

OECD Public Governance Reviews

# Public Procurement Review of the Mexican Institute of Social Security

ENHANCING EFFICIENCY AND INTEGRITY  
FOR BETTER HEALTH CARE





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## Foreword

Efficiency and value for money are key principles which guide government action and are all the more important in times of fiscal consolidation. As an essential element of high-quality service delivery and an important part of public budgets and gross domestic products, public procurement is an area in which governments must meet the challenge of doing more with less.

Procurement is also the government activity most vulnerable to waste, fraud and corruption. At the Cannes Summit in November 2011, G20 leaders recognised the importance of fair and transparent government procurement systems in their commitment to promote integrity, transparency and accountability.

Over many years, the OECD has acquired a wealth of experience in identifying good practice in public procurement, leading to the elaboration of the 2008 *OECD Principles for Enhancing Integrity in Public Procurement*. The principles, agreed by all Member countries, were developed to help policy-makers reform the whole procurement cycle from needs assessment to contract management and payment.

Drawing on this expertise, the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) asked the OECD to review the integrity and effectiveness of its procurement system. IMSS is the largest health care and social security provider in Latin America, covering around half of Mexico's population, and is a major spending entity within the Mexican Government. The OECD has also conducted a review of bid-rigging in public procurement in IMSS, which complements the present review.

The review identifies the strengths of the IMSS procurement process. IMSS recently embarked on several initiatives, including streamlining procurement to achieve operational savings and to provide better services. IMSS is also co-operating with the Mexican Federal Competition Commission to prevent and deal with supplier collusion.

Although recent achievements have considerably strengthened IMSS procurement functions, several challenges remain. These include developing and communicating an explicit, clear and comprehensive organisational procurement strategy and ensuring appropriate collection of procurement data. The review also identifies knowledge and capability deficiencies that hinder the development of an efficient and effective procurement function. IMSS could create a specific procurement profession and certify procurement officials in order to reduce turnover and provide career opportunities. IMSS could also make its relationship with the market more efficient and dynamic, for example, through debriefings, to improve the performance of suppliers.

Based on the findings of the review and its recommendations, the OECD and IMSS are drawing up a roadmap for reform of the IMSS procurement function that would transform procurement from an administrative task to a core strategic instrument. Major stakeholders are now on board to strengthen IMSS public procurement, enhance spending efficiency and deliver improved public services to meet citizens' demands and expectations.

This review is part of the series of OECD peer reviews that help countries assess their procurement systems in line with their commitment to implement the OECD Principles in major spending areas.



Angel Gurría  
OECD Secretary-General

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## *Acronyms*

<b>BUO</b>	<i>Bolsa Única de Ofertas</i> Single registry of supplies
<b>CFC</b>	<i>Comisión Federal de Competencia</i> Federal Competition Commission
<b>DAED</b>	<i>Dirección de Administración y Evaluación de Delegaciones</i> Administration and Evaluation of Local Entities Directorate
<b>IMSS</b>	<i>Instituto Mexicano del Seguro Social</i> Mexican Institute of Social Security
<b>ISSSTE</b>	<i>Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado</i> State Workers Institute for Social Security and Services
<b>LAASSP</b>	<i>Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público</i> Law on Acquisitions, Leases and Services in the Public Sector
<b>LFACP</b>	<i>Ley Federal Anti-Corrupción en Contrataciones Públicas</i> Federal Law Against Corruption in Public Procurement
<b>LOPSRM</b>	<i>Ley de Obras Públicas y Servicios relacionados con las Mismas</i> Law on Public Works and Related Services
<b>MIC</b>	<i>Mejora Integral de las Compras</i> Comprehensive Improvement of Procurement
<b>MIPYMES</b>	<i>Micro, pequeña y medianas empresas nacionales</i> Micro, small and medium enterprises
<b>OIC</b>	<i>Órgano Interno de Control</i> Internal Control Office
<b>PEMEX</b>	<i>Petróleos Mexicanos</i> Mexican Petroleum
<b>POBALINES</b>	<i>Políticas, Bases y Lineamientos en Materia de Adquisiciones, Arrendamientos e Servicios</i> Guidelines on acquisitions, leasing and services
<b>PREI</b>	<i>Planeación de Recursos Institucionales</i> Institutional Resources Planning System
<b>SAI</b>	<i>Sistema de Abasto Institucional</i> Institutional Supply System
<b>SFP</b>	<i>Secretaría de la Función Pública</i> Ministry of Public Administration
<b>UMAEs</b>	<i>Unidades Médicas de Alta Especialidad</i> High specialty medical units





## Executive summary

### **Good governance in Mexico’s public procurement improves health outcomes while increasing efficiency and savings**

As in many countries, Mexico’s main providers in the health care sector are under intense demographic and financial pressure to deliver more and improved services with limited resources. Procurement is crucial to the effectiveness and viability of this sector as it accounts for considerable administrative and financial resources and is an essential element for service delivery. However, due to its complexity, the size of the financial flows it generates, and the close interaction between the public and private sectors, public procurement is also the government activity most vulnerable to waste, fraud and corruption. As such, good governance is necessary for enhancing credibility and public trust in the capacity of the health care sector to deliver timely and effective services to the public.

While health indicators of the Mexican population have improved over the past two decades, life expectancy at birth remains lower and infant mortality higher than in most OECD member countries. Health expenditures is the variable that contributes most to health status, yet Mexico had in 2009 a total health expenditure per capita only slightly more than a quarter of the OECD average and still has one of the lowest expenditure per capita on pharmaceuticals. Simultaneously, opportunities to increase health care spending may be limited in Mexico’s financially constrained health care sector. In that context, the procurement function is a key lever that can be used to improve the quantity and quality of products and services delivered in a timely manner, contributing to improving Mexican health indicators.

Against that background, the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social – IMSS*) covers almost 45% of the Mexican population and provides the largest number of health services in Mexico, making it the largest health and social security provider in Latin America. It is also a major spending entity of the Mexican government and about 75% of its procurement spending concerns goods, particularly medicines. Recognising the importance of public procurement in improving spending efficiency while maintaining high quality health services, IMSS requested the OECD in early 2011 to review the integrity and efficiency of its procurement system. The review aims to increase the openness and transparency of its procedures and help achieve higher effectiveness and efficiencies.

### **Recent centralisation efforts have achieved a variety of benefits, such as savings, expertise and standardisation**

A large part of IMSS’ public procurement function is highly decentralised, being embedded in 35 local entities and 25 high specialty medical units in charge of administrating its medical and social services to the population. In order to increase the cohesion of the system, various key decisions and strategies related to the procurement function have been

centralised, such as the dissemination of procurement policies and procedures. IMSS has also centralised procurement activities, through standardisation and consolidation of similar or complex requirements of the user areas. As a result, more than half of the value of its contracts is now issued by central units.

IMSS has recently embarked on several initiatives to improve its procurement function, such as streamlining procurement processes and consolidation of therapeutic goods (including medicines since 2008). In conjunction with the use of reversed auctions, these efforts resulted in savings of USD 2.8 billion between 2007 and 2010. Additional savings are achieved through participation in the joint negotiation of prices for patent medicines by various Mexican public health stakeholders. IMSS' centralisation initiatives have facilitated the emergence of a centre of excellence in procurement within the organisation.

### **Yet, IMSS' procurement system does not fully reach the objective of operating as a unified, performance-focused function**

Notwithstanding recent efforts, IMSS' procurement function is generally not recognised as a strategic instrument that contributes to the organisation's key objectives. Rather, it is perceived as an administrative task to the service of other internal areas. Furthermore, some decentralised local entities have experienced insufficient supply coverage under recent consolidation contracts issued at the central levels, due to delays in implementation or to low performance of suppliers (non-delivery of medicines sometimes reaching up to 30% in some regions).

This situation is partly attributable to the absence of an explicit, clear and comprehensive organisation-wide procurement strategy that clearly communicates the vision, objectives and desired outcomes of the procurement function to all stakeholders within the organisation. Furthermore, IMSS does not have indicators in place to assess the overall effectiveness of its procurement function. While some *ad hoc* indicators exist in some units, they are not consistent and are underused. Another significant shortfall preventing strategic management of the procurement function is a lack of capacity to rapidly and accurately consolidate data into organisational-wide statistics and reports. This constraint should be reduced through ongoing system integration efforts to achieve an integrated back office for procurement, budget and information processes.

Internal communication and co-ordination are also found to be insufficient, resulting in significant loss of internal knowledge and expertise. The current vertical relationship is highly "institutional". On the one hand, new procurement policies are disseminated top-down through e-mails or meetings, and insufficient guidance is provided to decentralised units on their application and on the development of procurement strategies. On the other hand, product and market intelligence available in the decentralised units are often not collected and considered in the development of initiatives managed centrally, resulting in adverse impacts. Similarly, there is little exchange of knowledge and experiences between the different regional areas of the organisation, resulting in the loss of significant synergy and efficiency opportunities. While a function was recently created in the central area to collect and consolidate good practices related to procurement, the associated activities only take place in an informal and *ad hoc* basis and the results are not sufficiently communicated across the organisation.

## **The lack of strategic management of IMSS’ human resources hinders the development of an efficient and effective procurement workforce**

Although IMSS’ procurement agents demonstrate a high level of commitment, they come from very different backgrounds. There is evidence of recent efforts in IMSS to train procurement officials, for example through delivering specialised training to middle managers. Nonetheless, common training on core skills and knowledge has not yet been systematically delivered to all procurement agents. The OECD review has therefore identified a significant knowledge, competency and capacity gap in the organisation, particularly in the decentralised units. Such shortfalls relate to various key activities of the procurement process, such as market research, the development of requirement definitions, use of flexible evaluation approaches, as well as supplier and contract management. Similarly, various managers lack crucial knowledge and capabilities, such as team building, communication and strategic planning. Building on existing job profiles to create a complete competency framework for procurement agents and leaders would be a step forward in assessing the skills needed and identifying training gaps.

The current management of human resources prevents the organisation from developing a sustainable and effective procurement function. At this time, strategic management of the procurement workforce is lacking in IMSS, the personnel units primarily having an administrative focus, such as managing payroll and conducting selection tests to candidates proposed by each procurement unit. Inadequate workforce planning, a high workload, inadequate facilities and fear of sanctions should an error occur in the procurement process are factors resulting in a high level of stress in the units and in a very important turn-over (one to four years for operational staff and one year for middle managers). Furthermore, the current appointment process (both recruitment and promotion) is carried out in a discretionary manner, with little or no competition and without sufficiently considering candidates external to the organisation. This process jeopardises the principles of merit, hinders career opportunities and development, and prevents the organisation from acquiring all competencies necessary to fulfil its mission. Finally, employee performance is not systematically measured and managed in IMSS, resulting in a focus on daily needs rather than on key results aligned with the organisational priorities and performance targets.

## **Various deficiencies in IMSS’ procurement process limit the efficiency and outcomes of the procurement function**

Various key steps of the procurement process are undermined by insufficiently developed key competencies in the organisation, a lack of market intelligence (including of the goods and services available or under development), and insufficient time available to procurement officials due to inadequate planning or unreasonable client expectations. This results, among others, in some requirement descriptions being unclear or lacking balance (being either overly restrictive or underspecified), thereby limiting the level of competition or requiring various clarifications.

Specific procurement strategies are often developed by procurement units without considering all relevant information and risks. The strategies also overly focus on the use of mandatory requirements and on final selection based on the lowest acquisition price. The use of more flexible evaluation and selection approaches – such as non-mandatory criteria and selection based on the best overall value considering the entire life-cycle of the product – would allow IMSS to maximise its outcomes and better mitigate various risks and adverse impacts experienced by procurement units. Due care must also be taken

to ensure that proposals made by bidders are evaluated in accordance with the criteria and requirements specified in the solicitation document. Significant breaches of that key principle have been evidenced in IMSS in the past. This situation compromises the integrity of its procurement system, prevents the organisation from meeting its needs under the best conditions, and negatively impacts its relation with suppliers (including a reduction of its supply base). For example, between 2007 and 2010 14% of IMSS' competitive procedures were subject to formal challenges from bidders. This percentage is three times higher than the average of the rest of the federal entities.

### **IMSS could improve its interaction with the marketplace and the management of its suppliers**

Significant information asymmetry exists between IMSS and the market place. While positive progress has been made through a discussion forum in place between IMSS and the industry (the Mixed Consultative Supply Commission), industry representatives report that it has not reached its full potential to either party. IMSS could increase the efficiency and outcomes of the interaction with its suppliers and its market intelligence, among others by answering electronically to questions from suppliers under a competitive process (rather than solely through formal clarification meetings), providing verbal debriefing, undertaking regular supplier' survey and reinforcing existing communication forums.

Poor performance by suppliers is found to negatively impact IMSS' capacity to provide sufficient high-quality services to the population under the best conditions. This issue is particularly evidenced in centralised medicines contracts, under which up to 30% of deliveries do not take place in some regions. This can be partly explained by IMSS not consistently applying available recourses such as penalties for late delivery, thereby significantly reducing their role in incentivising contractors to meet their obligations. Concerns have been raised that some bidders consider this context in their bid strategy, reducing their price in order to be awarded the contract while not intending to meet the portion of the requirement involving the highest expenses such as deliveries of medicines in remote locations. In addition to strengthening the use of available recourses, IMSS could implement tailored supplier' performance monitoring and management programmes for a few of the requirements that are crucial to the organisation and for which securing adequate supply has proven difficult.

### **IMSS has undertaken significant efforts to increase the transparency of its procurement system, but initiatives to prevent corruption and wrongdoing are still needed**

Over the last years, IMSS has implemented various initiatives to increase the transparency of its procurement process. It has revamped its online transparency portal in 2011 in order to significantly increase the level and clarity of publicly available procurement-related information. It has also fought supplier collusion (also known as bid rigging) through co-operation in investigations of the Mexican Federal Commission on Competition and through collaboration with the OECD (including training for more than 200 employees). Finally, it has employed since 2011 the Reliability System (*Sistema de Confiabilidad*) to identify positions that present high risk of nepotism and corruption.

IMSS' integrity enhancement essentially relies on a corrective approach based on sanctions. Complementing that approach with a preventive strategy based on values would assist in changing the organisational culture and creating an integrity-prone environment.

For that purpose, IMSS could expand the existing code of ethics to provide specific guidelines for appropriate behaviour and assisting public servants in dealing with situations of conflict of interest, bribery or influence peddling. It could also implement mechanisms and red flags allowing procurement officials, management and internal control areas to rapidly detect an improper or corrupt practice and to act promptly. Finally, IMSS could introduce enhanced whistle-blowing mechanisms and protection as the current use of mailboxes to report misconduct is insufficient and subject to misuse.



## Overview of the Mexican health system and of the Mexican Institute of Social Security

*The Mexican Institute of Social Security (IMSS) is the largest health service provider in Mexico and covers almost half of the Mexican population. The overview describes the role of IMSS and the services it provides in Mexico's health care system. It also highlights how good governance practice within its public procurement system improves the health of its beneficiaries.*

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

## Good governance in Mexico's public procurement increases efficiency and savings

As in many other countries, Mexico's main providers in the health care sector are under intense pressure to deliver more and improved services with limited resources. Procurement is key to the effectiveness and viability of this sector, as it accounts for considerable administrative and financial resources and is an essential element for service delivery. However, due to its complexity, the size of the financial flows it generates and the close interaction between the public and private sectors, public procurement is also the government activity most vulnerable to waste, fraud and corruption. As such, good governance is necessary for enhancing credibility and public trust in the capacity of the health care sector to deliver timely and effective services to the public.

The Mexican federal public administration has made considerable progress in strengthening its public procurement function in recent years. Procurement reforms have included:

- increasing flexibility and providing more tools through the legal framework to support efficiency;
- revamping the Mexican federal e-procurement platform (Compranet); and
- clarifying roles and responsibilities of stakeholders.

This has provided the health care sector with needed tools for improving its procurement outcomes. The remaining challenge resides in implementing these reforms.

Although good governance and practices in procurement alone will not resolve all of the financial constraints facing the Mexican health care sector, it is an essential component for improving value for money and strengthening trust and credibility in order to embark on more structural reforms.

## The efficiency of health care public procurement is essential for improving health outcomes

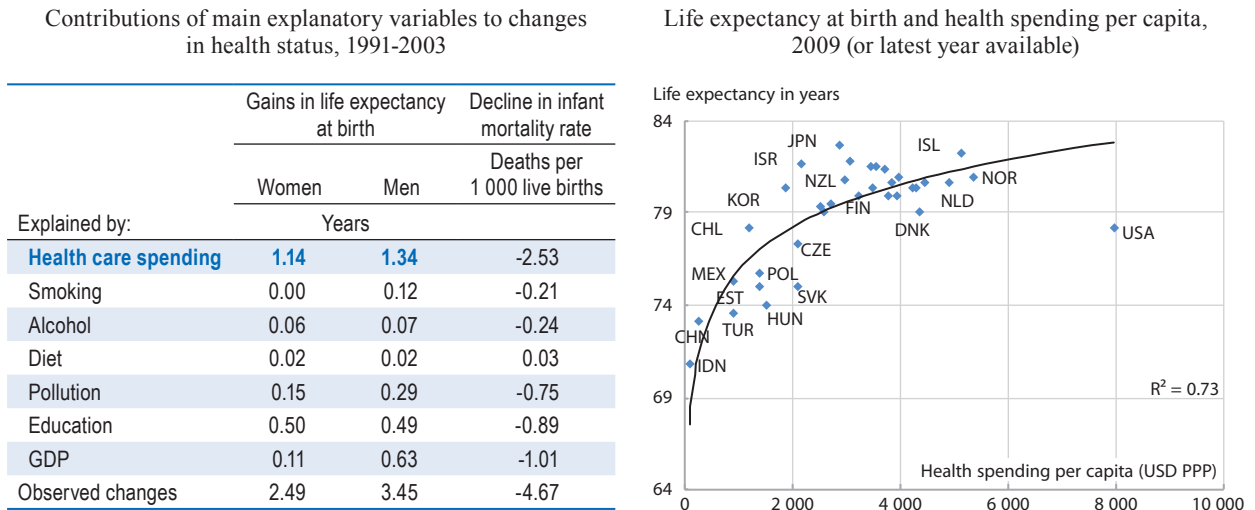
Although health indicators of the Mexican population have improved over the past two decades, life expectancy at birth remains lower and infant mortality higher than in most OECD member countries (OECD, 2011a). The OECD (2010) report, *Health Care Systems: Efficiency and Policy Settings*, provides statistical evidence showing a strong correlation between the level of health spending and health indicators, such as life expectancy. In fact, health spending is the variable that contributes most to health status (Figure 0.1).

In 2009, Mexico had one of the lowest total health expenditure per capita among OECD member countries (USD 918 compared with the OECD average of USD 3 223). Mexico also has one of the lowest health expenditures as a share of gross domestic product with 6.4% versus the OECD average of 9.6% (Figure 0.2). Similarly, Mexico has the lowest expenditure per capita on pharmaceuticals (USD 249) of OECD member countries, although its share of total health spending (27%) is almost twice the OECD average (15%) (OECD, 2011b).

Opportunities to increase health care spending may be limited in Mexico's financially-constrained health care sector. Therefore, the procurement function is a key lever that can be used to improve the quantity and quality of products and services delivered in a timely manner, leading to improved Mexican health indicators.



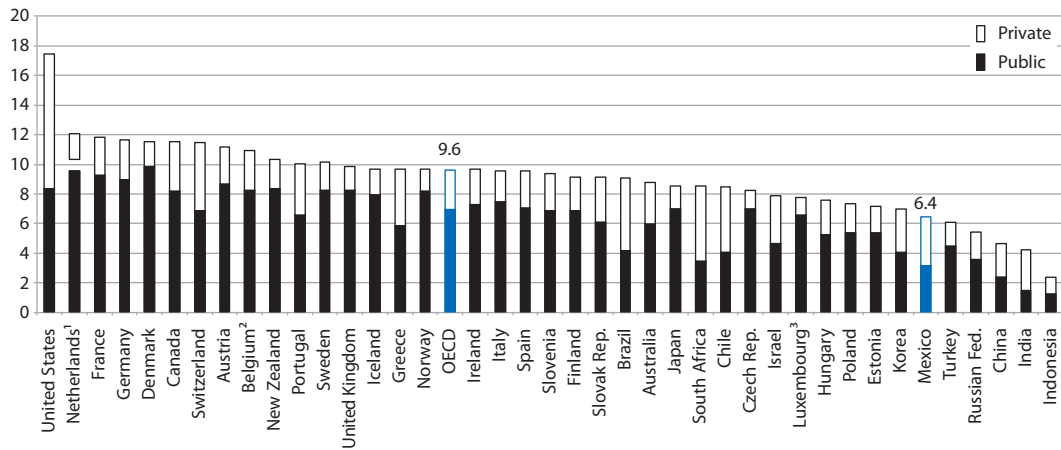
Figure 0.1. Contributions of health care spending to changes in health status



Note: Contributions of health status determinants are calculated using panel data regressions on a sample of countries for which data were available.

Source: OECD (2011), *How's Life? Measuring Well-being*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264121164-en>.

Figure 0.2. Total health expenditure as a share of gross domestic product (2009 or closest year)



Notes:

1. In the Netherlands, it is not possible to clearly distinguish the public and private share related to investments.
2. Total expenditure excluding investments.
3. Health expenditure is for the insured population rather than the resident population.

Source: OECD (2011), *Health at a Glance 2011: OECD Indicators*, OECD Publishing, Paris, [http://dx.doi.org/10.1787/health\\_glance-2011-en](http://dx.doi.org/10.1787/health_glance-2011-en).

