detailed analysis of similar work in Norway, Sweden and Finland additionally; juridical analysis were conducted by work teams to be sure that the project would be in correspondence to EU demands.

Key learning aspects

266. Involving different institutions ensures the effective implementation of such a measure.

267. The implementation of environmental procurements may include using leading technologies which might result in higher procurement cost. However it is essential to raise the awareness of the public on the green objective pursued by this measure and also clarify the purpose of this measure to smaller interest groups.