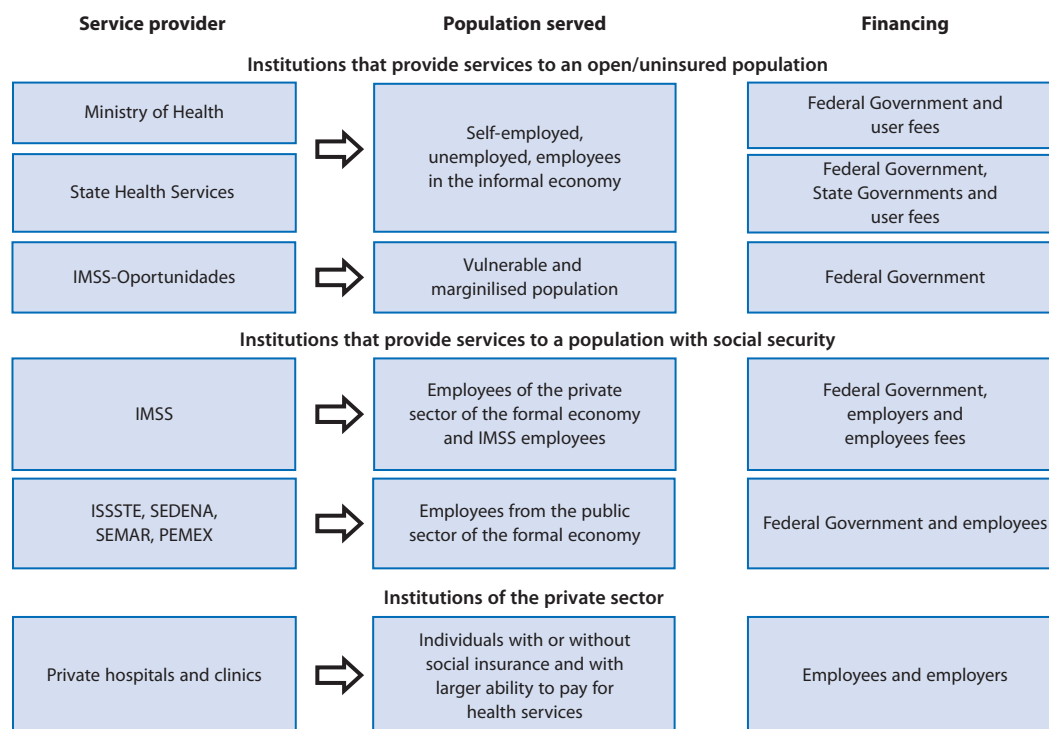
## The Mexican Institute of Social Security (Instituto Mexicano del Seguro Social – IMSS) has a predominant position in a fragmented Mexican health care system

Mexico has a fragmented health care system comprised of three main types of service providers (Figure 0.3). These institutions provide specific health services to different segments of the population:

- Social security providers: mandatory for employees in the formal economy.
- Private insurance: voluntary, with individuals paying premiums to a private insurer. Premiums are defined according to the individual's risk profile and for a mutually-agreed package of health services.
- System of Social Protection in Health (*Sistema de Protección Social en Salud Seguro Popular*): reserved for citizens not covered by any other health care scheme. It is almost entirely financed by federal budgetary resources.

Among the different health service providers, IMSS covers almost half of the Mexican population and provides the largest number of health services in Mexico (Table 0.1), making it the largest health and social security provider in Latin America.

Figure 0.3. Mexican health system



Notes: 1. ISSSTE: State Workers Institute for Social Security and Services (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado*), SEDENA: Ministry of National Defense (*Secretaría de la Defensa Nacional*), SEMAR: Ministry of the Navy (*Secretaría de Marina*), PEMEX: Mexican Petroleum (*Petróleos Mexicanos*).

Source: IMSS (2011), *The Mexican Institute of Social Security: Evolution, Challenges and Perspectives*, IMSS, Mexico.

Table 0.1. **Services provided in the health care sector (% , 2008)**

Service provider	Consultations					Auxiliary diagnostic services			
	General	Speciality	Emergency	Dental	Discharges	Surgeries	Laboratory	Radiology	Other
IMSS	47.8	40.4	69.7	30.5	41.2	44.9	52.4	54.1	64.1
ISSSTE	7.6	16.0	3.8	8.9	7.2	7.7	8.4	8.3	12.7
Ministry of Health	41.3	32.2	18.6	54.5	46.6	42.1	32.9	30.3	19.3
Other	3.3	11.4	8.0	6.1	4.9	5.4	6.3	7.3	3.9

*Note:* Ministry of Health includes the services offered by state health services, national health institutes, federal reference hospitals and the System of Social Protection in Health.

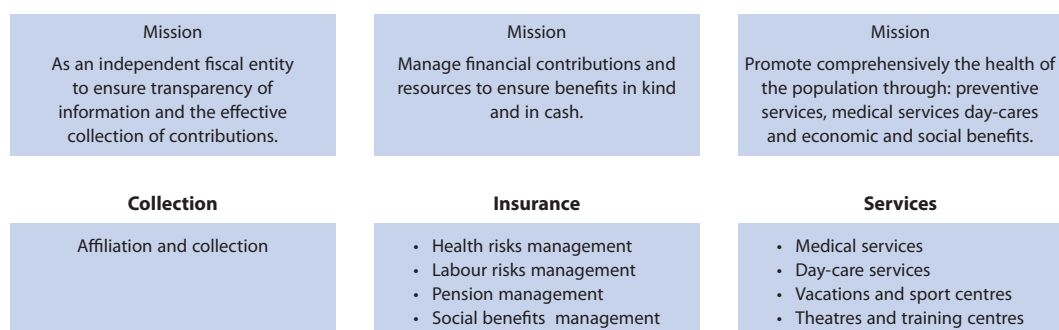
*Source:* IMSS (2011), *The Mexican Institute of Social Security: Evolution, Challenges and Perspectives*, IMSS, Mexico.

As a service-proving entity, IMSS has two types of schemes:

- The statutory scheme is funded by contributions from employers, the state and the employees. It has five types of insurances: sickness and maternity; labour risks; disability and life insurance; pension; unemployment at old age; day-care; and social benefits. This category represents 71.4% of the insured population.
- The voluntary scheme is by agreement with IMSS and it may be subject to insurance, employees in family industries and independents such as professionals, small traders, artisans and other self-employed, etc.

## IMSS provides a vast range of services of highly diverse nature and complexity

IMSS is an autonomous government institution that provides health and social security services to private sector workers and is governed by representatives from the state, employers and workers. Public sector workers are covered by the State Workers Institute for Social Security and Services (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado* – ISSSTE). IMSS was founded on 19 January 1943, and is ruled by the Social Security Law (21 December 1995). It is governed by a General Assembly, a Technical Council, an Oversight Commission and a Director General appointed by the President. The General Assembly is composed of 30 members: 10 representatives from the federal government; 10 representatives from employers’ organisations; and 10 representatives from employees’ organisations. General Assembly members hold office for six years and may be reappointed. In line with its mandate and structure, IMSS can be represented along three lines of service: collection, insurance and services (Figure 0.4).

 Figure 0.4. **IMSS lines of service**


*Source:* Information provided by IMSS.

With total revenues representing almost 2% of Mexico's gross domestic product, IMSS is the second largest collector of government revenue after the Tax Revenue Administration Service (*Servicio de Administración Tributaria*). Furthermore, it pays eight times more medical premiums than all private insurers combined. It has the largest medical and social security infrastructure in the country, with around 380 000 employees (INEGI, 2011). In 2010, it provided medical and social services through:

- 35 local entities (delegaciones) in charge of first- and second-level medical units;
- 25 High Specialty Medical Units (Unidades Médicas de Alta Especialidad – UMAEs): hospitals equipped with high technology and the maximum therapeutic and diagnostic services;
- 1 510 Family Medicine Units (Unidad de Medicina Familiar);
- 262 general hospitals;
- 1 459 day-care centres;
- 135 discount stores; and
- 74 facilities for recreation and culture (IMSS, 2011).

In a typical day, IMSS provides close to 470 000 medical consultations, cares for approximately 195 000 children in day-care centres and attends 1 225 childbirths (Table 0.2).

IMSS is currently facing difficult financial challenges. The Mexican population is experiencing a demographic and epidemiological transition that implies a large and changing demand for medical services with associated increases in complexity and cost. IMSS is also facing a gap between the available infrastructure and its operating requirements; the number of beds available per 1 000 insured users declined from 1.85 in 1980 to 0.8 in 2010. According to standardised international indicators on health care capacity and infrastructure, IMSS current installed capacity is insufficient for offering the quality and quantity of services required for its approximately 54 million users (Table 0.3).

### **IMSS public procurement represents 4% of all public sector procurement**

In 2010, IMSS total procurement spending represented 4% of Mexico's public procurement and 13% of all IMSS spending. As indicated in Figure 0.5, goods represent the highest share in terms of number and value of IMSS procurement contracts.

The IMSS procurement function must respond to a wide variety of needs, its main purchases being medicine (with a monthly demand of 12 million prescriptions) and medical supplies (Table 0.4). Compared with many other major Mexican public agencies, IMSS procurement activities are shaped by a few unique factors. These are, however, not unique compared with health service providers in other countries. Such factors include: low tolerance for non-conforming delivery; highly variable and unpredictable demand for some items; and a high degree of geographic dispersion of end-users.

The procurement of medical services has recently become more important, and IMSS is not able to cover some of them through its existing capacity (e.g. haemodialysis, domiciliary supply of oxygen, blood banks and laboratories services). To face this challenge, IMSS is working on a strategy which involves exchanging medical services with other public health institutions (such as ISSSTE) in order to reduce its dependence on private suppliers and obtain better prices.

Table 0.2. Average daily operation: service provision dynamics (January–August 2011)

Indicators	Average number
IMSS user population	54 004 000
Population assigned to a Family Medicine Unit	38 401 332
<b>Medical services</b>	
Total medical consultations, including:	469 441
<i>Family medicine consultations</i>	325 828
<i>Specialty consultations</i>	76 339
<i>Dental consultations</i>	18 468
<i>Emergency care</i>	48 805
Hospital discharges	5 442
Patient days	26 520
Surgical interventions	4 076
Childbirths attended	1 225
Clinical tests	720 442
Radio-diagnostic studies	53 045
<b>Other services</b>	
Pensions paid at the close of the month	2 874 511
Children attending day-care centres	195 457
Average number of daily movements for collection and affiliation services	300 000

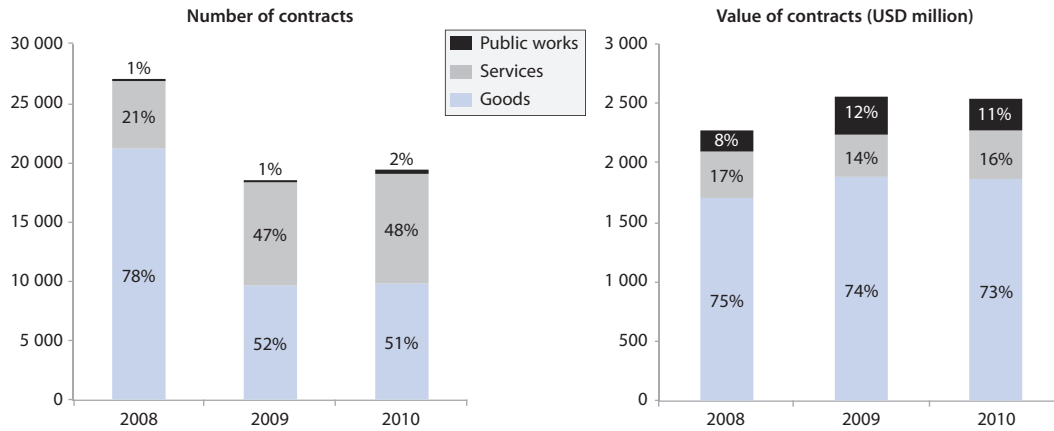
Source: Information provided by IMSS.

Table 0.3. IMSS infrastructure for the provision of medical and social benefits (2010)

<b>Medical infrastructure</b>			
Hospital beds	32 182	Pharmacies	728
Operating rooms	1 181	First-level medical units	1 510
Clinical laboratories	539	Second-level medical units	262
Delivery rooms	439	Third-level medical units	25
Blood banks	40	Doctor's offices	15 240
<b>Other infrastructure</b>			
Theatres	74	Discount stores	135
Social benefit centres	143	Vacation centres	4
Funeral centres	15	Day-care centres	1 459

Source: IMSS (2011), *The Mexican Institute of Social Security: Evolution, Challenges and Perspectives*, IMSS, Mexico.

Figure 0.5. Size and value of IMSS procurement for goods, services and public works (2008-10)



Source: Data provided by IMSS.

Table 0.4. Main goods and services procured by IMSS (2010)

Categories of goods	% of total value of procured goods	Categories of services	% of total value of procured services
Pharmaceutical	52	Community nursery neighbourhood scheme	27
Integrated services	20	Conservation	18
Treatment, laboratory and radiological items	10	Information technology, hardware, software and bands	11
Vaccines	6	Energy and water	10
Orthotics and prosthetics	2	Subrogated medical services	10
Dairy	1	Oxygen	5
Other	8	Security	4
		Fuel for vehicles	4
		Leases	1
		Other	9
<b>Total</b>	<b>100</b>	<b>Total</b>	<b>100</b>

Source: Information provided by IMSS.

## References

- IMSS (2011), *The Mexican Institute of Social Security: Evolution, Challenges and Perspectives*, IMSS, Mexico.
- Instituto Nacional de Estadística y Geografía (INEGI) (2011), *El ingreso y el gasto público en México 2011*, [www.inegi.org.mx/prod\\_serv/contenidos/espanol/bvinegi/productos/integracion/sociodemografico/igpm/2011/IGPM-2011.pdf](http://www.inegi.org.mx/prod_serv/contenidos/espanol/bvinegi/productos/integracion/sociodemografico/igpm/2011/IGPM-2011.pdf), accessed 3 March 2012.
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## **Part I**

### **Implementing the Right Procurement Framework in IMSS**



## *Chapter 1*

### **Strengthening the structure and governance of IMSS' procurement function**

*This chapter describes the structure and organisation of the procurement function of the Mexican Institute of Social Security (IMSS). It also assesses the mechanisms used by IMSS to coordinate the high number of procurement units and to ensure communication with and between these units. In particular, it identifies the benefits and remaining challenges of centralisation efforts within the organisation.*

## Introduction

The overall organisational design and governance of the procurement function is important in delivering outcomes for effective and accountable procurement. Weak governance structures and systems in public procurement hinder efficiency and raise the prices governments pay for goods and services. This directly impacts public expenditures and hence taxpayers' resources. Similarly, ensuring effectiveness, transparency and accountability through the structure and governance of the procurement function is essential for optimising public value throughout the procurement cycle.

The review found that the procurement function of the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social – IMSS*) is clearly located in the organisational structure and is governed by well-defined committees. Despite its high level of physical decentralisation, IMSS is co-ordinated by a strong central area which manages information and strategic decisions, and implements various centralised initiatives. However, the review found that some initiatives have adverse impacts on the decentralised units. It also identified room for improvement in knowledge transfer and the co-ordination of its various units through better communication.

## Structure and governance

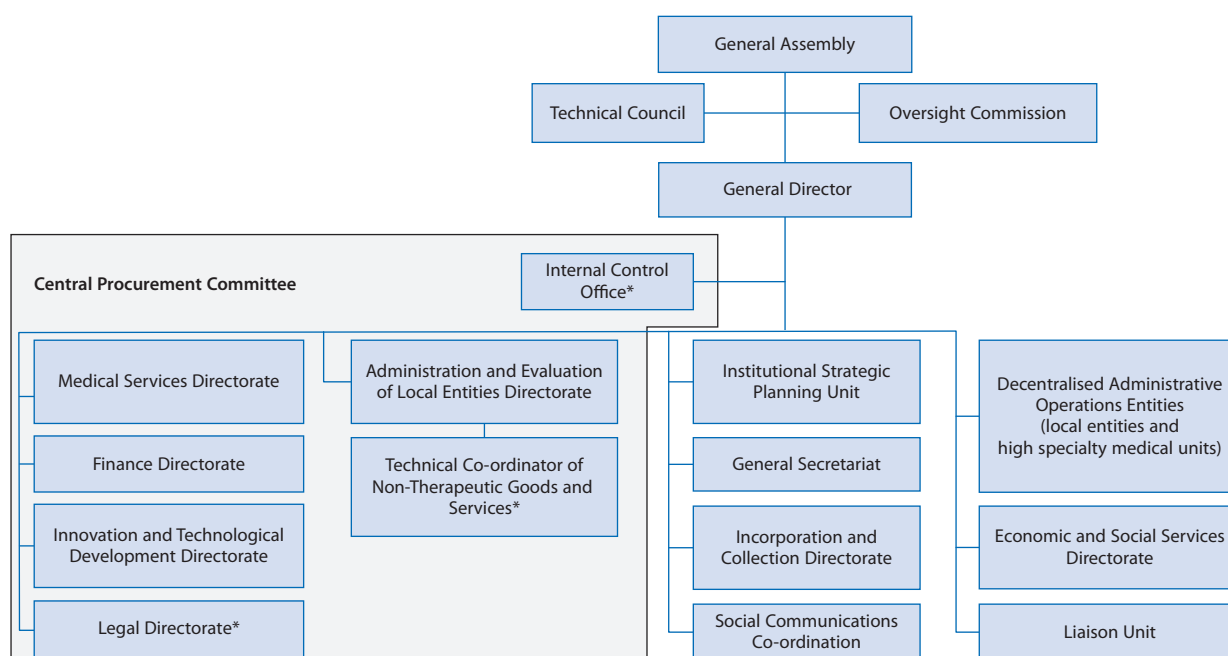
### *Various well-defined committees govern IMSS and its procurement function*

IMSS governance structure is clearly defined. At the most senior level, it includes a General Assembly (*Asamblea General*), a Technical Council (*Consejo Técnico*), and a Director General (Figure 1.1). The Technical Council is the board of directors, while the General Assembly serves more as a political forum for IMSS management, IMSS employees and the federal government. An Oversight Commission (*Comisión de Vigilancia*) is also in place in relation to organisational-wide financial matters. Finally, the procurement function is co-ordinated by the Administration and Evaluation of Local Entities Directorate (*Dirección de Administración y Evaluación de Delegaciones – DAED*); Table 1.1 describes their functions and membership. As further discussed in Chapter 4, internal control is co-ordinated by the Internal Control Office (*Órgano Interno de Control – OIC*), an operational extension of the Ministry of Public Administration (*Secretaría de la Función Pública – SFP*).

As can be seen in Figure 1.2, the Co-ordination of Procurement of Goods and Contracting for Services area (*Coordinación De Adquisición de Bienes y Contratación de Servicios*), which co-ordinates the procurement function, is located three levels below IMSS General Direction. It is part of the Administration Unit (*Unidad de Administración*) which itself responds to the Administration and Evaluation of Local Entities Directorate.

Various procurement committees (*Comités de Adquisiciones, Arrendamientos y Servicios*) support the Performance Evaluation and Administration Divisions in the headquarters (the Central Procurement Committee), in the local entities (*delegaciones*) and in the high-specialty medical units (*Unidades Médicas de Alta Especialidad – UMAEs*). Their responsibilities include: *i*) supervising the annual programmes and budgets of IMSS procurement; and *ii*) approving procurement areas to have recourse to exceptions to public tendering as provided by the Law. The central procurement committee has the additional functions of: *i*) proposing procurement guidelines to IMSS Technical Council; *ii*) formulating and approving internal manuals for regional and UMAE procurement committees operations in accordance with the SFP guidelines; *iii*) providing technical assistance for regional and UMAE procurement committees; and *iv*) creating special sub-committees to supervise high-profile procurement.

Figure 1.1. Overview of IMSS main governance committees



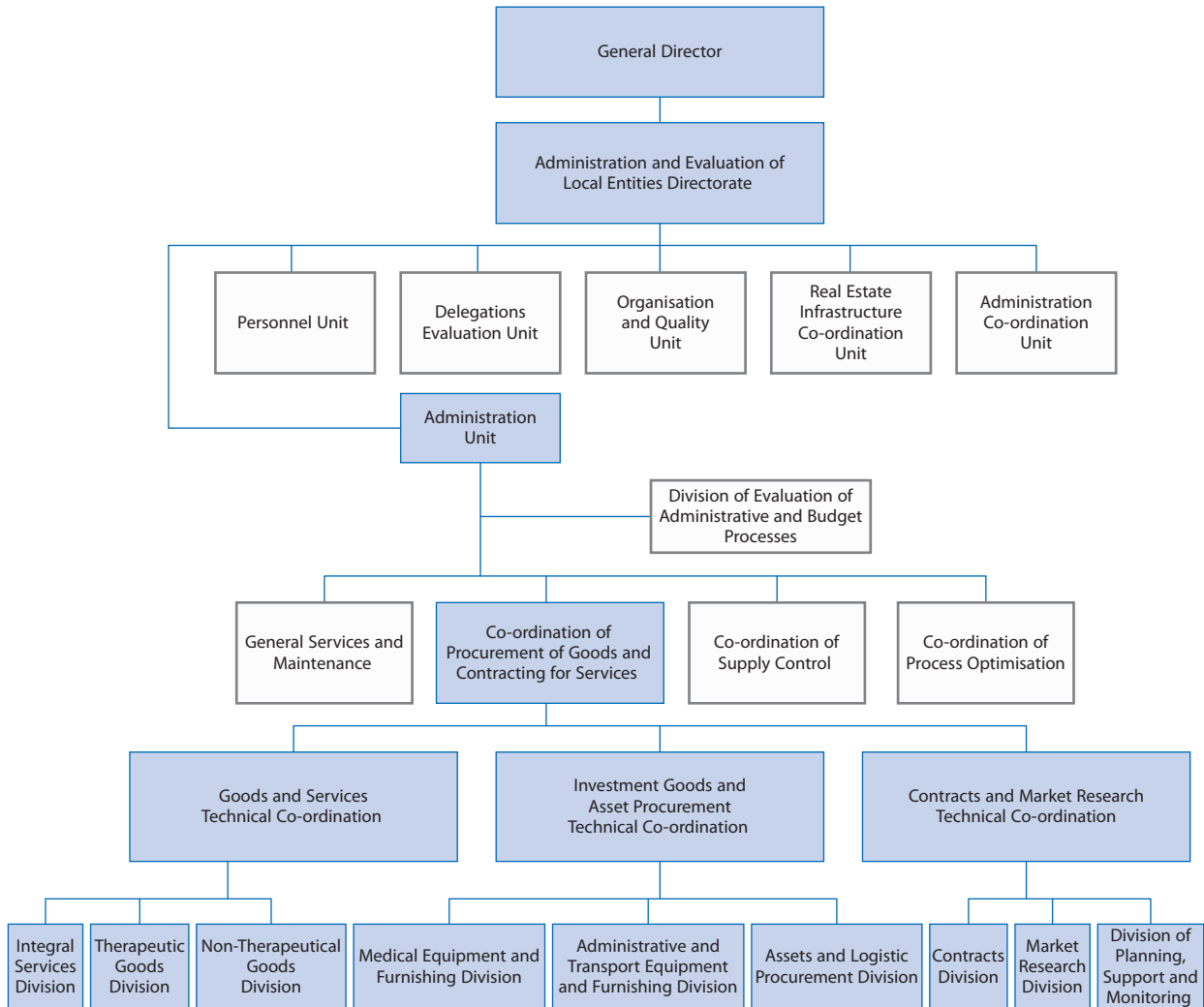
\* With rights to speak, but not to vote.

Source: Mexican Portal of Transparency, <http://portaltransparencia.gob.mx>, accessed 2 December 2012; IMSS (2011), “Manual de Integración y Funcionamiento de los Comités de Adquisiciones, Arrendamientos y Servicios del IMSS” [Manual of Integration and Operation of the Committees of Acquisitions, Leases and Services of IMSS], [www.imss.gob.mx/instituto/normatividad/normas/Documents/DAED/1000-024-004.pdf](http://www.imss.gob.mx/instituto/normatividad/normas/Documents/DAED/1000-024-004.pdf), accessed 2 December 2012.

Table 1.1. Functions and composition of IMSS management structures

Name	Function	Composition
General Assembly	<ul style="list-style-type: none"> <li>Approving the annual plan and budget;</li> <li>Approving the annual financial statement;</li> <li>Approving the annual activities report; and</li> <li>Approving IMSS Oversight Commission's annual report.</li> </ul>	30 members including: 10 representatives from the federal government; 10 representatives from employers' organisations; and 10 representatives from workers' organisations.
IMSS Oversight Commission	<ul style="list-style-type: none"> <li>Overseeing investment decisions;</li> <li>Auditing IMSS financial statements and assets valuation;</li> <li>Making suggestions to improve IMSS insurance mechanisms; and</li> <li>Presenting to the General Assembly an opinion concerning the quality of IMSS financial statements and activities report.</li> </ul>	6 members including: 2 elected by employer's representatives; 2 elected by union's representatives; and 2 elected by the federal government.
IMSS Technical Council	<ul style="list-style-type: none"> <li>Approving the General Director annual activities plan;</li> <li>Investment decision making;</li> <li>Preparing IMSS budget;</li> <li>Supervising IMSS financial balance sheets;</li> <li>Resolving inquiries about IMSS operations; and</li> <li>Approving IMSS organisational structure and remuneration system.</li> </ul>	12 members including: 4 elected by general assembly employer's representatives; 4 elected by general assembly union's representatives; and 4 representatives of the federal government (namely the Ministers of Finance, Health and Labour as well as IMSS General Director).
Administration and Evaluation of Local Entities Directorate	<ul style="list-style-type: none"> <li>Procurement of goods and services;</li> <li>General services and maintenance;</li> <li>Distribution and storage;</li> <li>Processes optimisation; and</li> <li>Financial and economic evaluation.</li> </ul>	Approximately 20 000 employees, representing about 4.5% of the total IMSS workforce. Of these, approximately 6 000 employees are directly linked to the Administration Unit and thus, the IMSS procurement function. Most of the IMSS procurement workforce is located in IMSS regional offices (5 700 or 95%). Regional offices in the Mexico Federal District, Jalisco and Nuevo Leon have the largest staff. <i>Note:</i> Information was not available on the distribution of staff in regional offices.

Figure 1.2. Organisational diagram of the IMSS procurement function



Source: Mexican Portal of Transparency, <http://portaltransparencia.gob.mx>, accessed 2 December 2012.

All procurement committees have a similar structure; they include not only representatives of the procurement function, but also members of diverse organisational divisions (IMSS, 2011a). This noteworthy feature promotes awareness and understanding between the procurement function and the other functions within IMSS:

- The central procurement committee is chaired by the Head of DAED, with the Head of Co-ordination of Supply Control (*Coordinación de Control de Abasto*) acting as secretary. As illustrated in Figure 1.1, it also includes the heads of the Directorates of Finance, Medical Services, Innovation and Technological Development (*Directores de Finanzas, de Prestaciones Médicas y de Innovación y Desarrollo Tecnológico*), and the Head of Co-ordination of Procurement of Goods and Contracting for Services (*Coordinador de Adquisición de Bienes y Contratación de Servicios*). The Technical Co-ordinator of Non-Therapeutic Goods and Services (*Coordinador Técnico de Bienes y Servicios No Terapéuticos*) is also present and has rights to speak but not to vote.

- Procurement committees in local entities are headed by the Head of the local entity, and include the Heads of Finance Services, Medical Services and General Services Department (*Jefes de Servicios de Finanzas, de Servicios de Prestaciones Médicas y de Departamento de Conservación y Servicios Generales*) as well as the Local Entity Supply and Equipment Coordinator (*Coordinador Delegacional de Abastecimiento y Equipamiento*). The Head of Co-ordination of Procurement of Goods and Contracting for Services Department (*Jefe del Departamento de Adquisición de Bienes y Contratación de Servicios*) is also present and has rights to speak but not to vote.
- Procurement committees in UMAEs are headed by the UMAE Director and include the Medical Director (*Director Médico*) as well as the Heads of the Finance, General Services and Supply Departments (*Jefes de Departamentos de Finanzas, de Conservación y Servicios Generales, y de Abastecimiento*). The Head of Procurement Office (*Jefe de Oficina de Adquisiciones*) is also present and has rights to speak but not to vote.

Moreover, in each committee, a member of the OIC, of the Legal Directorate (*Dirección jurídica*) and a designate of SFP, can observe, but not vote on, the discussions of the procurement committee.

***Responsibilities in the procurement function have recently been clarified, improving its efficiency and accountability***

A clear and comprehensive structure of the procurement function better enables effective and accountable procurement. The structure of the procurement organisation should include an explicit division of duties and accountabilities which reflect the key tasks of the procurement cycle. These duties and accountabilities should be suitable for discharging the obligations prescribed in the law without gaps or overlaps of duties. Links with other sectors of the government affecting procurement should be embedded, and procurement operations should not be constrained by external institutional factors.

At the lower levels, no major procurement decisions should rest upon one individual in the organisation. There should be cross-checking, preferably from suitably qualified people at different levels and different areas of the organisation, in order to maintain a minimum level of internal validation. Important decisions in the procurement cycle should be well-documented and easily accessible so that inspectors and auditors – and the general public in some instances – can check the integrity of the decisions made.

With the recent amendments to the Mexican federal public procurement framework, the areas of procurement responsibility have become more clearly delineated and delegated than before. Furthermore, the Ministry of Public Administration recently standardised and limited excessive internal procedures through a series of management handbooks, as discussed in Chapter 4). The 2010 Procurement and Public Works Handbooks (SFP, 2010a and 2010b), for example, clearly sets out the roles and responsibilities of each area of IMSS procurement hierarchy throughout the procurement cycle (refer to Annex 1.A1 for detailed tables of procurement responsibilities).

## Centralisation

### *While IMSS procurement function is physically highly decentralised, various key activities and decisions remain at the central level*

The procurement cycle needs to be governed by a dedicated, co-ordinated and professional procurement organisation, with a unified and well-recognised strategic mandate. Such an organisation needs to work as a single, unified body, and be managed through sound project management regimes. This is achieved when the procurement system has a common mission, vision and values, as well as a common co-ordinating management unit, which can direct procurement officers as a group.

IMSS provision of medical and social services is highly geographically decentralised. In 2010, it operated through 35 local entities in charge of administering first and second-level medical units and 25 UMAEs. The local entities provide administrative support to 1 510 Family Medicine Units (FMUs) and 262 general hospitals. These cover approximately 32 000 hospital beds, 1 200 operating rooms, 15 000 doctor's offices and 700 pharmacies. Other facilities intended for the delivery of social benefits include approximately 1 500 day-care centres, 135 discount stores and 74 facilities for recreation and culture (IMSS, 2011b).

Similarly, the IMSS procurement function is physically highly decentralised. Procurement units are embedded in local entities and UMAEs in order to be in close proximity to the users and provide them better services. In this context, IMSS has identified the need for centralising some procurement activities to efficiently manage them. As indicated in Table 1.2, key strategic decisions and strategies related to the procurement function are essentially managed at the central level. These include disseminating procurement policies and procedures, and initiatives such as standardising and consolidating requirements.

Due to the demand for a great number of similar and complex requirements at various dispersed units, IMSS identified the need to consolidate some in order to manage their procurement and to benefit from economies of scale and the market power of the organisation.

Table 1.2. **Division of procurement activities by level of centralisation**

Procurement activities and decisions	Central level	Central support to decentralised activities	Decentralised level (local entities and UMAEs)
Contracts	Sole contracts (contratos únicos) Contract for central requirements	Policies are dictated from the central office Standardised processes	Contracts for decentralised requirements not subject to sole contracts (contratos únicos)
Consolidation and standardisation	Assessment and decisions on consolidation and standardisation	Budget allocation IT systems (e.g. SAI and PREI)	Access, operate and analyse standardised systems
Market research	For contracts at central level	Provision of market research information and tools through the Internet Development of reference prices	For contracts at decentralised level (with central office support)
Needs assessment	Co-ordination or pooling of homogeneous needs	Needs forecasting, verification and limited pooling	Needs identification and refinement
Regulation and standardisation of processes	Interpretation and application of laws and regulations Formulation of internal regulations, processes and procedures Operating policies Training and human resources development		Operate and execute the instructions

Source: Information provided by IMSS.



Table 1.3 presents an overview of the main contractual instruments of different centralisation levels (regional and central). According to IMSS, these efforts will be expanded in the years to come, with additional products being subject to consolidation.

As a result of these centralisation efforts, more than half of the value of all contracts is now issued by central units (Figure 1.3).

Table 1.3. Types of contractual instruments used by IMSS

Procurement level	Scope of the requirement	Legal instrument	Manager	Source of financing*	Examples of goods and/or services
Central level (also referred as centralised procurement)	Requirement by central level	Contract(s) central level	Central level	Central level	<ul style="list-style-type: none"> <li>Virtual private network</li> <li>Software</li> <li>Consulting services</li> <li>Vaccines</li> <li>Mobile phones for central-level officials</li> </ul>
	Consolidated requirement (central level, local entities and UMAEs)	Contract by local entities/ UMAEs	Local entities/ UMAEs	Local entities/ UMAEs	<ul style="list-style-type: none"> <li>Integral services</li> <li>Medical equipment</li> <li>Hospital clothing</li> <li>Contractual clothing</li> <li>Cleaning material</li> <li>Airline tickets</li> </ul>
		Sole contract	Local entities/ UMAEs (CCA** signs contract in representation of contract managers)	Local entities/ UMAEs (CCA allocates a budget to each contract for its payment)	<ul style="list-style-type: none"> <li>Drugs</li> <li>Healing material</li> </ul>
Local entities or UMAEs	Requirement by local entities/ UMAEs	Contract or request by local entities/ UMAEs	Local entities/ UMAEs	Local entities/ UMAEs	<ul style="list-style-type: none"> <li>Perishable food</li> <li>Endoprostheses and osteosynthesis material</li> <li>Medicines and healing material with regional purchasing authorisation</li> <li>Maintenance of land transport</li> </ul>
	Requirement consolidated by several local entities/ UMAEs	Contract or request by each local entities/ UMAEs	Local entities/ UMAEs	Local entities/UMAEs	<ul style="list-style-type: none"> <li>Perishable food (project of regional consolidation)</li> <li>Medicines and healing material with regional purchasing authorisation</li> </ul>

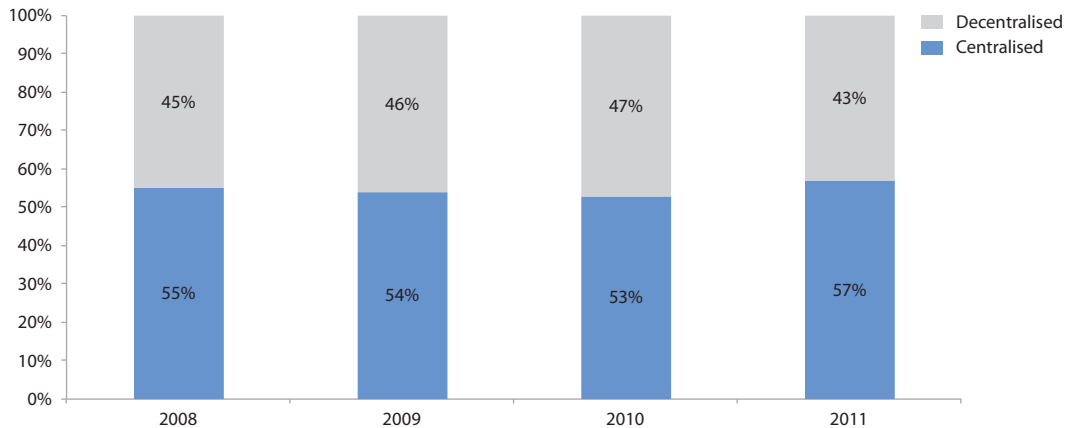
Notes:

\* Local entities'/UMAEs' payments are made by the central office with financial resources previously allocated to each local entity or UMAE.

\*\* CCA: Co-ordination of Supply Control at the central office.

Source: Information provided by IMSS.

Figure 1.3. Value of contracts by level of centralisation



Note: Data for 2011 through September.

Source: Information provided by IMSS.

### ***Centralisation efforts have brought significant benefits to IMSS, but certain disadvantages still remain***

IMSS has shown a strong commitment in structuring its procurement cycle in a highly decentralised organisation. This has resulted in positive procurement outcomes including:

- Lower prices for goods due to consolidation. This has led to increased competition and expansion of its supply bases, achieving the minimum order level of some potential suppliers.
- Concentrated efforts and expertise in a central procurement body. This has made it easier for “centres of excellence” in procurement to evolve, and for higher quality procurement policy to be achieved.
- Obligatory standardised characteristics of goods and services.
- Strategies to prevent collusion and bid-rigging in procurement and engaging in common actions with the Federal Competition Commission (Comisión Federal de Competencia – CFC).
- A more streamlined, consistent and transparent procurement function, which, in turn, improves accessibility to potential suppliers, control and audit bodies and procurement function users.

However, some issues still require attention, primarily due to the fact that regional offices rely on a distant central office. For example, these offices have experienced difficulties in securing supply of some consolidated goods (see Chapter 2 for further details). An improved strategy would mitigate these negative impacts and lead to better management of risks, as discussed in Chapter 9.

## Co-ordination and communication

### *Problems in communication and knowledge transfer prevent IMSS procurement function from operating as a unified whole and make optimal strategies difficult to implement*

Although procurement professionals are often embedded in user areas to better provide services, it is necessary that the procurement system operates as a unified whole. As indicated above, the management and strategic planning of the procurement function is essentially performed at the central level, with the central office providing strategies and rules to the decentralised units. This current co-ordination structure and the existence of a capable central procurement group position IMSS to achieve its objective. It can do so by implementing a unified approach to procurement across the whole organisation, not only as it relates to rules and processes, but also in relation to key elements such as consistent monitoring and management of the procurement function. It also positions it to promote the strategic role of procurement at higher levels.

Despite the positive aspects mentioned above, the review found that IMSS' current procurement system does not fully reach the objective of operating as a unified whole. This can partly be explained by the absence of an explicit and comprehensive procurement strategy which needs to be developed and clearly communicated to all procurement units (see Chapter 2 for further details). There are also problems in communication and transactions both on a vertical basis (between the centre and regions), and on a horizontal basis (between the procurement units).

Although there are clear benefits to centrally co-ordinating the procurement function, the change from an atomised system to a centrally coordinated system requires a stronger communication between the centre and the regions and increases the number of transactions between them. The review found that, in certain instances, there were issues with managing information about needs and financial transactions. Interviewees, for example, reported a distinct lack of positive interaction between the central office and decentralised areas. These are limited to face-to-face meetings only happening every four months, or at biannual national meetings.

Stakeholders view the current vertical relationship as highly “institutional”, with new procurement policy disseminated top-down through e-mails or meetings, and guidance on their application being made available online. However, many local entities and UMAEs indicated that support from the centre is insufficient, particularly in relation to developing procurement strategies and addressing difficulties in applying the policies. As a result, some areas of policy confusion remain. Procurement units need more channels for communication, so that difficulties in applying the policies can easily be identified.

Other than the limited use of procurement data (see Chapter 7 for further details), central decisions and initiatives are determined with little involvement or feedback from the local entities and user areas. This results in a significant loss of knowledge, including best practices in procurement planning and strategy for certain categories of goods and services. A great deal of organisational experience and expertise is therefore not considered in the development of procurement policies. As an example, in the process of centralising the procurement of some categories of requirements, the responsibility transfer from the regions to the central areas was dictated entirely from the centre, with little or no input from the regional areas on their experience with such requirements.

Although there are benefits in having a clear and functional institutional relationship between the central areas and the decentralised units, there is a strong need for the

relationship to become more dynamic and agile, so as to better serve the users. IMSS could consider strengthening the current communication channels between the units and the central organisation and implementing new ones where appropriate.

Finally, according to interviewees, there is little horizontal communication among the different regional procurement areas of the organisation. Experiences and knowledge gained in the procurement process are thus not often discussed. Significant synergy and efficiency could be achieved through a regular exchange of different experiences and knowledge among the procurement units. However, these opportunities are generally lost in IMSS, as few formal processes or forums exist. Furthermore, little knowledge is pooled and co-ordinated at the central level for dissemination to decentralised areas. As such, most of the procurement units work in isolation from one another, and do not benefit from experience and expertise that may have been developed in other parts of the organisation.

DAED recently created a function in the central area to collect and consolidate good practices related to procurement. While this initiative is commendable, it is not well known within the organisation and the findings on good practice are not sufficiently communicated across the organisation. Moreover, it takes place on an informal and ad hoc basis when a problem or “red flag” is identified. IMSS could consider formalising this function and enlarging its scope to research all good practices on a continuous basis, not only in IMSS, but also in other organisations. Importantly, IMSS could strengthen its current efforts to better communicate the initiative and good practices throughout all procurement units (for example, through its internal website and e-mails).

## Proposals for action

In order to improve the co-ordination of its procurement function, particularly in communication, and implement a unified approach across the organisation, IMSS could consider the following proposals:

1. Increasing the flexibility and dynamism of the institutional relationship between the central area and the decentralised units by:
  - a. Ensuring that the organisation’s vision, strategy and objectives for procurement are clearly communicated to all procurement units and discussed to ensure full understanding.
  - b. Creating formal mechanisms or opportunities, such as regularly scheduled meetings for units to notify the central area of any difficulties in the procurement process. For example, “policy specialists” could be identified as official points of contact to assist procurement units in the interpretation and application of policies. Similarly, a function could be created in the central area specifically providing guidance to decentralised units on the development of procurement strategies.
  - c. Ensuring that the development of central strategies is discussed with the procurement units in order to guarantee that all pertinent information, expertise and lessons learned in the organisation are identified and considered, and, furthermore, to ensure that the operational impacts of these strategies on procurement units are minimised.
2. Improving the transfer and recording of knowledge, lessons learned and expertise not only between the central area and the decentralised units (vertical communication),

but also among the procurement units themselves (horizontal communication), potentially through initiatives such as:

- a. Creating central and regional “procurement operational platforms” as forums for procurement units to exchange information and discuss difficulties and experiences. These committees could act as an interface between the units and the central area, facilitating and streamlining vertical communication.
- b. Formalising the research function and identifying good procurement practices from all procurement units (and possibly from other procurement organisations), and strengthening its efforts to better communicate the results to all procurement units (for example, through its internal website and e-mails).

## Annex 1.A1

### Responsibilities outlined in 2010 procurement and public works handbooks

#### A. Procurement of goods and services

Process	Responsibilities*								
	Ministry of Economy	General Director	Budget and planning division/area	Procurement committee	Procurement division/area	Operational division/area	Contract mgt division/area	Warehouse division/area	Administrative division/area
<b>Budgeting and procurement planning</b>									
Formulating budget proposal									•
Modifying budget proposal with federal government budget restrictions									•
Approving budget proposal	•								
Identifying procurement needs						•			
Verifying current inventory levels						•		•	
Costing procurement needs						•			
Prioritising procurement needs						•			
Preparing draft annual procurement plan					•				
Revising annual procurement plan against budget proposal and restrictions			•		•	•			
Approving annual procurement plan		•							
Disseminating internally and publishing externally the approved procurement plan					•				
Supervising implementation of annual procurement plan				•					
<b>Contracting</b>									
Verifying procurement requirements against annual procurement plan						•			
Verifying legal requirements (e.g. free trade agreements, local content requirements)					•				
Verifying budget allocation and market studies						•			
Reviewing procurement/contracting strategy					•				
Selecting procurement/contracting procedure					•				
Formulating contract schedule					•				
<b>Selection – Open and competitive tender</b>									
Preparing tender documents					•	•			
Selecting selection and award criteria					•	•			
Preparing contract notices					•	•			
Publishing contract notices					•				

Process	Responsibilities*								
	Ministry of Economy	General Director	Budget and planning division/area	Procurement committee	Procurement division/area	Operational division/area	Contract mgt division/area	Warehouse division/area	Administrative division/area
Responding to requests for clarification					•	•			
Recording requests for clarification					•	•			
Opening tender process					•				
Consulting debarred suppliers database					•				
Analysing technical proposals					•	•			
Resolve draws (micro, small and medium enterprises, local content)					•				
Announcing selection decision					•				
Analysing bid guarantees					•				
Awarding contract									
<b>Selection – Restricted invitation</b>									
Verifying restricted invitation criteria against legal requirements					•				
Consulting debarred suppliers database					•				
Drafting and circulating invitation					•	•			
Responding to requests for clarification					•	•			
Recording requests for clarification					•	•			
Opening tender					•				
Evaluating bid technical proposals					•	•			
Resolve draws (micro, small and medium enterprises, local content)					•				
Announcing selection decision					•				
Analysing bid guarantees					•				
Awarding contract					•				
<b>Selection – Direct award</b>									
Verifying direct award criteria against legal requirements					•				
Evaluating technical and financial requirements					•				
Requesting supplier tender					•				
Evaluating guarantees					•				
Awarding contract					•				
<b>Contract management</b>									
Inspecting goods and services						•			
Making payment for goods and services									•
Registering financial and accounting transactions									•
Modifying terms and conditions of contract					•				
Exercise contract's penalties for non-compliance							•		
Anticipating close of contract					•		•		
Preparing for close of contract					•		•		
Integrating financial statements			•						•
Preparing accountability reports			•						•

## B. Procurement of public works

Process	Responsibilities*						
	General director	Procurement area	Public works committee	Budget and planning area	Operative area	Operative area chief	Resident Supervisor
<b>Procurement planning</b>							
Identifying requirements of public works		•			•		
Revising projects studies and licenses		•			•		
Estimating costs					•		
Prioritising works by cost-benefits analysis					•		
Obtaining budget allocation		•		•	•		
Preparing annual works procurement plan ( <i>Plan anual de obras públicas y servicios relacionados con las mismas</i> )		•					
Supervising annual works procurement plan			•				
Approving annual works procurement plan	•						
Disseminating annual works procurement plan		•					
<b>Contracting</b>							
Analysing project requirements and terms of reference		•					
Verifying legal requirements		•					
Reviewing budget allocation		•					
Analysing market studies		•					
Analysing usage of framework contracts		•					
<b>Selection – Open and competitive tender</b>							
Drafting calling		•					
Diffusion of calling		•					
Publishing calling for offers		•					
Receiving clarify demands		•					
Realise and redact the final minute of clarification meetings		•			•		
Offering presentation and opening		•			•		
Consulting database of punished suppliers		•					
Analysing technical evaluation of proposals		•					
Emit and spread results		•			•		
Analysing guarantees		•					
Awarding contract		•					
<b>Selection – Restricted invitation</b>							
Create a justification					•		
Verify legal controls		•					
Scheduling		•					
Consult database of punished suppliers		•					
Create invitation and spread it		•			•		
Receive clarify demands		•			•		
Realise and redact the final minute of clarification meetings		•			•		
Proposal presentation and opening		•					



Process	Responsibilities*						
	General director	Procurement area	Public works committee	Budget and planning area	Operative area	Operative area chief	Resident Supervisor
Analyse technical evaluation of proposals		•			•		
Emit and spread results		•					
Analysing bid guarantees		•					
Awarding contract		•					
<b>Selection – Direct award</b>							
Create justification					•		
Legal requirements (quotations, technical and economical justification, minute of failing public tendering processes or three people's invitation)		•					
Request documentation of chosen supplier		•					
Analyse guarantees		•					
<b>Contract management</b>							
Appointing superintendent and resident						•	
Opening logbook							• •
Reporting on physical and financial progress							• •
Reporting on delays and deviations							•
Costs adjustments							• •
Contract modifications procedures		•			•		
Penalties and punish methods							• •
Preparing for close of contract		•					•
Closing contract					•		• •

\*Ministry of Economy: Public organisation in charge of federal government budget; General Director: chair or head of organisation; Budget and planning area: area in charge of planning and budgeting for organisation's operational areas; Procurement committee: body responsible for approving organisation's procurement guidelines and supervising its implementation; Procurement area: area in charge of procurement or leasing of goods and services for organisation's operational areas; Operational areas: area directly in charge of achieving organisation's objectives; Contract management area: area responsible for managing contract implementation as per signed contract; Warehouse area: area responsible for managing operational area's inventory; Administrative areas: area responsible for finance and accounting.

Sources: Adapted from SFP (2010), "Manual Administrativo de Aplicación General en Materia de Adquisiciones, Arrendamientos y Servicios del Sector Público" [Procurement Handbook]; SFP (2010), "Manual Administrativo de Aplicación General en Materia de Obras Públicas y Servicios Relacionados con las Mismas" [Public Works Handbook]; SFP (2010), "Manual Administrativo de Aplicación General en Materia de Recursos Financieros" [Financial Management Handbook].

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## *Chapter 2*

### **Implementing strong organisational procurement strategies in IMSS**

*This chapter identifies the recent results achieved by the procurement function of the Mexican Institute of Social Security (IMSS) as well as shortcomings in the development of its organisation-wide strategies. It also discusses how developing an organisational procurement plan would increase the strategic role and coherence of its procurement system.*

## Introduction

An organisational procurement strategy seeks to provide clear direction and a co-ordinated approach to achieve good practice in procurement and continually strive for value for money. It recognises an organisation’s operating environment and the nature and type of its procurement activities to ascertain key issues and opportunities. It also outlines the objectives and desired outcomes of the procurement function, as well as the key attributes of its approach to achieving these outcomes. Good practice requires a procurement strategy to be aligned with the strategic objectives of an organisation’s business plan, other organisational strategies and operating procedures.

In order to manage performance, organisations establish and measure their progress against specific metrics related to the objectives of the procurement strategy, as well as to the overall efficiency of the function. Areas of difficulty can be identified and ongoing improvements can be achieved through regular assessment of these metrics.

The OECD review found that the procurement function the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social – IMSS*) essentially fulfils its mandate and obligations. It however lacks an organisational vision articulated through a clear procurement strategy and performance targets. This prevents the various elements of the organisation from progressing in a clear, common and cohesive manner in order to achieve efficiencies and best value for money. Moreover, there are significant deficiencies in the gathering and analysis of organisation-wide procurement data, which limits the successful implementation of these strategic tools.

## Recent results of the procurement function

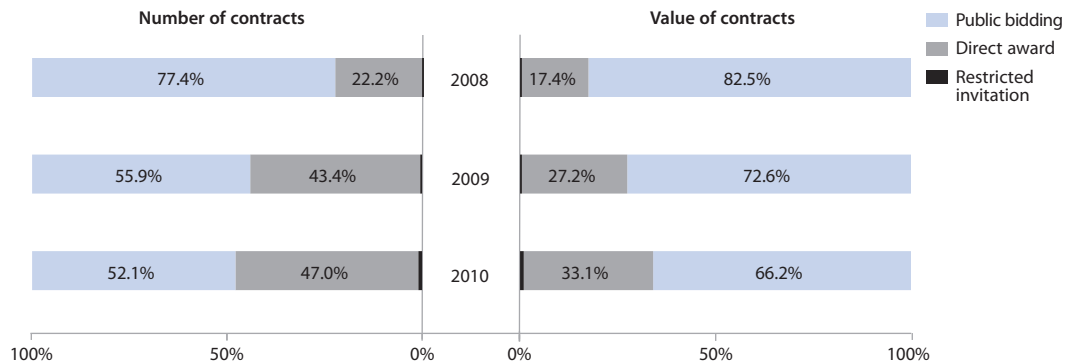
### ***IMSS’ largest procurement value is carried out through public tendering, yet the use of uncompetitive procedures is increasing***

The two main Mexican procurement laws – the Law on Acquisitions, Leases and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas*) – establish the use of three distinct procurement procedures: *i*) public tendering (also known as “open tendering”); *ii*) invitation to at least three suppliers (also known as “restricted competition”); and *iii*) direct award. The preference for the first approach is set out in the Mexican Constitution in order to guarantee the best available conditions for price, quality, financing, opportunity and other relevant factors. However, various exceptions allow for the use of the two other approaches.

As can be seen in Figure 2.1, most of IMSS spending on goods and services have been done through public tendering over the years 2008 to 2010. However, a strong and gradual increase can be observed in the value of contracts awarded directly to suppliers. The same trend is observed in the number of contracts, with almost half having been awarded on a direct award basis in 2010.

This lack of competition potentially prevents IMSS from reaching optimal prices. The above figures may also indicate that significant administrative costs and efforts are allocated to the issuance and management of a large number of lower-value contracts. This diverts resources away from higher value activities such as strategic planning and the development of the best procurement strategies.

Figure 2.1. Value and number of IMSS contracts for goods and services by type of procedures used, 2008-10



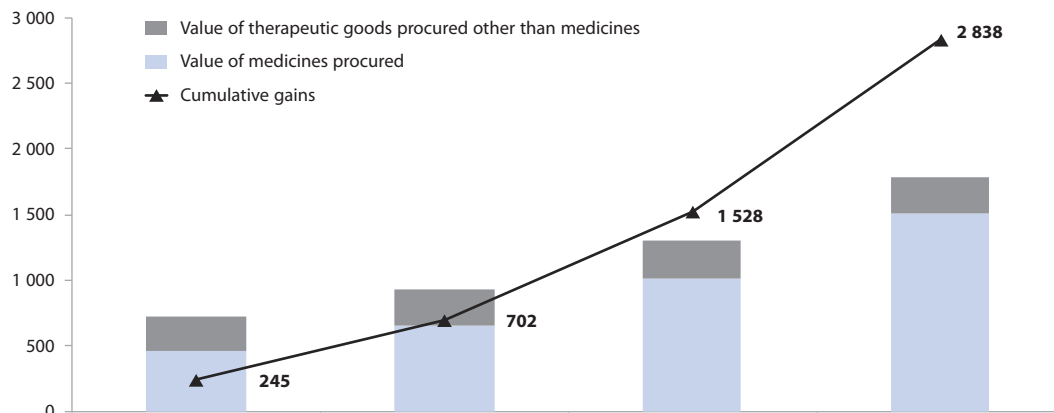
Source: Data provided by IMSS.

In line with the data deficiencies discussed in Chapter 7, IMSS was unable to provide the OECD review team with detailed data on the exceptions used to exclude these contracts from the public tendering process. IMSS could consider consolidating and assessing these data in order to identify opportunities to increase competition and increase efficiency and results of the procurement function, for example through consolidation and use of framework agreements.

### *IMSS has achieved significant savings through various procurement strategic initiatives*

In order to achieve savings for its operations and provide better services in an increasingly difficult financial situation, IMSS has recently embarked on several initiatives, including streamlining procurement processes. As a result of these efforts, IMSS reports having achieved savings of USD 2 838 million between 2007 and 2010 (Figure 2.2).

Figure 2.2. Efficiency gains in the procurement of medication and therapeutic goods



Note: millions USD, base reference 2006

Source: IMSS (2011), *The Mexican Institute of Social Security: Evolution, Challenges and Perspectives*, IMSS, Mexico.

IMSS reports that these savings were a result of: *i*) centralising and consolidating the purchase of therapeutic goods; *ii*) establishing maximum reference pricing; and *iii*) enhancing the use of reverse auctions. Table 2.1 provides details on savings achieved by IMSS since 2009 through reverse auctions.

Table 2.1. **IMSS estimated savings from reverse auctions**  
(USD million)

Year	Category	Contract value	Estimated savings	% of estimated savings
2009	Medicines	605.6	64.9	10.7
2010	Medicines Health material	185.3	4.7	2.5
2010	Mammography	3.6	0.9	27.4
2010	Vehicles	4.4	0.2	3.2
2011	Medicines	41.9	2.4	5.8
<b>Total</b>		<b>840.7</b>	<b>73.0</b>	<b>8.8</b>

*Note:* The specific content of each category may change from one year to the other.

*Source:* Information provided by IMSS.

One of the most significant examples of consolidation has been the use of sole contracts (*contratos únicos*) since 2008 to centralise the purchase of medicine and maintain stocks. An underlying objective of that initiative was to lower the price of medicine as to remedy the situation that existed in 2005, when Mexico's pharmaceutical prices were the highest among a sample of 12 countries (OECD, 2011). It also intended to improve the overall efficiency of the system and increase the institutional response to health needs. IMSS' efforts have focused on reducing their prices

### Box 2.1. Centralisation of healthcare services in the United States

In the United States, the “Marketplace@Novation” purchasing alliance is one example of centralisation of healthcare services leading to increased procurement effectiveness through structural centralisation and economies of scale. This alliance includes over 2 500 healthcare organisations across the United States, with the combined purchasing power of USD 25 billion annually and has e-sourcing agreements with over 500 suppliers of medical, laboratory and safety equipment, capital equipment and services.

A study of 31 hospitals (Derek and Rowlinson, 2008) showed that each hospital saved USD 12 million annually by joining the alliance. Similarly, a 2008 study (Burns and Lee, 2008) found that purchasing alliances in the United States succeeded in reducing health care costs by lowering product prices, particularly for commodity and pharmaceutical items, as well as by lowering transaction costs through commonly negotiated contracts. Little evidence was found that such consolidations resulted in excluding new innovative firms from the marketplace or in restricted hospital access to desired products. However, there was evidence suggesting that alliances are less successful in providing other important services to hospitals and in mediating the purchase of expensive physician preference items.

*Sources:* Derek, O. Walker, H.T. and Rowlinson, S.M. (2008) “Procurement Systems: a cross-industry project management perspective”, Routledge Press; Burns, L. and J.A. Lee (2008), “Hospital Purchasing Alliances: Utilization, services and performance”, *Health Care Management Review*, July/September 2008, Vol. 33, pp. 203-215.

Similarly, all Mexican public health stakeholders now jointly purchase patent medicines. IMSS reports that this consolidation initiative has generated 86.4 million USD in savings in 2010 (IMSS, 2011). This is in line with the experience of other countries. The American experience described in Box 2.1 also illustrates that joint centralisation leads to cost savings, but with sacrificed customisation for user-areas.

***Strategies developed in isolation or without considering all available information result in adverse impacts***

Some specific strategic initiatives in procurement have been developed in isolation in certain parts of the organisation and consultations with other segments of the organisation do not take place often enough. Therefore, there is a general failure in identifying all pertinent information (including intelligence and lessons learned on risks, benefits, challenges, etc.) which is necessary for formulating a sound procurement strategy. This leads to various undesirable effects and conflicts with other priorities within IMSS.

For example, central consolidation strategies to pool the requirements for some types of goods and services organisation-wide have resulted in significant savings. However, weaknesses in the planning and development of solicitation strategies, for example, by neglecting to consider all the specificities of some decentralised units, often leave some units without sufficient coverage. This can be due to:

- The consolidation process: After needs are identified and centrally pooled, the coverage of each local entity (*delegacion*) delivered by the contract is co-ordinated centrally. This can leave some local entities short of full coverage. Although there seems to be significant needs analysis completed at the user-level, this analysis is reconsidered at a higher or more central level, often using insufficient evidence for any decisions made.
- Inability or delay in putting in place the consolidated contracts: situations occur where the central units are unable to put in place the consolidated contracts for some requirements, or when it experiences delays in doing so, leaving decentralised units without contractual coverage for a period of time. In such situations, special authorisation is provided to them to procure the impacted goods for a specific period of time. In some cases, further delays or difficulties putting in place these consolidated contracts result in a series of additional short-time authorisations upon short notice.

When procurement units receive inadequate coverage, they are required to search for internal stock transfers in order to meet their obligations or, alternatively, they must quickly issue contracts under unfavourable conditions (low quantity, short delivery timeframe, etc.), resulting in higher prices. The budget process used under consolidation further complicates the issue. Presently, budgets still initially rest with each local entity, even though decision making on procurement and authorisation has been centralised for various requirements. The regions then provide the centre with the portion of that budget associated with such centralised requirements. When the central unit is unable to set up the consolidated contracts in time, and authorisations for short-term acquisitions is provided to the decentralised units, the budget must be retransferred to the regions. Interviewees indicated that, in some cases, this activity would take considerable time, impacting the capacity for decentralised units to obtain the required goods in time.

Another identified adverse impact experienced under some consolidation contracts is poorer performance from suppliers, and even non-delivery. As an example, IMSS procurement officers reported that non-delivery by suppliers under current centralised medicine contracts would reach 30% in some remote regions, due to contracts prices and

penalties being too low to ensure full performance. This results in difficulties in meeting the obligations and providing the required services for the local entities and high specialty medical units (*Unidades Médicas de Alta Especialidad*).

When establishing the organisational consolidation strategies, IMSS could ensure that all appropriate information is considered in depth. Such information includes available data, known risks and mitigation actions, as well as market and delivery conditions significantly impacting performance. This can be achieved through communication with the units, by acquiring the goods and services, and by ensuring a careful balancing of impacts on the different organisational objectives.

## Comprehensive organisational procurement strategy

### ***IMSS lacks a well-documented procurement strategy that is communicated throughout the organisation, resulting in conflicting priorities and decisions***

Despite its various efforts to reform procurement in the last two years, the IMSS procurement function is generally not recognised as a strategic instrument contributing to the organisation's key objectives. Rather, it is perceived as an administrative task to the service of other internal areas. Furthermore, compliance with the law is the main driver for procurement decisions, rather than performance. Little emphasis or attention is given to strategic activities, potentially preventing greater benefits for the organisation. This results in a limited understanding of the importance of the procurement function, as well as insufficient capacity within the organisation.

This context is partly attributable to the absence of an explicit and comprehensive procurement strategy clearly articulating to all IMSS stakeholders the vision of the organisation, its objectives and desired outcomes. IMSS' overall strategic vision is established in the Work Plan 2009-2012. One of the 11 working fronts of that strategy is specific to spending efficiency and transparency. While the Administration and Evaluation of Local Entities Directorate (*Dirección de Administración y Evaluación de Delegaciones – DAED*) is responsible for IMSS procurement function, it has not yet developed and communicated a comprehensive procurement strategy for that function. As such, its goals are under-defined and not clearly understood throughout IMSS. Significantly, none of IMSS employees or stakeholders interviewed were able to clearly specify their organisational goals.

The absence of that key document impedes the progress and coherence of IMSS' geographically-decentralised procurement units. This leads to conflicting priorities within the organisation and reduces efficiency of existing processes. An example is the current effort to achieve savings and improve administrative efficiency through consolidated contracts at the central level, as discussed in Chapter 1. The requirement planning process of IMSS follows a bottom-up approach. Each end-user identifies the nature and quantity of goods and services required. These needs are reviewed by unit level management and, if acceptable, are sent to a central co-ordination body for nation-wide consolidation into an organisational annual procurement plan. Based on that information, this body decides whether or not to consolidate a specific requirement at the central level. However, this process may result in two different units (or the same unit) requesting different products which basically meet the same need. The resulting demand for each of these products is potentially insufficient for making it a valid candidate for consolidation.

Efforts to improve efficiency and reduce costs through standardisation of goods are also underway in IMSS. Under this top-down approach, the organisation limits the number of similar products and services that can be acquired. The detriment to specific users



of having access to a reduced number of solutions is outweighed by the organisational benefits in terms of price, quality, administrative efficiencies, etc.

While sharing similar objectives, these two strategies do not appear to be fully co-ordinated within IMSS. Under a cohesive organisational procurement strategy, the groups of goods and services considered for centralised contracts should first be identified through detailed analysis of procurement data. A top-down activity of standardisation could then be implemented to reduce the number of products and services available within these groups, while ensuring that the organisation is still in position to meet its needs and obligations. As user areas will be restricted to identify their annual requirements based on that reduced list under the current bottom-up approach, the aggregated level of demand for the remaining products will be higher. This will increase the importance of consolidating their procurement through centralised contracts. By consolidating the planning and implementation of these two initiatives under a common procurement strategy, IMSS could significantly increase their efficiency and results. However, as further discussed in Chapter 9, such an organisational strategy should carefully consider and balance all relevant risks and priorities and avoid unforeseen undesirable effects.

Similarly, it is evident that there are diverging priorities between IMSS headquarters and its decentralised units. At the moment, the central areas seem to be more focussed on price. The regional areas, for their part, are more concerned with procuring highly specified goods, generally in short time-frames (which, as discussed below, is partly due to issues with consolidated contracts). By setting restrictions on prices, particularly through the reference prices (discussed in Chapter 9), urgent procurement processes can be undermined due to delivery conditions (quantity, required lead-time, delivery location, etc.). This is especially true for goods subject to high price differentials. Although it was reported that buying areas generally prefer open tenders to provide for better transparency and value for money, user areas seem to prefer timeliness and product specificity, which generally means more direct sourcing methodologies.

It is clear that, due to differing priorities, some inherent conflicts and inefficiencies in planning and strategy still exist within various units of IMSS. Ideally, there should be a single procurement strategy which is clear and common to all areas, which should translate directly into unified procurement planning strategies.

***IMSS could consider including various elements in the development of its organisational procurement strategy, such as potential collaboration with other entities***

In order to improve the cohesion of activities and initiatives within its procurement function, IMSS could consider developing a cohesive organisational strategy. To maximise the relevance and benefits of such a strategy, it should be based on the following elements:

- establishing a long-term vision for the procurement function that is aligned and consistent with the overall organisational vision and strategic objectives;
- assessing the current context of its procurement function, identifying divergences between the various units and opportunities for improvements;
- taking into account existing constraints and identifying clear priorities, which should then be further disaggregated into clear objectives against which time-defined targets are established; and
- developing and implementing initiatives while considering potential collaboration with other Mexican entities that have similar priorities and objectives.

The organisational procurement strategy should be developed at a strategic level following significant consultations with a large range of stakeholders (procurement function, internal control units, users, senior management, etc.). The strategy, as well as the progress against identified goals, should be clearly communicated through the organisation (and potentially to suppliers) to ensure a common understanding and approach. As such, all strategies being implemented in the organisation should align with the priorities identified under it and their progress should be continuously monitored through appropriate performance indicators. Finally, the organisational procurement strategy and its initiatives should be regularly adjusted to reflect evolving constraints, challenges, circumstances and priorities of the organisation.

When developing the procurement strategy, IMSS could also consider initiating a dialogue with other Mexican entities in order to identify areas of similar priorities and objectives, and investigate the possibility of collaboration in achieving them. Several examples of common priorities and objectives could be given, such as:

- Entities aiming to achieve savings on similar products could consider joint procurements, such as the joint purchase of patents medicines with other entities of the Mexican health sector. The OECD review team has also been informed of recent IMSS initiatives to consolidate need with other entities, such as the Ministry of National Defence.
- Entities attempting to fight bid collusion could agree on a common set of data and indicators to allow for compatibility and the possibility to assess them globally (with the potential participation of the Federal Competition Commission (*Comisión Federal de Competencia*)).
- Entities of the health sector could collaborate on the development of common procurement performance indicators (see Chapter 7 for an example in Canada).

## Proposals for action

In order to increase the coherence, efficiency and results of its procurement function, IMSS could consider the following proposals:

1. Improving the availability of procurement data at the organisational level in order to assess the adequacy of the use of exceptions to public tendering, and to identify opportunities to reduce the number of small-value contracts through consolidation, standardisation, or development of framework contracts.
2. When developing consolidation strategies at the central level, ensuring that all appropriate information is considered in depth (such as data, known risks and mitigation actions, market and delivery conditions significantly impacting performance, etc.) in order to guarantee a careful balancing of impacts on the different organisational objectives and units.
3. Developing a clear and cohesive organisational procurement strategy based on ongoing improvements which establishes the long-term vision for that function, the priorities and initiatives to achieve them, as well as clear targets for implementation. Preferably, such strategy should:
  - a. be established at a senior level following consultations with all relevant stakeholders;
  - b. align with IMSS overall strategies and priorities;
  - c. consider potential collaboration with other Mexican entities with similar priorities and objectives; and
  - d. be communicated throughout the organisation, and potentially to suppliers.

4. Ensuring that implemented initiatives are aligned with the organisational procurement strategy and continuously monitor their progress through appropriate performance indicators.
5. Regularly adjusting the procurement strategy and its initiatives to reflect evolving constraints, challenges, circumstances and priorities of the organisation.

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## *Chapter 3*

### **Promoting complementary policy objectives through IMSS' public procurement**

*This chapter describes how public procurement is used by the Mexican federal government and the Mexican Institute of Social Security (IMSS) to foster socio-economic objectives such as supporting the participation of small and medium-sized enterprises and to promote environmental considerations. It also identifies various barriers that hinder IMSS in achieving these objectives.*

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

## Introduction

Using their substantial buying power in the marketplace, governments can leverage the procurement process to actively promote complementary policy objectives, i.e. policy objectives which may not be directly related to the core mandate of the procuring organisation. “Complementary policy objectives in procurement” therefore refer to the indirect or secondary values that public procurement can pursue in addition to best value for money in procuring goods and services. These objectives can be divided into economic, environmental or social categories. Examples of complementary economic policy goals may include the promotion of locally-sourced or innovative goods and services, or giving preference to small and medium-sized enterprises (SMEs).<sup>1</sup> Complementary environmental policy goals may involve encouraging the use of recycled materials, environmental disposal plans, or low-polluting goods and services. Examples of complementary social policy objectives may entail procurements directed towards a specific minority or gender.

However, the benefits of using public procurement as a policy lever need to be weighed against the costs of including complementary objectives in the procurement cycle. First, their introduction in a specific procurement procedure (either as mandatory requirement or as evaluation criteria) can potentially result in a price increase. Furthermore, adding additional contract clauses, requirements and specifications into contract documentation makes for increased complexity for both bidders and procurement organisations. This can sometimes result in additional hidden costs in terms of efficiency, transparency and effectiveness.

Mexico has only recently begun pursuing complementary policies through public procurement. While a policy to strengthen SMEs through public procurement has been put in practice, it is still too early to assess the benefits. As a federal entity, the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) needs to follow federal complementary policies established by the Ministry of Economy, which appears to be a challenge for the organisation. Information shows that IMSS has done little by way of promoting complementary policy goals in the procurement system.

## Small and medium enterprises and national content

### *IMSS has advanced in incorporating SMEs into its supply base, yet their participation could be further enhanced*

As in any other country, the significance of SMEs to the Mexican economy and labour market cannot be underestimated. SMEs represent more than 99% of Mexico’s formal companies and provide between 49.7% (industry) and 86.1% (services) of formal jobs (OECD, 2003). However, most of Mexico’s SMEs are set back by fundamental weaknesses such as limited capital or access to finance (OECD, 2007a).

In 2009, the Mexican Ministry of Economy established a plan to help Mexican SMEs. Like Mexico, other OECD countries have established programmes to favour SMEs in government purchases. The experience of the United State is described in Box 3.1.

Part of Mexico’s SME programme was dedicated to reinforcing their participation in public procurement. According to the law for the development of competitiveness of micro, small and medium enterprises (*Ley para el desarrollo de la competitividad de la micro, pequeña y mediana empresa*), “the planning and execution of policies and actions to promote the competitiveness of SMEs must [...] encourage the agencies of the federal public administration and its delegations in the Federal States and the Federal District to procure gradually goods, services and public works to SMEs until reaching a minimum of 35% of all goods, services and public works procured.”

### Box 3.1. Enhancing the participation of small businesses has been a priority objective in the United States

The Small Business Administration (SBA) was established by the Small Business Act of 1953. The SBA is essentially organised around five key functional areas: financial assistance, procurement assistance, management assistance, disaster assistance and regulatory assistance.

The Small Business Act stipulates that each federal agency must have an annual goal that represents, for that agency, “the maximum practicable opportunity for small business concerns [...] to participate in the performance of contracts let by that agency”. Regarding procurement, the SBA relies primarily on set-asides for small businesses, i.e. reserving contracts to be awarded solely to small businesses. In 1996, the Congress established an annual goal of spending 23% of the dollar value of prime contracts awarded by the federal government with small firms, thus supporting their ability to work with the government. USD 96.83 billion was awarded to small businesses in 2009 alone.

The SBA also provides a number of other services, such as training and consultation, through a network of business-development centres, assistance to individuals under its Minority Enterprise Development Program, as well as a range of advocacy services and representatives to assist women-owned businesses and business loans.

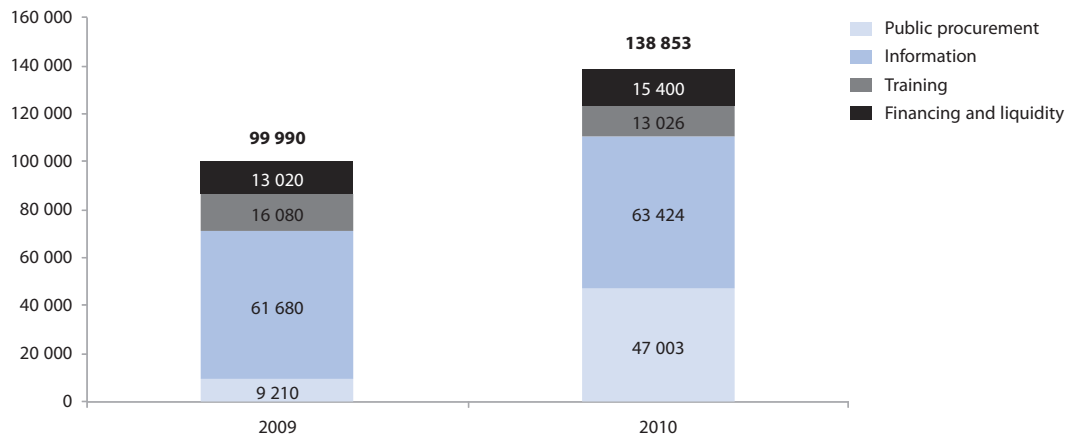
Source: U.S. Small Business Administration website, [www.sba.gov/](http://www.sba.gov/).

This is accompanied by a set of measures such as:

- **Liquidity and Financing:** SMEs are given loans and easy access to credit (through the SME Trust Fund) and financial consultancies. Loans can be awarded by different types of institutions such as banks and the *Nacional Financiera* (NAFIN). In 2010, banks loans totalled MXN 576 million (approximately USD 46 million), awarded to 116 businesses. In addition, NAFIN provides government contractors with working capital of up to 50% of the total amount of any contract. A total of MXN 13 4 billion (approximately USD 1 billion) was provided in 2010, representing an increase of 20% compared to 2009 (*Secretaría de Economía*, 2011).
- **Information:** business reports on relevant aspects of economics, marketing, logistics and competitiveness are supplied to SMEs. In 2010, over 63 000 businesses were provided with this information.
- **Training:** SMEs receive training on areas such as business management, exports, and the use of Compranet 5.0. In 2010, the Ministry of Economy awarded 4 500 scholarships for companies to be trained on Compranet 5.0. However, between 2009 and 2010, the Ministry of Economy reported a decrease in the number of companies trained (*Secretaría de Economía*, 2011).
- **Public Procurement:** The Ministry of Economy has created a specialised website ([www.comprasdegobierno.gob.mx](http://www.comprasdegobierno.gob.mx)) that offers information for SMEs interested in becoming suppliers of the federal government. The website also serves as a promotion tool to *Expo Compras de Gobierno*, an event that has promoted awareness of business opportunities with the federal government to more than 65 000 enterprises since 2009. Between 2009 and 2010, the number of SMEs with federal contracts increased by more than 400%.

In 2010, more than 138 000 SMEs, 39% more than in 2009, benefited from these different instruments (Figure 3.1).

Figure 3.1. SMEs supported by the Ministry of Economy (2009 and 2010)



Source: Secretaría de Economía (2011), “Programa de Compras del Gobierno Federal. Informe Ejecutivo de Avances al 31 de Diciembre de 2010” [Federal Government Procurement Programme. Executive Report of Progress on 31 December 2010].

Other initiatives to benefit SMEs in public procurement are stipulated in the procurement legal framework such as:

- At least 50% in value of the contracts issued under the exception to public tendering for low value (article 42, Law of Acquisitions, Leasing and Services of the Public Sector – LAASSP) must be awarded to SMEs (LAASSP Regulation, article 76). There is no information confirming that IMSS has awarded 50% of its direct awards under article 42 LAASSP to SMEs.
- Public tenders may be exclusively reserved for SMEs (Article 35 of the Regulation to the LAASSP). To date there is no evidence that IMSS has carried out this type of tender.
- Special flexibilities for SMEs in order to receive higher advanced payments from public entities for goods which have a production process of more than 60 days (LAASSP, article 13).
- In case of public tender using the evaluation methodology of points and percentages, points should be awarded to SMEs that produce goods with technological innovation (LAASSP, article 14).
- In public tendering procedures where national SMEs are participating in an individual manner, the bidding cannot be carried out through reverse auctions (LAASSP, Article 28)).
- In case of equality during the bid evaluation, preference should be awarded to national SMEs (LAASSP, article 36-Bis, LAASSP Regulation, Article 35);

All pro-SME initiatives relating to procurement are fairly new in Mexico and possibly for that reason IMSS still needs time to adapt. The Ministry of Economy has set specific goals for each federal entity to award contracts to SMEs. While the Mexican Federal Government exceeded the overall target by 15% in 2011, only half (52%) of its entities achieved or exceeded the individual goal. With MXN 5.5 billion (approximately USD 440 million) in contract awarded to SMEs in 2011, IMSS exceeded its target by almost 120% (Table 3.1).



Table 3.1. Goal vs. amount awarded to SMEs by IMSS (2011)

MXN billion

Ministry/Entity	Goal	Amount attained	% of goal attained
Ministry of Communications and Transport (SCT)	18.4	17.4	94%
Petróleos Mexicanos (PEMEX)	12.5	17.0	136%
Federal Electricity Commission (CFE)	10.6	13.3	125%
Liconsa	3.3	3.9	118%
National Water Commission	2.9	0.5	19%
<b>Mexican Institute of Social Security (IMSS)</b>	<b>2.5</b>	<b>5.5</b>	<b>219%</b>
Diconsa	2.1	3.9	181%
Ministry of Public Education (SEP)	1.1	1.5	140%
State Workers Institute for Social Security and Services (ISSSTE)	0.3	1.7	509%
Rest of the public administration	18.4	18.6	101%
<b>Total</b>	<b>72.3</b>	<b>83.4</b>	<b>115%</b>

Source: Secretaría de Economía, website (n.d.), “Avance del Programa de Compras del Gobierno Federal” [Progress of the Federal Government Procurement Programme].

While IMSS states that information on its procurement involving SMEs is not available, it can be accessed from the Ministry of Economy. Detailed records on how many contracts are awarded to SMEs, their value, through which procurement procedures, the degree of performance etc. are essential for IMSS to measure compliance with the programmes established by the Ministry of Economy. Furthermore, such information enables IMSS to identify any advantages in contracting with SMEs and further exploit them.

Like all other federal entities, IMSS makes available to the public its annual plan of acquisitions, leases and services, as well as its public works and related services. In this plan there is a specific section on contracts destined for SMEs. Furthermore, IMSS has a detailed webpage on procurement (<http://compras.imss.gob.mx/>) that provided more specific information targeted to SMEs, so as to facilitate their participation in the procurement process.

### *The level of local content present in IMSS procurement is unknown*

It is a practice in many countries to reserve part of their public procurement for national suppliers who employ national citizens, or for suppliers who provide goods produced with national content. Although the economic and competitiveness benefits of such measures are still debated, the fact remains that they are used worldwide to advantage domestic suppliers. For example, the Brazilian Government recently initiated a policy of “Buy Brazil” to increase the participation of local companies in its procurement, setting a price preference for goods and services produced locally. This allows Brazilian companies to win contracts even if their bid is 25% higher in terms of price (*ceteris paribus*) than a bid from a foreign company. In economy segments where domestic suppliers are not able to offer the same prices as some foreign suppliers, this approach may create an incentive for the foreign suppliers to submit better offers, and therefore increase competition.

For the purposes of determining who can submit a proposal and under what circumstances, public tendering procedures are classified in Mexico as national, international (if covered by international trade agreements, such as the North American Free Trade Agreement), and

open international. In Mexico, preference is given to national tenders, or when applicable, to the international tenders (covered by international trade agreements). The open international scheme is only applied residually, when the two others are unsuccessful. Only Mexican nationals may take part in national tenders, and since 2011, the goods supplied must have at least 60% of national content.

In Mexico, 80% of the purchases made from SMEs meet the local content requirements in order to be considered “national” (Secretaría de Economía, 2010). Yet, IMSS does not have data on the rate of national content incorporation in its procurement. According to the law, bidders are required to declare under oath if the deliverables complies with the minimum local content requirement of 60%. The Ministry of Economy has the right to carry out inspections to substantiate such information. However, bidders are not obliged to provide the specific percentage of local content, nor the relevant calculations. Although IMSS is aiming at complying with federal policies on SMEs and local content, it could benefit from developing its own policy in order to meet the objectives set by the Ministry of Economy. As a way of allowing more evidence-based decision making and a better assessment of the local content present in its procurement activities, IMSS could begin by collecting data on its current procurement involving SMEs and goods and services with Mexican content. IMSS could require that all suppliers (or only key suppliers) provide a mandatory statement with the specific degree of local content in their contracts, and record that information in its systems.

## Green procurement

### ***While Mexico does not have a green procurement policy, IMSS could develop its own***

Green procurement is defined as the process through which a contracting authority procures goods, services or works that have a reduced environmental impact throughout their life-cycle when compared with other alternatives in the market (European Commission, 2008). It is traditionally associated with the procurement of energy-efficient vehicles or equipment, recycled materials or waste reduction (Box 3.2). For environmental considerations to fulfil the best value principle, the focus must be on life-cycle costs (including the use, ownership, maintenance, and disposal) rather than just upfront costs. Similarly, environmental externalities could be included, when known, to assess the overall cost of the good or service to the community, and not just the financial cost to the procuring agency.

In 2002, OECD member countries adopted a recommendation “to improve the environmental performance of public procurement” (OECD, 2002). There is a widespread belief that green policies are expensive, mainly due to their upfront costs. However, in many cases, greener products and services result in lower total costs over their whole life cycle, than “less green” products. Furthermore, when considering the social costs of externalities, green products and services generally have lower long-term social costs. However, Mexico has not developed a federal green procurement policy and is among the few OECD countries without guidance on green procurement through practical guides, training materials, *ad hoc* advice or code of practice (Table 3.2).

IMSS does not have a policy on green procurement and the relevant initiatives are dictated by the law. Its guidelines on acquisitions, leasing and services (*Políticas, Bases y Lineamientos en Materia de Adquisiciones, Arrendamientos e Servicios – POBALINES*) mandates to optimise the use of natural resources and to respect national and international green standards. Article 55 of the POBALINES states that IMSS should require certificates

### Box 3.2. Most common products acquired through green public procurement

There are certain similarities in countries promoting green procurement:

- *Construction, renovation and maintenance of public buildings*: Low resource consumption (energy, water, raw materials, landscape) throughout their whole life cycle, use of recycled materials, waste management, etc.
- *Transport*: Type of vehicles (hybrids, electrics), reduction of fossil fuels and increase of biofuels, CO<sub>2</sub> emission limits for new vehicles, training courses for drivers, use of bicycles for short administrative tasks, etc.
- *Office equipment and office supplies*: Energy efficiency, using computers, copiers, printers, monitors and other equipments meeting the standard ENERGY STAR; two-sided printing in order to reduce paper consumption; use of recycled paper or of virgin fibre paper coming from sustainably-managed forests (FSC or equivalent label).
- *Cleaning*: Cleaning products “highly biodegradable”, “free from hazardous substances”, or not impairing water quality, etc.
- *Services*: Messenger enterprises with reduced fossil fuel use in vehicles, printer enterprises with ISO 14001 certification, etc.

*Source*: Based on United States Environmental Protection Agency website, [www.epa.gov/](http://www.epa.gov/).

of origin when purchasing wood and that purchased paper must comply with a recycling standard.<sup>2</sup> This standard stipulates including at least 50% content that is recycled, non-wood derived or, if derived from wood, it must come from sustainable woodlands. However, no information or data is available to assess whether IMSS complies with the wood and paper requirements of the POBALINES.

Due to the extensive range of services provided by IMSS, its role in advancing green growth in Mexico is significant. A recent study in the European Union shows that medical and health products are among the most commonly prioritised products groups in green public procurement (Kahlenborn et al., 2011). In addition, other products in the priority list are regularly procured by IMSS, such as cleaning goods and services, copying and graphic paper, transport, furniture, and food and catering services. IMSS could therefore develop and implement its own green procurement policy. The United States' Environmental Protection Agency Final Guidance on Environmental Preferable Purchasing (US EPA, 1999) shows that, in developing such a policy, IMSS could:

- create an organisational-wide policy directive regarding green procurement;
- increase the procurement of environmentally preferable goods and services, supported by a directory of general and product- service-specific green procurement tools, and summary information about popular environmentally preferable goods and services (e.g. environmental attributes to look for, procurement guidance, tools, case studies, and other useful resources);
- identify and implement green procurement pilot projects and other programmes;
- establish internal incentives and award programmes to recognise those people, teams, and work groups who are most successful at promoting green procurement; and
- collaborate with other entities in the Mexican public administration to provide education and training.

Table 3.2. Tools available to provide guidance on green procurement in OECD member countries

	Guidance to promote green procurement in practice			
	Practical guide	Training materials	Ad hoc advice	Code of practice
Australia	●	○	○	○
Austria	●	○	○	●
Belgium	●	○	●	○
Canada	●	●	●	○
Chile	●	●	○	○
Czech Republic	○	○	○	○
Denmark	●	○	●	●
Estonia	●	●	●	○
Finland	●	●	●	○
France	●	●	●	●
Germany	●	●	○	○
Greece	○	○	○	○
Hungary	●	●	○	○
Iceland	●	●	●	○
Ireland	●	○	○	○
Israel	○	●	●	○
Italy	●	●	●	○
Japan	●	○	●	○
Korea	●	●	●	●
Luxembourg	●	○	○	○
Mexico	○	○	○	○
Netherlands	●	●	●	●
New Zealand	●	○	○	●
Norway	●	●	●	○
Poland	●	●	○	●
Portugal	○	○	○	○
Slovak Republic	○	○	○	○
Slovenia	●	●	●	●
Spain	○	○	●	●
Sweden	●	●	●	●
Switzerland	●	●	●	○
Turkey	○	○	○	○
United Kingdom	●	●	○	○
United States	●	●	●	○
Total OECD 34				
● Yes	26	19	18	10
○ No	8	15	16	24

Source: OECD (2011), *Government at a Glance 2011*. OECD Publishing, Paris, [http://dx.doi.org/10.1787/gov\\_glance-2011-en](http://dx.doi.org/10.1787/gov_glance-2011-en).

Several countries have developed directories or catalogues of green products, which IMSS could use as an example in devising its own. Germany has issued a Handbook of Environmental Procurement, published in 1999, with a volume of more than 800 pages, containing recommendations for over 100 different types of products and services. Beyond listing the “environmental criteria in public procurement”, the manual was considered as a compendium for cleaner production, and included regulations, certifications and eco-labels, and good practices identified in Germany and other countries. Similarly, Japan adopted the Action Plan for Greening Government Operations, which detailed a programme for training administrative officers, a database for products, guidelines, and target values for energy efficiency.

Two issues are essential in developing and implementing a green procurement policy: measurement and capacity building. Indicators and information on contracts that establish environmental performance as criteria for contract award and bid evaluation are necessary to measure the level of take up of the policy. Moreover, procurement officers need to be given specific guidance on how to incorporate environmental considerations into their procurement activities. As such, IMSS could institutionalise and conduct proactive capacity-building efforts.

Furthermore, green public procurement requires a supply base with capacity to respond to the demand for greener products and services. Although IMSS could promote the development of sufficient supply, that responsibility is more in the remit of other organisations, such as the Ministry of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*). Therefore, IMSS advancement in green procurement will be dependent on the market's capacity to deliver and on incentives provided by the Mexican Government in general.

## Social objectives

### *IMSS has no policy on using procurement to achieve social objectives*

Some OECD countries, such as the United States, actively pursue social policy through public procurement (Box 3.3). A recent study in Europe shows that most countries in the European Union go beyond basic procurement to include social considerations. The most commonly used examples of social objectives being included in the procurement process are: the use of the International Labour Organization core labour standards; set-aside for social enterprises employing disabled persons; and social inclusion and equal opportunity (Kahlenborn et al., 2011).

In Mexico, the procurement legal framework (article 14 of the LAASSP) only refers to giving preference to disabled persons or companies that employ disabled persons (at least 5% of total employees for at least 6 months of employment) under specific procurement procedures. There is no information on whether this has ever been applied by IMSS. Given that the pursuit of social objectives is inherent in the legal framework of IMSS, as part of its overall mandate, IMSS could aim to apply the preference for disabled persons as set out by the LAASSP. As a second step, IMSS could also develop its own social objectives (health related) that could be pursued through its procurement process.

### Box 3.3. Promotion of women-owned businesses in the United States

The United States Government instituted a women-owned small business (WOSB) contracting programme, as part of the administration's broader commitment to increasing competition in the award of federal contracts to women, socially and economically disadvantaged persons and veterans. The new regulations set forth procedures authorised by the Small Business Act to help ensure a level playing field on which WOSBs could compete for federal contracting opportunities, while helping achieve the existing statutory 5% goal. The regulations entered into force on 4 February 2011 with the SBA charged with implementing and administering the programme. Eighty-three industries or sub-industries were identified in which WOSBs were under-represented (45) or substantially under-represented (38) in terms of the award of federal contracts.

The rule removes a requirement previously proposed that each federal agency be required to certify that it has engaged in discrimination against women-owned small businesses in order for the programme to apply to contracting by that agency. The rule allows women-owned small businesses to self-certify as "WOSBs" or to be certified by third-party certifiers, including government entities and private certification groups. At this stage, it is too early to assess the impact of the new programme. However, it has been praised by stakeholders and women's organisations and represents a proactive trend in US federal procurement strategy.

*Source:* United States Small Business Administration website, [www.sba.gov/content/women](http://www.sba.gov/content/women).

## Barriers to achieving complementary objectives

### *Current procurement policies at IMSS may reduce the possibility of some complementary economic objectives*

There are some policies and legal provisions that may make it difficult for smaller businesses to participate in IMSS procurement. As indicated in Chapter 2, IMSS recently bundled procurement of various requirements into a smaller number of contracts, namely through sole contracts (*contratos únicos*). These sole contracts provide contractual coverage of common product categories for the whole organisation, with the aim of achieving value for money. If regional needs are bundled into larger procurement orders, some SMEs without adequate scale may be unable to compete. Moreover, companies must provide a 10% bond to guarantee the performance of the contract.<sup>3</sup> This means that newcomers, including start-ups, are at a disadvantage. The imposition of maximum prices under IMSS' reference pricing system (discussed in Chapter 10) may further disadvantage smaller suppliers (such as SMEs and small women-owned business). These small suppliers are then forced to conform to a centrally-calculated reference price, despite potentially contending with different cost bases. Furthermore, the high rate of direct award of contracts also serves to cut smaller businesses out of the marketplace by denying them their ability to compete. Finally, interviewees indicated that payments are sometimes late, which further serves to undermine smaller companies with lower cash-flows.

### *When designing complementary policies for public procurement, IMSS needs to balance the benefits and potential costs of such policies*

Promoting complementary policies through the procurement mechanism can carry the risk of trading off integrity for value for money. By giving weight to complementary criteria in tender evaluations, value for money becomes less important. Adding extra

criteria or contract clauses which deal with complementary criteria can also create complexity, and hence raise costs and risks in the procurement cycle by increasing demands placed on suppliers, procurement officers, and systems of monitoring and evaluation. If poorly designed, the implementation of complementary policies in the procurement system can potentially lead to outcomes which are counterproductive and even damaging to both value for public money and integrity.

As a result of these challenges, significant debates have taken place on these issues in multilateral organisations such as the European Union and the World Trade Organization. Furthermore, few countries have tackled the issue of how to include economic, environmental or social considerations in the procurement process, while ensuring that procurement decisions remain fair, transparent and cost-effective. Apart from programming such complementary policies into the evaluation mechanism, one of the ongoing difficulties is in monitoring the implementation of the contract by contractors and subcontractors, which often operate across borders.

Nevertheless, there are ways in which value for money and transparency need not be traded off directly with complementary policy objectives. For example, by considering the whole life-cycle costs, more environmentally-conscious decisions strategies can be selected, while promoting sound long-term financial management practices. Promoting smaller and local businesses positively impacts the supply chain through diversification of supply sources which can facilitate procurement in cases of non-performance and emergency procurement. Furthermore, from a “whole-of-government” perspective, promoting objectives across departments can serve to optimise net social benefits despite the necessary stove-piping of government portfolios.

How regulations related to complementary objectives will be used needs to be clarified, in particular, how they may be used together with other evaluation criteria without harming the integrity of the public procurement process. If bidders are to trust and respect the outcome, they need to know how complementary policies are incorporated, how discretion was exercised and how criteria were applied. There are some avenues which could serve to guide such regulations, such as the ISO 26000 International Standard and Guidance on Sustainable Business Practices.

Furthermore, one of the main challenges faced by all countries that promote complementary goals through public procurement is to develop performance metrics that are appropriate for assessing the success of applying complementary criteria in a public procurement regime. Unless such indicators are available and adequately tracked, there is a risk that the precise costs and benefits of such programmes will remain largely unclear.

Finally, experience in OECD member countries shows that complementary policies may also be abused. For example, large companies can pretend to be SMEs. Companies can also obtain procurement contracts due to social or economic considerations under these policies and then subcontract to companies which do not meet these considerations. Therefore, complementary goals in procurement need to be developed and implemented in a highly transparent manner with specific accountability and oversight processes in place.

## **Proposals for action**

In order to further promote complementary policy objectives through its procurement, IMSS could consider the following:

1. Collecting data on its current procurement involving SMEs as well as goods and services with Mexican content. In order to better assess the level of local content in its procurement, IMSS could request that all suppliers provide a mandatory statement with the specific degree of local content in all procurements. This information should be registered in its systems.
2. In areas not regulated by federal procurement policies and laws, such as in social and environmental considerations, IMSS could take a leading role in the Mexican administration and design its own policies. In order to maximise outcomes of the procurement function and mitigate issues associated with complementary policy goals, IMSS could seek to gradually develop a policy mix which promotes complementary policies founded on evidence-based analysis and which also addresses practical limitations and priorities.
3. Promoting complementary policy objectives through various procurement mechanisms, such as:
  - a. giving points in the evaluation process if set complementary policy targets are met or exceeded. An alternative would be to limit this idea to a “tiebreaker” when bids are otherwise equivalent;
  - b. proactively publishing yearly forecasts of contracts of interest for targeted companies (based on complementary policy objectives);
  - c. setting aside lots specifically for target organisations (based on complementary objectives);
  - d. developing systems that ensure prompt payment to small and medium-sized suppliers;
  - e. reducing the value of performance bonds required to obtain a contract; and
  - f. providing quality feedback to participants.
4. First targeting a limited set of priorities in a specific area of complementary policy, and slowly growing the capability of the procurement system to address these objectives. For example, in promoting complementary environmental policies, IMSS may find it easier to start by evaluating green procurement practices already deployed and then use the lessons learned to expand into a more comprehensive policy. When drafting technical specifications, IMSS could adopt some of the growing list of green standards (such as the European Eco-label for light bulbs), or directly specify products and services that are recognised to be environmentally-friendly, similar to what the Environmental Protection Agency has done in the United States.
5. For green procurement, IMSS could adopt a strategy under which buying decisions for specific products are not based solely on purchasing price, but consider the entire life-cycle costs of the product, including the costs of use, ownership, maintenance, and disposal.
6. Adopting the ISO 26000 International Standard and relevant guidance on sustainable business practices (applicable to economic, green and social policies).
7. Ensuring that all levels of the organisation are trained in complementary policies and how they differ from the traditional value for money-money approaches, as well as aligning key performance indicators to complementary policy metrics.



## Notes

1. While the Mexican procurement laws make reference to micro, small and medium enterprises (*micro, pequeña y medianas empresas nacionales* – MIPYMES), the expression “small and medium enterprises is used in this report to represent all of them.
2. “Characteristics and technical specifications of the content of fibre from recyclable material and chlorine for the manufacturing of printing and photocopying paper to be purchased for the federal government institutions”, <http://200.77.231.100/work/normas/nmx/2008/nmx-aa-144-scfi-2008.pdf>.
3. Article 75 of the POBALINES. This is a value that can be reduced according to the “Guidelines for the Reduction of the Amount of Performance Bonds” (*Lineamientos para la reducción de los montos de garantías de cumplimiento*) for companies with good performance track record.

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## *Chapter 4*

### **Fostering effective internal control and risk management in IMSS' procurement activities**

*This chapter assesses the internal control structure and division of responsibilities relating to public procurement within the Mexican Institute of Social Security (IMSS). It also indicates how its interaction with the Internal Control Offices of the Ministry of Public Administration, could be strengthened to foster improvements in the procurement activities. Finally, the need to support IMSS' risk management system with sufficient data and risk management tools is addressed.*

## Introduction

Internal control is commonly recognised as the set of processes put in place to mitigate risks and provide reasonable assurance that public organisations:

- deliver quality services in an efficient manner, in accordance with planned outcomes;
- safeguard public resources against misconduct and (active and passive) waste;
- maintain and disclose, through timely reporting, reliable financial and management information; and
- comply with applicable legislation and standards of conduct.

High-level assurance is achieved through management systems and specific control actions. The role of internal control in preventing corruption in public organisations is also recognised in international conventions against corruption.<sup>1</sup> Increasingly, public organisations within OECD member countries are developing risk-based approaches to ensure that internal control measures are cost-effective and proportional to the vulnerabilities faced. Although internal audit can play a valuable part in internal control, it should not be a substitute for management responsibility in implementing a risk-based approach to internal control.

This chapter examines internal control within the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS). It discusses the main observations of the OECD in relation to IMSS internal control, including:

- a lack of communication between internal control activities and IMSS senior management;
- the absence of a procurement risk management policy tailored to its procurement activities; and
- the need for additional data and indicators to adequately support and assess the impact of internal control system and activities.

## Current internal control

### ***IMSS current internal control does not align with the organisational priorities and targeted risks, and therefore does not support improvement of the procurement function***

An Oversight Commission (*Comisión de Vigilancia*) is currently in place to support IMSS General Assembly (*Asamblea General*). It is composed of six members, with two members elected by each sector of the General Assembly (i.e. employees, employers and government). The Oversight Commission is responsible for:

- overseeing IMSS investment decisions;
- auditing IMSS financial statements and assets valuation;
- making suggestions to the General Assembly to improve the financial and coverage of IMSS insurance mechanisms; and
- presenting an opinion to the General Assembly on the quality of IMSS financial statements and activities report. As such, it does not function as a typical audit committee. Its role is rather that of organisational financial oversight.

An audit committee typically provides an independent source of assurance and advice to the Board of Directors. The function of an audit committee may include supporting discussions on risk management, internal control and internal audit. It is good practice for an audit committee to:

- have a clearly documented charter;
- possess broad business, financial management and public sector experience and expertise;
- be knowledgeable about the organisation's operations, particularly the organisation's risks and the arrangements in place for the management of these risks;
- monitor that internal audit coverage is aligned with the organisation's risks and includes an appropriate mix of performance and compliance audits; and
- monitor the implementation of recommendations made by internal and external audit and other review activities.

In IMSS, internal control is co-ordinated by the Internal Control Office (*Órgano Interno de Control* – OIC), an operational extension of the Ministry of Public Administration (*Secretaría de la Función Pública* – SFP) which is located within each federal public organisation. SFP is the Ministry in charge of issuing the regulations that govern the procedures and the instruments used for control in federal government organisations, and that establishes the general basis for the conducting of audits. It organises and co-ordinates the government control system and, additionally, oversees public expenditure together with the Ministry of Public Finance and Credit (*Secretaría de Hacienda y Crédito Público* – SHCP).

OIC presence in IMSS is organised into six areas, two of which are in charge of internal audits: *i*) Control, Evaluation and Support for Good Governance (*Auditoría de Control y Evaluación y Apoyo al Buen Gobierno*); *ii*) Internal Audit (*Auditoría Interna*); *iii*) Responsibilities (*Área de Responsabilidades*); *iv*) Complaints (*Área de Quejas*); *v*) Medical Services' Audit (*Auditoría de Servicios Médicos*); and *vi*) Regional Co-ordination (*Coordinación de Vinculación Operativa y Regional*).

The (general) Internal Audit area has one division focusing specifically on procurement and another on construction, as well as units working on integral/cross-cutting and revenue audits. The Medical Services Audit area has divisions focusing on: *i*) operational audits; *ii*) efficiency audits; and *iii*) special audits. All audit areas share the same core responsibilities including: *i*) formulating and implementing an annual work plan (*plan anual de trabajo*); *ii*) supporting other areas of OIC with their annual work plans; *iii*) executing audits within the annual work plan; *iv*) reporting findings to SFP and internally within OIC; and *v*) proposing changes to IMSS internal rules, guidelines and manuals related with their audits results.

Seven-hundred and ninety-two officials are employed within IMSS OIC, 491 of which work in IMSS local entities (*delegaciones*) or high specialty medical units (*Unidades Médicas de Alta Especialidad* – UMAEs). The size of the regional OIC is related to the importance of the local entities in IMSS operations. All OIC officials present in IMSS are employed and financed by IMSS. However, the Heads of the OIC and of its divisions are appointed by SFP and subject to its operational guidelines.

While the OIC essentially functions as an in-house internal audit unit, it reports to SFP and not the IMSS General Director. This reflects the institutional responsibilities of SFP as the central internal control authority of the public administration. This has given rise to concerns by some public officials that OIC audit activities do not adequately reflect IMSS'

management concerns, but rather those of SFP, thereby positioning internal audit as a *de facto* layer of external audit. At this time, IMSS OIC does not have a space or forum in which they can interact with high-ranking officials of IMSS to discuss their findings, align some of their activities with the organisational goals and priorities, and allocate control resources adequately. As such, OIC may not be aware of IMSS management strategies and do not receive feedback on how they could contribute to their implementation and control. There is therefore a high probability that OIC strategies will be disconnected from IMSS operations, and OIC does not fully contribute to improving IMSS' procurement function. It may be the case that IMSS' staff only perceives the IOC activities as a burden, rather than as a tool for enhancing performance and adding value to IMSS activities. To improve efficiency in IMSS procurement, OIC staff needs to be aware of the organisational management strategies.

## Internal control committees

### *Following extensive consultations, SFP recently introduced various handbooks, one specifically addressing internal control*

The above issues, however, could be mitigated as a result of a significantly recent initiative from SFP to streamline internal control within the federal public administration and improve communication with the management of each entity. In 2009 and 2010, SFP moved to eliminate excessive and unjustified internal procedures of diverse government organisations and within all federal public entities by creating and publishing handbooks. Approximately 400 officials from 64 federal public organisations, SFP and OICs, were directly engaged in the process. Around 150 federal public organisations were also consulted (Table 4.1).

The resulting handbooks cover procurement, public works, human, financial and material resources, as well as information and communication technologies, transparency, audit and inspection. They are designed to increase performance of public entities, shifting the focus to preventing corruption. In August 2010, the development of these handbooks coincided with the publication of a presidential agreement instructing all federal public organisations to

Table 4.1. **Feedback on the development of administrative handbooks**

	a. Collaboration with regulators/ integration of working teams for the creation of handbooks		b. Number of federal public organisations and internal control offices that provided feedback			
	Participants		Feedback provided		No feedback provided	
	Officials	Organisations	Organisations	ICO	Organisations	ICO
Transparency	40	5	94 (64%)	44	53 (36%)	n.a.
Information and communication technology	24	12	90 (61%)	35	57 (39%)	n.a.
Procurement	43	15	69 (64%)	25	78 (53%)	n.a.
Material resources	22	7	68 (46%)	32	79 (54%)	n.a.
Human resources	31	12	65 (41%)	33	82 (56%)	n.a.
Financial resources	76	11	60 (41%)	28	87 (59%)	n.a.
Control	19	8	58 (39%)	21	89 (61%)	n.a.
Auditing	23	7	91 (n.a.)	65	n.a.	n.a.
Public works	52	13	51 (35%)	n.a.	96 (65%)	n.a.
Total	404	64				

Notes: By handbook. n.a. = not available.

Source: OECD (2011), *OECD Public Governance Reviews: Towards More Effective Dynamic Public Management in Mexico*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264116238-en>.

refrain from issuing regulations in the areas covered by the handbooks. The same agreement also requires public organisations to define their inventory of internal rules and to remove those opposed to the handbooks. The agreement gives the authority to SFP to monitor compliance with its provisions.

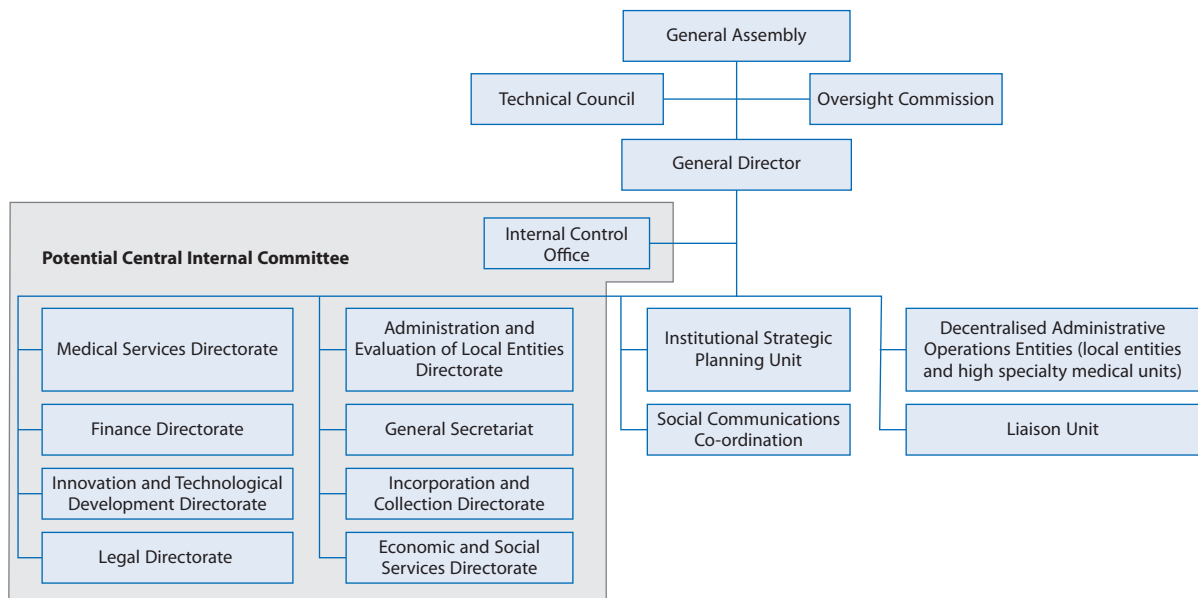
In particular, the 2005 Internal Control Handbook was replaced by a new version in 2010 (SFP, 2010), which was last amended in July 2012 (SFP, 2012). This handbook aims to improve an organisation's performance and effectiveness through the creation of a standard model of internal control and the introduction of risk management.

At the end of 2010, SFP defined a number of indicators to measure the impact of the handbooks. These indicators focus on issues such as under-spending, administrative cost, automation of procedures and levels of corruption. These indicators are linked to the public organisation's Special Programmes to Improve Public Management (*Programa Especial de Mejora de la Gestión*). They are to be measured through the Special Programme for Management Improvement Administration System (*Sistema de Administración del Programa de Mejora de la Gestión*). SFP evaluates each institution's proposed goals and either determines that they are in compliance with comprehensive programmes, or they request corrections (OECD, 2011b).

***IMSS has not established an internal control committee, which therefore limits co-ordination between IMSS management and the Internal Control Office***

Both versions of the SFP Internal Control Handbooks encourage all federal entities to establish an internal control committee as a measure to ensure communication and co-ordination between management and OIC. Among other activities, this committee would present the results of internal control and internal audit activities to their respective administrators and, in the case of IMSS, to the Technical Council (*Consejo Técnico*). This committee would be composed of staff from the organisation's General Director Office, as well as its respective OIC and administrative directors. Figure 4.1 presents how such a potential committee could fit into IMSS' current organisational structure.

Figure 4.1. Potential composition in IMSS of the SFP proposed central internal committee



As illustrated in Table 4.2, the 2010 Internal Control Handbook changed the name, focus, functions and instruments of this committee. According that new version, the Institutional Development and Control Committee (*Comité de Control y Desempeño Institucional – COCODI*) would replace the earlier Internal Control and Audit Committee (*Comité de Control y Auditoría*). The principle difference in the functions of these two committees is that the newer committee must approve and monitor the implementation of an organisation's internal control and risk management systems.

Table 4.2. **Snapshot of internal control committees within Mexico's federal public administration**

	Committee name	Statutory basis	Focus	Main functions	Instruments	Members	Frequency of meetings
Pre-2010	Internal Control and Audit Committee ( <i>Comité de Control y Auditoría</i> )	SFP 2005 Internal Control Handbook	Prevent corruption	Supervise OIC performance	OIC reports	Heads of public organisation Head OIC Administrative Directors	Quarterly
Post-2010	Institutional Development and Control Committee ( <i>Comité de Control y Desarrollo Institucional</i> )	SFP 2010 Internal Control Handbook	Performance management Prevent corruption	Approve and supervise implementation of internal control and risk management systems	Risk management; Internal control; and OIC reports		

However, no such committee was ever set up in IMSS, as its government bodies decided against the Institutional Development and Control Committee, as suggested in the 2010 SFP Internal Control Handbook. IMSS could reconsider this decision or implement an alternative channel of communication between internal control units and IMSS senior management. A strong channel of communication such as this is very important in an organisation. It ensures that internal control activities reflect management concerns and are aligned with the organisational objectives. Furthermore, it promotes awareness of particular risks and IMSS management can use of their findings to improve the efficiencies of its operations (including of the procurement function). Experience from other OECD member countries highlights that it is very difficult to ensure that management uses risk information in management decision making.

If IMSS opt to implement the SFP's proposed internal control committee, due care must be taken to safeguard the independence of OIC. It appears that SFP's recommendation to include the Head of OIC within the proposed Institutional Development and Control Committee was a means of improving OIC's communication with the organisation. However, such a structure might compromise its functional independence. IMSS could therefore consider amending this structure to make the Head of OIC an observer rather than a voting member. In order to ensure this change does not break communications between the IMSS OIC and the General Director, a direct communication line could be established between them. This reporting line could be complemented with a reporting line to the IMSS Oversight Commission.

## Risk management system

### ***IMSS has implemented a risk management system as required by the new internal control guidelines adopted in 2010 by the federal government***

Operational risk management aims to ensure that management control is proportionate with the potential vulnerabilities of each public organisation. Operational risk management is not simply about regulating internal practices and procedures. It requires putting in place a systematic process and adequate capability (i.e. knowledge, resources, etc.) to assess



and use information gathered in order to adjust management systems to prevent risks in a cost-effective manner. It also calls for an *ex post* assessment of risk-mitigating actions, recognising that earlier diagnosis and mitigating actions may not always have the desired effect. This requires leadership to create a culture that encourages the management of risk as a strategic and continuous action, rather than as a process of attributing fault to individuals and the inadequacies of systems (Bounds, 2010; OECD, 2011a).

The 2010 Internal Control Handbook of SFP requires heads of public organisations to instruct specific operative areas to develop a risk management system. It defines risk management as “the systematic process that organisations must undertake to measure and monitor risks related to their operations, using an analysis of the possible factors with the finality of defining strategies and actions to mitigate them and reasonably achieve an organisation’s goals”. The risk management system is to be based on five minimum elements:

1. *Risk evaluation*: involves organisations in identifying and defining the risks they face, categorising them (e.g. administrative, legal, budgetary, security, etc.), and rating them in terms of magnitude of impact and probability of occurrence.
2. *Risk mitigation*: entails describing all existing control measures that are used to mitigate the risk and classifying them as corrective, preventive or detective.
3. *Risk assessment*: requires evaluating the effect of existing control measures on risks and organising them as effective, inefficient or inexistent.
4. *Development of a risk map*: implies presenting, in a concise and clear manner, risks that require immediate attention (i.e. high risk, high probability); periodic attention (i.e. low risk, high probability), follow up (i.e. high risk, low probability) and controlled risks (i.e. low risk, low probability).
5. *Risk management strategies*: involve deciding what management will do about the risks (e.g. avoid, mitigate, transfer and accept) as a basis for taking action, such as introducing new processes or new controls, etc.

In response to the new SFP internal control guidelines, IMSS has designed and implemented a risk management system in 2011. This included the development of a risk management matrix based on nine risks, a risk mapping and a risk management work plan (*programa de trabajo de administración de riesgos*). In line with the work plan, two quarterly reports were also produced in that year. Notwithstanding these progress, IMSS' current Internal Control Handbook was approved in July 2007 and is yet to be updated in light of the new SFP Handbook on Internal Control (as amended in June 2011).

***IMSS could establish a procurement risk management policy tailored to its procurement activities integrated with other governance, planning and management processes***

In order to reduce its dependency on the OIC and better manage risks organisationally (including in the procurement function), IMSS could consider developing a risk management policy tailored to its procurement activities and context. That system should align and support the organisational priorities, and be integrated with other governance, planning and management processes. The proposed IMSS internal control committee could develop the policy with input from OIC and SFP.

A risk management policy defines and communicates an organisation’s approach to risk, and provides high-level guidance on how processes and procedures integrate risk

with the everyday activities. An organisation's risk management policy can also provide guidance to staff on the organisation's commitment to:

- integrating risk management principles into existing procedures and practices;
- communicating the organisation's approach to managing risk;
- co-ordinating the interface between risk management, compliance and assurance programmes within the organisation;
- incorporating risk management training into internal staff development programmes; and
- ensuring that internal review and evaluation programmes consider risk management when developing annual audit plans.

Key elements of an organisation's risk management policy are:

- the objective and rationale for managing risk in the organisation;
- clear links between the policy and the organisation's strategic plans and business plan;
- an outline of internal accountabilities for managing risk;
- guidance on the organisation's risk tolerance or appetite for risk;
- details of the support and expertise available to help staff undertake effective risk management practices;
- a statement on how risk management performance will be measured and reported; and
- a commitment to the periodic review of the organisation's risk management framework.

While senior officials are ultimately accountable for risk management, it is the responsibility of all managers and staff to manage risk. Roles and responsibilities for those charged with implementing the risk management function also need to be clearly articulated. The successful integration of risk management with an organisation's overarching governance, financial, assurance and compliance frameworks is dependent on the clear definition of accountability and responsibility for risk management. Accountability for risk management requires:

- governance arrangements for management bodies, such as a board of directors, executive committees and audit committees, to consider the risks facing an organisation in its ongoing operations;
- promotion of active participation in risk management by all staff; and
- senior management to support the appropriate processes and practices to manage all risks associated with an organisation's operations.

Responsibility for managing specific policy, project and programme risks generally rests with individual line managers across the organisation. Responsibility for the implementation of the organisation's risk management framework rests with the risk manager or risk management team who have been appointed to sponsor or provide guidance to others on effectively managing risk.

***The introduction of the procurement risk management policy could be accompanied by risk management tools***

Various risk management tools can and are being used by IMSS to support the risk management system and assist managers in identifying, evaluating, monitoring and addressing risks. An inventory of operational risks, as developed by IMSS, can serve as a starting point for ascertaining process improvements and developing key risk indicators. This inventory can be set up through self-assessments of public officials who know best the operating environment of the programme and its risks. Necessary information for the inventory can be collected using structured questionnaires, moderated workshops, focus group discussions and individual interviews. Data results from self-assessment activities can be peer-reviewed by senior and other public officials. This includes the special advisor on internal control and audit authorities, who will identify risks that may have been omitted by officials. Considering the sheer number of IMSS officials and their dispersed locations, structured questionnaires offer the advantage of easy data recording. Moderated workshops/focus group discussions, however, can also contribute to raising awareness about risks across different organisational units. In many cases, both surveys and workshops are conducted together. Individual interviews can produce detailed data in a more comfortable environment for officials. Nevertheless, they entail more expense (financial and time-wise) compared with workshops/focus group discussions. Risk inventories are best updated periodically. The costs (in both time and money) of conducting such an exercise should, however, be taken into account.

Business process maps can also help to link information on macro-processes, activity flows, possible risks, and internal control, as a means of improving integrity and cutting red tape. Sound documentation of such processes is a basic requirement for a well-functioning process organisation. In the case of IMSS and the Internal Control Handbook, business process maps can support the articulation of control/risk mitigation measures and their assessment. It is crucial that not only the documentation exists, but that it is accessible to officials in as simple a format as possible. Undocumented or poorly-documented processes increase risks. Appropriate process descriptions also help new officials become acquainted with their tasks. It is advisable to first define the processes that are especially critical for operational risks and then to prioritise them. Business process maps can sometimes be sourced quickly from internal audit, and developed as part of audit and inspection activities.

Finally, key risk indicators make it possible to identify areas with elevated risks early on and to take appropriate action. They allow trends to be identified and can serve as indicators in early-warning systems, e.g. in combination with a traffic-light system (i.e. red, yellow and green). By creating an inventory of operational risks and business process mapping, risk indicators for a specific area can be defined. They can also benefit from other sources such as performance against service delivery standards, reports originating from taxpayers (e.g. ombudsman, media, etc.), internal audit findings and administrative disciplinary procedures.

***There are insufficient data and indicators to adequately support and assess the impact of internal control***

As noted above, risk management requires having in place: *i)* adequate processes and capability to use assessment results in decision making; and *ii)* *ex post* assessment of risk-mitigating actions, recognising that earlier diagnosis and mitigating actions may not always have the desired effect. While the 2010 SFP Handbook focuses on identifying, assessing and treating risks, it omits explicit reference to evaluating the impact of actions undertaken by federal public organisations to mitigate risks. This would be a meaningful addition to ensure that risk management has had the desired impact.

A sound risk management system may be compromised if only limited information and indicators are available in an organisation. As discussed in Chapter 7, a certain amount of data on procurement is available in IMSS, but it is currently under-used. Furthermore, the performance indicators developed by SFP to measure the impact of the handbooks focus on measuring their implementation rather than changes in the performance of the IMSS procurement function. IMSS could consider identifying and collecting key data and developing indicators which measure internal control. It could also implement a performance monitoring and management system (including of the procurement function), as discussed in Chapter 7.

### **Proposals for action**

In order to strengthen internal control, IMSS could consider the following proposals for action:

1. Engaging with SFP in order to explore the possibility of establishing an Internal Control Committee, which would strengthen co-ordination and communication between internal control and management, while safeguarding the functional independence of the OIC.
2. Establishing a direct communication line between the Head of OIC and the IMSS General Director to ensure that internal audit findings and observations feed into management decision-making. This communication line could be complemented with a reporting line to the IMSS Oversight Commission.
3. Developing a risk management policy tailored to its procurement activities that is integrated with other governance, planning and management processes. The IMSS internal control committee could develop the policy with input from OIC and SFP.
4. Fully introducing risk management tools to assist managers to identify, evaluate, take action and monitor risks, which will support the effective implementation of the risk management policy. IMSS Internal Control Committee could develop and strengthen these tools, with input from OIC and SFP.
5. Developing internal control indicators to support IMSS management of the procurement function. Indicators could be developed by the central IMSS Procurement Committee to support standardisation across its decentralised units.

## Note

1. See United Nations Convention Against Corruption, article 9.2:

Each state party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall [include] ... *iii*) a system of accounting and auditing standards and related oversight; *iv*) effective and efficient systems of risk management and internal control; and *v*) where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

Also see article 3 of the Inter-American Convention Against Corruption, which notes that governments:

To promote and strengthen the development by each of the states parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate co-operation among the states parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance the states parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen...government revenue collection and control systems that deter corruption.

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## **Part II**

### **Building IMSS' Capabilities for Procurement Activities**





## Chapter 5

### Enhancing procurement capability in IMSS

*This chapter describes the current procurement workforce of the Mexican Institute of Social Security (IMSS). It also assesses the capabilities and capacities of that workforce to perform its procurement duties. In particular, it discusses IMSS' workforce planning and management practices (e.g. recruitment, promotion, and performance management) and highlights the importance of enhancing the procurement workforce's training and development through competency management. The experience of various OECD countries is provided to illustrate potential improvements to IMSS' human resource management.*

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

## Introduction

For the procurement function to be strategic, professionals need to possess a wide set of skills and competencies, including negotiation, project and risk management skills. The procurement function is responsible for specifying, managing and providing access to the external resources and assets that an organisation needs in order to fulfil its strategic objectives. Therefore, procurement professionals should use their knowledge and experience of resource and supply management to scrutinise supply market opportunities and to implement departmental resourcing strategies which deliver the best possible outcome to the organisation, its stakeholders and customers. Equipping procurement professionals with adequate information and advice through guidelines, training, counselling, as well as through information-sharing systems, benchmarks and networks, also helps them make informed decisions and better understand markets (OECD, 2009). Therefore, the aim of this chapter is to assess whether the procurement area of the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) has the capability to perform its duties and contribute to the organisation’s strategic objectives.

While IMSS has made significant efforts to improve and manage the supply chain (including procurement), not much attention has been paid to purchasing professionals *per se*. The procurement team of IMSS demonstrates high levels of commitment and professionalism. There nonetheless appear to be significant competency and skills gaps in various key activities of the procurement process. A Personnel Unit focused mainly on managing payroll exacerbates these problems. There is no evidence of an in-depth co-operation between the Personnel Unit and procurement areas to define a strategy to acquire the competencies needed for performing the procurement function.

The OECD review found that the absence of a strategic vision of procurement hinders IMSS’ ability to achieve a more strategic and value-added capacity. Procurement units of feel overworked and understaffed. Furthermore, there is a high level of staff turn-over and lack of career opportunities. These issues affect staff performance and job satisfaction. This is made worse by discretionary appointment of staff, insufficient training and lack of performance management.

While the findings presented in this chapter refer in many cases to IMSS management of its procurement staff, they can often be extended to cover its entire workforce.

## Overview of IMSS workforce organisation

IMSS has approximately 391 000 employees, including doctors, nurses, and administrative staff. Close to 3 000 of these are senior executives. As in all organisations of the Mexican public administration, the employees of IMSS are divided into two categories: unionised (*base* or *sindicalizados*) and non-unionised (*confianza*). There are important differences in the level of professionalisation, performance and bureaucratic culture of the two categories of public employees. Unionised affiliation – generally reserved to administrative and technical personnel – implies a significant level of stability. Non-unionised staff – generally associated with senior and middle managers and operational professional staff – mostly refer to those with fixed-term contracts. During periods of intense workload, there are also personnel with short-term contracts (*honorarios*).

A large number of laws, policies and rules regulate the management of the workforce in IMSS. These include the Federal Law of the Administrative Responsibilities of Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores*

*Públicos*); the Law of Social Security (*Ley del Seguro Social*), the Federal Law of Work (*Ley Federal del Trabajo*); the Collective Work Contract (*Contrato Colectivo de Trabajo*); the Administrative Manual of General Application for the Planning, Organisation and Management of Human Resources; and the Handbook of Public Servants' Perceptions of the Dependencies and Entities of the Federal Public Administration (*Manual de percepciones de los Servidores Públicos de las Dependencias y Entidades de la Administración Federal*).

The employees in charge of procurement are mainly non-unionised and are located in the Co-ordination of Procurement of Goods and Contracting for Services area (*Coordinación de Adquisición de Bienes y Contratación de Servicios – CABCS*), which is the area in charge of co-ordinating the development of the procurement function. It is supported by three technical co-ordinations, such as the Contracts and Market Research Technical Co-ordination area (*Coordinación Técnica de Contratos e Investigación de Mercados*) (see Figure 1.2 of Chapter 1). This co-ordination, through the technical co-ordinations, conducts the procurement function for the central offices, and in some occasions, it conducts public procurement for other institutions with the same number of staff. The Contracts and Market Research Technical Co-ordination area reinforces the procurement function, as in the past every buyer used it to conduct his/her own market research. The 35 local entities (*delegaciones*) and the 25 high specialty medical units (*Unidades Médicas de Alta Especialidad – UMAEs*) of IMSS also conduct their own procurement activity.

## Strengthening the strategic role of the procurement workforce

### ***The procurement area in IMSS is overworked and understaffed mitigating quality performance and job satisfaction***

The procurement areas of IMSS are perceived to be understaffed and overworked. There is no administrative staff to support procurement officials. High workloads, inadequate replacement ratios and the absence of administrative staff result in procurement officials working up to 70 hours per week, which has an impact on performance and job satisfaction. Compared to other OECD countries, Mexican public servants ranked fifth in the highest number of working hours per year with 1 862 hours, whereas Chile was first with 2048 (OECD, 2011). However, IMSS' number of hours per week is still too high compared with the statutory working hours for civil servants in other OECD countries. For example, the lowest are in France and Portugal at 35 hours, and the highest in Chile and Israel, at 44 and 42.5 hours, respectively.

However, this is not surprising as there is no possibility of hiring additional staff due to the budgetary restrictions and the lack of a strategic approach to modernise the procurement function. When a non-unionised public employee leaves, in most cases, the vacancy is covered with an unionised employee who does not necessarily have the same experience and skills and who would not work the same number of hours. IMSS does not have a clear strategic vision or planning of its human resources in the procurement area. The workforce needs are established based on the workloads and the existence of senior management positions and are not always sufficient for the procurement function to meet its mission. Officials interviewed for this review suggested that the level of staffing in procurement is 50% lower than it should be. A heavy workload and the need to respond quickly to user areas' demands for goods and services can lead to inaccuracies and ineffective management of procurement as well as human and financial resources. Temporary staff (*honorarios*) is normally hired between August and October, as this is the busiest time. During this period, financial resources are made available to the different

administrative units for their acquisitions, but must be spent before the end of the year. However, there is no guarantee that temporary staff are trained or that they have the adequate knowledge of the procurement process.

***Strategic workforce planning is necessary to reduce workload, increase efficiency and knowledge transfer***

Employees perceive the procurement function as a “high-risk position”, as it is often subject to observations and sanctions following audits. These factors, as well as the increased competitive pressure, the dangers of being made redundant, the lack of career opportunities, and the salary freezes or cuts, result in a high level of stress in the units and may be the cause of the high level of staff turn-over in IMSS. Turn-over varies from one to four years for operational staff and one year for middle managers. This high turn-over can then result in increased workloads for remaining staff, hiring of inexperienced temporary employees, and loss of institutional knowledge.

To reverse this situation, IMSS authorities could consider engaging in strategic workforce planning for the procurement function. The Human Resource Management (HRM) Manual of General Application establishes the basic underpinnings for designing the organisational structure, including the rules for conducting the HR process (recruitment, performance, separation etc.) and for creating a registry of public employees. However, the Manual does not provide the tools for strategically managing the workforce in line with the objectives of IMSS. It only describes the administrative process for workforce management. Moreover, it does not provide for a flexible HRM system that empowers and enables managers to play a role in planning for future staff. Such a role may involve redeploying staff, defining competencies, reorganising work, increasing mobility, or planning the desired composition of the workforce.

A strategic management of the workforce anticipates possible future developments and maintains a structured and representative workforce of appropriate size – one that is able to meet the changing needs of government organisations in a cost-efficient manner. Effective workforce planning requires high-quality information that is linked to organisational strategies and efficiency concerns, and organisational arrangements that support workforce decisions effectively. The experience of OECD member countries suggests that in order to enhance IMSS’ procurement capacity, it should engage in strategic workforce planning based on a strategic vision and high-quality information, strengthening the procurement area’s capacities and making procurement managers accountable for the strategic management of their teams. Such workforce planning would contribute to:

- spreading a common understanding of IMSS’ vision;
- raising awareness of the demographics and current and future skill and competency gap within the organisation;
- anticipating possible future developments and maintaining a structured and representative workforce of appropriate size, able to meet the changing needs of government organisations in a cost-efficient manner; and
- allowing a more efficient and effective use of the workforce, preparing for restructuring, reducing or expanding the procurement workforce.

Such workforce planning should position IMSS a number of years into the future to strengthen the procurement area’s capacities, ensure the adequacy of the workforce to meet the changing needs of the organisation, and plan in terms of numbers and costs.

In order to prepare for workforce planning, IMSS could organise its procurement team through more structured roles. For instance:

- **Head of Procurement:** The professional head of the procurement function in IMSS – this would be the head of CABCS.
- **Procurement Manager:** a principal officer reporting to the Head of Procurement in each of the local entities and UMAEs.
- **Senior Procurement Officer:** a senior officer within the structure managed by the Head of Procurement. This would be the current head of division.
- **Procurement Officer:** an officer reporting to the Senior Procurement Officer.

Officials interviewed for this review suggested that for every senior procurement officer, there should be three procurement officers as support. However, workforce planning needs to be aware of the number of senior procurement officers required, and the competencies and skills relevant to do the job. Similarly, interviewees said that there should be an area for market research in every division with at least one assistant, four analysts and two senior market researchers. However, before increasing the size of the workforce, an assessment should be carried out to determine the extent to which this results from an insufficient number of employees or from a lack of efficiency (insufficient capacities, inefficient processes, etc.).

***De-concentrated administrative units require building up capacity for procurement through better co-ordination with the headquarters***

Because of the devolved nature of IMSS, the local entities and the UMAEs conduct their own procurement processes. Better mechanisms of co-ordination between local entities and IMSS headquarters are essential if they are to conduct their own procurement processes. Such mechanisms are needed to clarify broad institutional goals, commit diverse actors to compatible goals and programmes, improve learning skills and increase knowledge-exchange among all actors involved. The aim should be to maintain policy coherence on procurement while granting more managerial flexibility to de-concentrated administrative units. Setting guidelines, and disseminating knowledge and best practice on procurement issues would enhance understanding and improve education on procurement practices. Devolution grants flexibility to local entities and UMAEs to create alternative ways for better managing their procurement teams.

The Administration Directorate of IMSS, via the CABCS, could assume a larger role in enhancing the procurement function in the local entities and UMAEs. With a category management concept, CABCS could act as the leader of procurement for the whole organisation. It must be emphasised that centre-led procurement does not necessarily mean “centralised procurement”. De-concentrated units could continue conducting their own procurement activities, but technical advice and training provided by the central offices should be at the disposition of those units. Expanding and improving interaction between IMSS headquarters and the regional offices for conducting procurement should then be a priority. IMSS could make more extensive use of information and communication technologies (ICT), especially for long distance assistance and supervision in conducting recruitment and procurement.

The use of ICT tools in recruitment processes would increase efficiency and show users who is being hired in the local entities. A centralised control of the personnel database is necessary. In order to make the most of ICT tools in the Personnel Unit, IMSS should

be clear about the strategic objective for their use and develop the capacity to make them operational. It is critical that the ICT-HR strategy is aligned to the business needs of IMSS. In other words, it is necessary to have a vision – at least five years ahead according to the experience of Belgium – on HRM and how ICT can contribute to realise that vision. ICT could be a tool for strategic competence development and appraisal interviews operated by procurement managers.

Due to the devolved nature of IMSS, it is often unclear who is accountable for the results and outcomes of local entities and the performance of UMAEs. It is therefore necessary to assess whether decentralised units are performing the tasks and managing their resources effectively and efficiently in a way that does not hamper flexibility. Furthermore, there is no evidence of in-depth co-operation between the Personnel Unit and the procurement departments to define a strategy to acquire the competencies needed for performing the procurement function. At this time, the Personnel Unit of IMSS primarily has an administrative focus, managing payroll and conducting selection tests to candidates proposed by each administrative unit.

## Creating a specific procurement profession in IMSS

### *Competency and skills gaps deter good performance in procurement*

Although the procurement team of IMSS demonstrates high levels of commitment and professionalism, there appear to be significant competency and skills gaps, including handling supplier and contract management and performing complex procurement. The catalogue of positions in IMSS is largely comprehensive, but key profiles are poorly defined. Improving these would strengthen the procurement function, i.e. the procurement official or buyer. Procurement professionals need a set of flexible skills due to changing contexts and priorities. The strategic role of IMSS demands procurement professionals with high-level strategic, tactical as well as operational skills. Public employees working in CABCS do not have the speciality in “buying”, nor the profile for undertaking procurement. While IMSS procurement team demonstrates a high level of commitment and professionalism, they come from very different backgrounds and are trained on the job. This results in a significant knowledge, competency and capacity gaps. This is evident in various key activities associated with the procurement process. Examples of such activities include market research, development of requirement definitions, use of flexible evaluation approaches, complex procurement, use of Compranet as well as supplier and contract management. There are no marketing and market-researcher professionals (*mercadólogos*) with previous experience in procurement and buying. IMSS has instead relied on consultants that were hired to conduct market research to support the process of procurement.

In this sense, focusing on developing competencies is critical. Across OECD countries, competency management has proved to be an effective way of defining the abilities and behaviours needed for people to do their jobs well. Moreover, it links up a number of key HR activities to ensure that an organisation is staffed by competent people who perform effectively. In consequence, competency management may create the conditions for a strategic management of the procurement workforce in IMSS. In OECD countries like Belgium, Canada, Korea and the United States, competencies are being integrated into various activities to ensure these are well-aligned with the organisation’s needs. Such activities include recruitment and selection of staff, training and development, as well as succession and career planning.

The CABCS should have the dual role of building skills and capability for the procurement function in IMSS. It should work together with members of staff to set challenging standards for skills and competencies within procurement and provide procurement professionals with access to appropriate learning and development opportunities to reach those standards. Drawing on the experience of the United Kingdom, CABCS and the Personnel Unit could collaborate to build the procurement profession and develop a “Skills Frameworks for Procurement Practitioners and Procurement Leaders”. These frameworks can be used by individuals to assess their skills and identify development needs when planning and progressing their career in the procurement profession in IMSS or anywhere else in government. These frameworks can be adapted when needed. The aim would be to set the foundation for the development of a procurement profession in IMSS. Procurement professional should add value to the quality and cost-effectiveness of the acquisition of goods, services, assets and works, and draw up contracts that secure value for money and comply with the legal and policy requirements.

As a way of defining and measuring the skills, abilities and behaviours considered necessary for the job, many organisations use competencies as part of job profiles. If used properly and supported by appropriate assessment methods, a set of competencies provides a rigorous and reasonably objective method of assessing whether a candidate is likely to be effective in the job. The competencies required are defined by the job profile: for example, behavioural competencies could include things like the ability to work in teams or build networks; if there are managerial responsibilities, competencies would typically include interpersonal skills and leadership abilities; other examples of competencies might entail strategic thinking, customer focus, or analytical skills. Depending on the type of job, both generic competencies and job-specific competencies may be included in the job profile (Annex 5.A1).

Since April 2011, IMSS employs the so-called Reliability System (*Sistema de Confiabilidad*) to determine the high operational risk posts that may be the source of nepotism and corruption. This system has been a step forward in enhancing the human resource function and assessing candidates. It includes a psychometric exam and interview to evaluate candidates’ competencies and skills using a points system to determine the compatibility between the post and the candidate. While the compatibility of the person with a post is determined as a result, this does not determine reliability. So far, 80% of the procurement agents have passed this examination. Since it is the responsibility of each administrative area to conduct the technical interview, the Personnel Unit only detects areas of opportunity that may help the candidate to improve his/her performance. As identified in OECD studies, the Personnel Unit is not always in position to solve performance problems, because these are generally not completely technical. They often encompass management problems, which are the day-to-day responsibility of managers and supervisors (OECD, 2012).

***IMSS’ unsophisticated recruitment and selection process does not guarantee that the right competencies are acquired, nor does it recognise merit***

The current appointment process in IMSS’ central procurement areas, local entities and UMAEs hinders career opportunities and development, evidencing an insufficient focus on professionalisation in the Institute. This issue is, however, not limited to IMSS but common in the Mexican public administration. There is still evidence that the recruitment and selection of staff – in particular procurement staff – is carried out in a discretionary manner, jeopardising the principle of merit. Candidates are proposed or selected by the administrative unit where the job vacancy is located. The recruitment process is entirely conducted by each administrative area with little involvement of the Personnel Unit. The Personnel Unit of IMSS conducts an assessment to determine the compatibility of the

person with the position the person is proposed for. Each area manages the technical exam and the interview without the participation of the Personnel Unit. Furthermore, there is no open competition to fill vacancies at senior or middle level positions; competition and evaluations are only carried out for operational positions, units of service and local entities. Opening up vacant managerial positions for competition promotes fairness and merit, and increases the possibilities for people with significant experience in procurement to move up in the hierarchical structure.

IMSS may consider entrusting the recruitment and selection processes to the Personnel Unit, as it would enhance credibility and sophistication in the process. The experience in other countries suggests that job profiles are a way of building a flexible, performance-oriented and forward-looking recruitment process. This may be an option for IMSS, and, in particular, for the procurement function. Job profiles can be an effective recruitment tool for attracting talent. They differ from the traditional job descriptions used in IMSS in two important respects:

- they focus on the outputs or results expected from the job rather than on the tasks or functions to be carried out; and
- they include a statement about the skills and personal attributes needed for the job (Annex 5.A2).

IMSS may also assess the possibility of outsourcing some of its recruitment activities to external firms when internal capabilities or resources are insufficient and cannot be increased within the timeframe required. However, in order to ensure the integrity of the process, it is essential that such service providers are sufficiently competent and reliable. It is therefore recommended that a competitive public tendering process be used to select them.

Developing a job profile would require IMSS to look critically at what the procurement function entails and to reflect on the requirements for the person filling the job. Job profiling can enable IMSS to achieve a more accurate match when recruiting or promoting people. Moreover, they can be an effective recruitment tool to attract the right candidates, not only in defining what IMSS is looking for, but also as part of the “employment proposition”. IMSS has defined a series of “high risk positions” in the areas of acquisitions, procurement, supply, central administration, and contract management. Creating job profiles for those positions would be a step forward in enhancing capacity for procurement and in improving the recruitment, selection and performance assessment of staff (Box 5.1).

Building on the job profiles, IMSS will be able to create a complete competency framework for procurement practitioners and leaders. This would be a step forward in assessing the skills needed and in identifying training gaps, thereby setting the basis for the development of a procurement profession in IMSS.

A competency framework involves organising key competencies into a conceptual framework, which enables the people in an organisation to understand, talk about, and apply the competencies. A competency framework is both a list of competencies and a tool through which competencies are expressed, assessed, and measured. A model may be developed for the entire Institute or just for specific business units, functions, work processes, or jobs within the organisation. Competencies should be linked to activities of the Personnel Unit, so that they are well-aligned with IMSS’ needs and well-integrated with one another. Such activities include recruitment and selection of staff, training and development, as well as succession and career planning. Competencies may also be used as an element of performance management, an area that is still underdeveloped in IMSS.



Officials from administrative units interviewed for this review highlighted the need for better profiles for the procurement function. If IMSS accepts the recommendation to create job profiles and competency frameworks, this would also benefit administrative units, as they should also be part of this exercise.

Job profiling and competencies must not become an end in themselves. They are only effective as part of a linked set of Personnel Unit and organisational processes, and should be managed as such. Job profiles should reflect organisational priorities and performance targets (this is achieved through careful specification of accountabilities and key result areas). It is also essential to have an effective performance management process for assessing what has actually been achieved, giving employees feedback and addressing shortcomings in performance.

### **Box 5.1. Job profiling as a tool for enhancing the procurement profession**

Job profiling is a way of combining a statement about what is expected from a job with a view of what the job holder must bring in terms of skills, experience, behaviour and other attributes needed to do the job well. Whereas traditional job descriptions tend to be treated as stand-alone items, job profiles lend themselves to integration with other elements of human resource management and with broader organisational and management imperatives.

Job profiling should not be seen as a stand-alone tool. By stating the accountabilities and key result areas for the job, a job profile provides the basis for setting performance objectives and determining how performance outcomes should be measured. Job profiles also provide a basis for analysing what skills, behaviours and other attributes are required to do a job effectively and this can be expressed in terms of competencies. It is important, however, to make links among these key aspects of human resource management (HRM).

Job profiles can also contribute to other aspects of human resource management. For example:

- Job profiles, particularly when used in conjunction with competency frameworks, can provide support for assessing employee development and training needs, designing development and training programmes and targeting the training budget.
- They can be used as part of career management and succession planning, used to map out possible career paths and provide employees with a clear view of the requirements for different jobs.
- They can be used to assist workforce planning, enabling the organisation to form a view of changing skill needs.
- If an organisation develops a set of generic job profiles, these can support mobility and flexibility in staffing, particularly if they are available online with tools that make them easy for managers to use.
- Job profiles can link to performance management by setting out the key results expected of jobs and by helping employees to see what competencies are required to perform well. Conversely, information developed in the context of implementing a performance management system can also be useful in developing job profiles.

*Source:* OECD (2008), “Note on Job Profiling”, internal working document.

***Systematic and comprehensive training in procurement is lacking and procurement officials are not certified***

Formal and on-the-job training programmes should be available for entry-level as well as more experienced procurement officials, to ensure that officials involved in public procurement have the necessary skills and knowledge to carry out their responsibilities and keep abreast of evolutions (OECD, 2009). Although there are public employees with significant experience, training is sometimes provided by external agents, disregarding accumulated internal knowledge. As some employees of IMSS are highly experienced and understand the organisation, it may be appropriate to establish the figure of internal instructors. Furthermore, training on topics such as procurement regulations and process is reported as being more theory-oriented, with limited practical element.

While no significant formal knowledge development initiatives were in place in IMSS in the past, there is evidence of recent efforts to train procurement officials. For example, the National Institute for Public Administration (*Instituto Nacional de Administración Pública* – INAP) has agreed to deliver specialised training on public procurement.<sup>1</sup> Nonetheless, employees have not yet received systematic basic training, as INAP training is only available to middle managers and not to operational staff. The underlying intent is that the middle managers will convey the acquired knowledge to operational staff, but this does not appear to be taking place. Furthermore, the training is focus on how to implement the Law of Acquisitions and on measures against corruption. It is largely theory-based; it needs to be more practical. Finally, the officials attending the specialisation in INAP do not receive a proper certification. This training is a standalone course which is not part of a strategy for providing comprehensive training in a systematic manner.

Procurement employees in the local entities and UMAEs lack systematic training, and need to increase their knowledge on how to conduct procurement and on the use of Compranet. According to interviews, audits carried out by the internal control organs represent a significant learning vehicle for the procurement staff of local entities and UMAEs. In general, however, salaries are not high enough to attract sufficiently talented people to work on procurement in these decentralised units.

IMSS could take several actions with regard to the above issues. First of all, training should be seen as an important element to improve and develop new capabilities and skills in procurement, prepare public servants for positions at higher levels of responsibility and certify their capabilities. In order to make a better use of training facilities, IMSS could develop a broad framework for providing training in procurement – but it is important that training is established by line managers together with employees. This would foster accountability for managers to ensure career development for their employees. The objectives of all learning activities (workshops, courses, etc.) should be based on the development of specific competencies required for the procurement function. IMSS should take advantage of Mexico’s progress in e-learning to reinforce training. The use of new technologies for training, like the @Campus Mexico portal, is a good way of encouraging participants from the headquarters and local entities to take part in training courses, reducing costs, and monitoring training delivery. The portal @Campus México is a long distance learning tool that has an inventory of 126 courses offered by universities and private entities. However, it is important that classroom-based training is not neglected, and it is necessary to ensure that it is based on the most modern adult-learning methodologies. Traditional courses should be complemented by a variety of other methods of learning, such as developmental assignments, coaching, mentoring, knowledge sharing and team-based learning. IMSS could also consider introducing workplace-based activities such as on-the-job training, by hiring an internal instructor, as well as secondments.

Chile provides a good example on how procurement officials can be trained and certified (Box 5.2). This can set the basis for the development of the procurement profession in IMSS.

### Box 5.2. Training and certification in Chile’s acquisition workforce

The Chilean acquisition workforce is composed of 13 000 officials scattered throughout the territory. They need ongoing training which is delivered as follows:

- The first level corresponds to a basic mandatory training designed for new procurement officials. It includes an induction in public procurement regulation and to the use of IT procurement systems. This training is provided via e-learning;
- The second level includes workshops covering primary topics such as calls for tenders, non-competitive procurement, framework agreements, and contract management. There is a high demand to participate in this workshop as it helps participants prepare for the certification test;
- The certification test is mandatory for every civil servant with a login and password in the procurement system. This certification evaluates basic knowledge and skills. Contracting officials must re-certify every two years. Contracting officials cannot procure without having proper clearance through this certification process; and
- The third level corresponds to advanced training courses, which involve more complex topics and target specific audiences. This level has a smaller scope than the previous ones.

*Source:* Information provided by ChileCompra.

Training courses, either in INAP or in-house training, should provide advanced tools and techniques which will deliver improved business results. Some of the topics that could be included in a typical course are: procurement financial impact and metrics; supplier financial analysis; total cost of ownership; supply and value chain analysis; supplier relationship management; risk management; internal customer/stakeholder management; and low cost country sourcing. This training could help officials understand how procurement can impact the businesses’ core financial metrics. It could also assist officials in analysing supply and value chains, in identifying opportunities for cost out/value improvement, and in applying a range of tools and techniques to proactively manage the internal stakeholders. Courses should be interactive using category-based exercises and simulations.

Similar to the Professional Career Service of the central public administration, IMSS could require procurement officials to certify their capabilities in a periodic manner through systematic training. Certification programmes, established in co-operation with relevant stakeholders such as institutes or universities, help ensure that both programme managers and contractors have an appropriate level of training and experience. Certification could be done via external actors like INAP and the Ministry of Public Administration. In order to obtain certification, applicants should also pledge to a code of conduct and ethics. As Box 5.3 shows, IMSS could draw lessons from some national and international experiences. Finally, formally certifying procurement officials would be a way to provide career opportunities for staff and facilitate the professionalisation of the procurement function.

### Box 5.3. Certification of capabilities for procurement

**Canada:** The Professional Development and Certification Program aims to help professionals in the Procurement, Material Management and Real Property Community to acquire the skills, knowledge, abilities, and training necessary for their functions. There are two components to the programme:

- **Professional Development:** This consists of the Core Competency Profile and Web-based Assessment Tool, and the programme curriculum of courses and other learning activities to build core competency and function specific knowledge and skills. The Core Competency Profile outlines the four competency clusters and the 22 competencies and their behavioural indicator statements by three increasing levels of proficiency.
- **Certification:** This includes the Standard for Competencies, the Certification Program Manual, and the Certification Application and Maintenance Handbook. The CGSB Standard for Competencies of the Federal Government Procurement, Material Management and Real Property Community builds upon the competencies and behaviours of the Core Competency Profile and defines the knowledge, training, and experience required by the Community for certification.

**Mexico:** The Federal Electricity Commission (Comisión Federal de Electricidad – CFE in Spanish) certifies its “buyer agents” (agente comprador). Agent buyers receive training in areas such as buying and free trade agreements Mexico has signed. Two exams must be approved with at least 80% of credits to obtain a clave (or key) to qualify as a certified buyer agent.

**United Kingdom:** The Government Procurement Service (GPS) has defined a strategy, Build the Procurement Profession in Government. Although GPS does not certify procurement professionals, it intends to build a “community of procurement professionals” distinguished by core competencies that include: an understanding of commercial drivers such as profits, margins, shareholders, cost models, total costs of acquisitions and whole-life costs, together with knowledge and understanding of procurement and contract law. Procurement professionals are encouraged to maintain their professional development on a continuous basis. Being a GPS member helps raise the profile of procurement as a profession, and presents it as an attractive career option; contributes to increase capacity in the profession via entry schemes, creates skills frameworks to help raise standards; and supports the development of skills and capability.

**United States:** The American Purchasing Society (APS) is a professional association of buyers and purchasing managers. It was the first organisation to establish a nationally-recognised certification for buyers and purchasing professionals. APS offers three different certification programmes: *i)* the Certified Purchasing Professional Program directed at professionals who have demonstrated the skills to successfully implement improved purchasing and supply chain practices as part of a business solution in an organisation; *ii)* the Certified Professional Purchasing Manager programme aimed at those in managerial positions and who have managerial experience; and *iii)* the Certified Professional Purchasing Consultant programme aimed at Certified Purchasing Professionals who either consult or teach purchasing to people outside their own employer.

*Sources:* American Purchasing Society website [www.american-purchasing.com](http://www.american-purchasing.com), accessed 28 December 2011; Government Procurement Service (2009), “Building the Procurement Profession in Government”; OECD (2012), *Public Servants as Partners for Growth – Strengthening a leaner and more equitable government*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264166707-en>.

***There is a lack of performance management which means that improvements at individual, unit and organisational levels cannot be assessed***

Employee performance is not measured or systematically managed in IMSS. This is reflected in the lack of strategic vision for the procurement activity and IMSS as a whole. Employees do not have clear goals and it is difficult to assess the impact of training delivered. There are no performance indicators. Officials and senior executives do not receive performance feedback on a regular basis and there is no evidence of training courses for managers on how to manage employees' performance. This is not a problem exclusive to the procurement area, but for the whole Institute.

IMSS may consider bridging this gap by focusing on performance at organisational, unit and individual levels. Adopting staff performance management frameworks focused on key results aligned with the organisational priorities and performance targets would allow the procurement function to be oriented towards long-term objectives rather than daily needs. It would also assist in identifying the competencies required to perform well. To reach full benefit, it is essential that this system is not only used to assess performance results, but also that regular feedback is provided to employees and actions are taken to address shortcomings. The aim should be to enable operational managers to work with their staff to align their individual needs, interests and career aspirations with the business needs of IMSS. The focus should be on the future, on what the employee needs to be able to do, and how he/she can do things better. The experience of OECD member countries suggests that effective performance management recognises good work performance and addresses poor performance. It identifies staff training or development needs, and addresses other barriers to good performance.

Based on the experience of OECD member countries like Denmark, France, Portugal, and the United Kingdom, IMSS could develop a performance management system. This is a systematic process by which an organisation involves its employees, as members of a group, to improve organisational effectiveness in the accomplishment of agency mission and goals. It should include:

- planning work and setting expectations;
- continually monitoring and appraising performance;
- developing the capacity to perform;
- periodically rating performance in an adapted fashion; and
- rewarding good performance.

Aligning the procurement function of IMSS – and in general the strategic objectives of the organisation – with the Special Management Improvement Programme (*Programa Especial de Mejora de la Gestión* – PEMG) would be an additional strategic move towards building a performance management strategy. The PEMG has three main objectives:

1. to maximise the quality of goods and services delivered by the federal public administration;
2. to increase institutional effectiveness; and
3. to minimise the operation and administration costs of dependencies and entities.

A performance management system would foster:

- strategic workforce planning in procurement not only in terms of numbers but also costs and competencies;

- assessing teams and individuals' contribution to organisational objectives and detecting improvement opportunities; and
- accountability and efficiency in workforce management. IMSS could also develop one or two performance indicators to track and assess performance (Annex 5.A3 for an example). Managers should be trained on how to conduct appraisals, provide feedback and manage people's performance.

***Procurement managers possess high-quality technical knowledge, but lack strategic vision and managerial skills***

There is evidence of high profile leadership at the senior management positions in the procurement area. However, there is no evidence of a strong common vision, direction or nurturing of team spirit across the unit. The culture of teamwork and personal development, which should be enhanced by managers, is practically non-existent in IMSS. Procurement managers do not necessarily require direct experience in procurement to be able to lead a procurement team, but they need to understand what it is involved in procurement. In IMSS, like in any other organisation, procurement managers should not be expected to be involved hands-on in sourcing, but they should provide direction to their staff, stakeholders and suppliers. They should create a vision so that everyone knows what a “good” result looks like and where they are heading.

IMSS procurement managers need to develop or reinforce competencies such as:

- team-building skills (leadership, decision making, influencing and compromising);
- strategic planning (project scoping, goal setting and execution);
- communication skills (presentation, public speaking, listening and writing);
- technical skills (web-enabled research and sourcing analysis); and
- broader financial skills (cost-accounting and making the business case).

Hence, certifying professional procurement managers would be a way to ensure that these skills are at the disposition of IMSS.

Management positions in IMSS are not open to competition. Rather, managers are appointed at the discretion of senior officials and they generally change when a new government takes over, which is a common practice in Mexican public administration. Although this procedure has allowed some flexibility in bringing in people with experience, it prevents continuity and acquiring the right managerial skills. IMSS could open up to competition managerial positions such as heads of division and technical co-ordinators. This would promote a message about fairness and merit, and would also open up the possibilities for people with significant experience in procurement to move up in the hierarchical structure. However, officials should not be promoted to managerial positions solely based on their expertise on procurement; their managerial skills should be considered as well. They could also be offered fixed-term contracts with the chance of renewal based on performance. The aim should be to attract the best and the brightest – irrespective of whether they come from the private or public sector – and to bring in people with skills sets that normally do not exist in IMSS. In order to build a common vision for procurement in the organisation, IMSS could analyse Finland's experience in their programme, *Finwin – Towards a New Leadership*. IMSS could organise a similar programme for managers on the future of the organisation and the role of procurement (Box 5.4).

### Box 5.4. Finland: the Finwin Programme

In December 2006, the Ministerial Committee for Economic Policy of Finland established the change management programme called Finwin – Towards a New Leadership. The aim of the programme was to bring about a shared understanding and vision concerning future challenges and ways of managing them. Finwin facilitated horizontal dialogue among senior managers from different ministries and agencies through seminars for discussion. Its intention was to facilitate change by disseminating information and exchanging positive and negative lessons on reform programmes in different areas and levels of government. The programme was organised around seminars which served as forums for discussion on topics like well-being at work, social innovations, functions of the state sector and regional administration reform. There were also other working methods such as learning cafés and workshops that complemented the discussions held at the seminars. Managers had the opportunity to discuss a common vision of where they were going, what they wanted from the future, where they would be in ten years, and the desired level of quality to operate. One of the concrete results of Finwin was the elaboration of a five-point programme for better management.

*Source:* Huerta Melchor, O. (2008), “Managing Change in OECD Governments: An Introductory Framework”, *OECD Working Papers on Public Governance*, No. 12, OECD Publishing, Paris, <http://dx.doi.org/10.1787/227141782188>.

### ***The procurement areas in central offices require proper facilities to work***

The procurement team lacks proper facilities to perform its job, which contributes to stress and demoralisation. The premises are insufficient to accommodate staff and to store all documentation required to keep in printed copy according to the law. Moreover, 90% of the providers present their proposals in paper copy, partly due to the slow speed of operation of Compranet and of the internet system of IMSS. There are also insufficient facilities in which to conduct meetings with providers and stakeholders. Finally, the infrastructure is in poor condition and presents a threat to the security of staff.

### **Proposals for action**

In order to enhance the capacity for procurement in IMSS, the experience of OECD countries suggests:

1. Engaging in strategic workforce planning to address identified gaps (workforce level and distribution, capabilities and training, efficiencies, facilities). This will strengthen the procurement area’s capacity to play a strategic role in the organisation and meet its current and future needs.
2. Providing a more relevant and strategic role to the Personnel Unit. It could, for example, be entrusted with the recruitment and selection processes in order to enhance credibility and sophistication. Outsourcing some recruitment activities to external firms when internal capabilities or resources are insufficient or to increase the integrity of the process is also advisable.
3. Improving competency framework and job profiling for procurement practitioners and leaders, and using it to assess the skills needed to perform and the training gaps. This would set the basis for developing the procurement profession in IMSS.

4. Based on these frameworks, providing more systematic training to all members of the procurement function, initially focusing on the most critical training gaps. Available infrastructure for long-distance learning could be used to support regional units.
5. Certifying procurement officials to reduce turnover, providing career opportunities and facilitating the professionalisation of the procurement profession.
6. Setting performance objectives and implementing staff performance management frameworks in all aspects of human resource management (job profiling, recruitment, ongoing evaluation, etc.) in order to better orient the procurement function towards the long-term objectives and priorities of the organisation.
7. Opening up for competition vacant managerial positions, which will promote fairness and merit and open the possibilities for people with significant experience in procurement to move up in the hierarchical structure.
8. Enhancing co-operation and communication with de-concentrated administrative units so as to build capacity for procurement through sharing good practices for procurement and the management and training of staff.
9. Providing adequate working environments to members of staff.

### Note

1. See [www.inap.org.mx](http://www.inap.org.mx) for further information on the training provided by INAP.



## Annex 5.A1

### Skills framework for procurement professionals in IMSS – an example

Skills	Procurement Management Roles		
	Procurement Officer	Senior Procurement Officer	Procurement Manager (Heads of Procurement in local entities and UMAEs)
<p><b>Strategic awareness</b></p> <ul style="list-style-type: none"> <li>• An awareness of the market place, commodities and products               <ul style="list-style-type: none"> <li>- Spend category and sector awareness</li> <li>- Knowledge of commodities and services commonly purchased</li> <li>- Awareness of emerging technology</li> </ul> </li> <li>• Awareness of procurement strategy</li> </ul>	<p>Limited strategic awareness.</p> <p>Awareness of markets as a source of supply, but not detailed market/product knowledge, with limited commercial focus.</p> <p>Involvement in supporting or administrative capacity only, under close supervision.</p>	<p>Awareness of strategic issues.</p> <p>Able to identify circumstances where value and risk require a particular approach to be taken.</p> <p>Knowledge of markets and products, with ability to apply basic procurement processes in search of best value for money.</p> <p>Some commercial focus, with enough experience of strategic procurement to know when to seek advice.</p>	<p>Head of Procurement (Head of CABCS)</p> <p>Expert in procurement strategy and leads development.</p> <p>Skilled and experienced in market exploitation.</p> <p>Able to identify appropriate tactics dependent on supplier position in the market.</p> <p>Through knowledge and skills is able to play a leading role in cross-functional teams managing strategic procurements.</p> <p>Able to manage all aspects of projects from business case through to delivery.</p> <p>Able to identify and implement appropriate procurement strategies and approaches.</p> <p>Actively manages and develops relationships with key suppliers.</p>

Procurement Management Roles				
Skills	Procurement Officer	Senior Procurement Officer	Procurement Manager (Heads of Procurement in local entities and UMAEs)	Head of Procurement (Head of CABCS)
<b>Managing the procurement process</b>				
<ul style="list-style-type: none"> <li>• Procurement cycle</li> <li>• Roles and responsibilities supplier databases</li> <li>• Low value procurement               <ul style="list-style-type: none"> <li>- Requests for quotations</li> <li>- Framework agreements</li> <li>- Procurement cards</li> </ul> </li> <li>• Projects               <ul style="list-style-type: none"> <li>- Risk-based approach</li> <li>- Roles and responsibilities</li> <li>- Critical success factors</li> <li>- Identifying need</li> <li>- Business case/option appraisal</li> <li>- Scoping</li> <li>- Market sounding</li> <li>- Procurement approach</li> <li>- Procurement rules</li> </ul> </li> </ul>	<p>Limited awareness of procurement processes.</p> <p>Involvement in supporting/ administrative capacity, in line with pre-determined rules and under close supervision.</p>	<p>Understands and is able to apply basic procurement processes to routine procurement situations. Some experience of negotiation, but requires support.</p> <p>Experienced enough to know when to seek help or advice.</p> <p>Some commercial focus, with enough experience to know when to seek advice.</p>	<p>Knowledgeable about and comfortable with all aspects of procurement processes.</p> <p>Able to provide advice on all types of specifications, and to take the lead on procurement aspects as part of a cross-functional team.</p> <p>Experience in negotiating high value contracts, commending credibility and respect internally and externally.</p> <p>Commercially aware and credible internally and externally.</p>	<p>Expert in all aspects of procurement processes, through experience and applied knowledge.</p> <p>Able to apply judgement to determine how best to apply processes to secure best value in any particular set of circumstances.</p> <p>Able to direct and coach others, able to commend credibility internally and externally.</p>

## *Annex 5.A2*

### Examples of job profile outlines

#### Example 1

<b>Job Title</b>	
<b>Purpose of the Post</b>	•
<b>Scope of the post</b>	
<b>Principal Duties and Responsibilities</b>	•
<b>Skills and Knowledge</b>	•
<b>Experience</b>	•
<b>Personal Attributes</b>	•

#### Example 2

Job Title

<p><b>POSITION DESCRIPTION and COMPETENCIES</b></p> <p><b>OVERALL PURPOSE OF THE POSITION:</b></p> <p><b>KEY Relationships:</b></p> <p>INTERNAL</p> <p>EXTERNAL</p>
---

<b>ACCOUNTABILITIES AND TASKS</b>	
Key result areas	Accountabilities/tasks
	•
	•
	•

<p><b>REQUIRED ATTRIBUTES:</b></p> <p>TECHNICAL KNOWLEDGE</p> <p>MANAGEMENT AND LEADERSHIP</p> <p>COMMUNICATION</p> <p>PERSONAL ATTRIBUTES AND ABILITIES</p>
--

<b>JOB COMPETENCIES AND INDICATORS</b>	
Job competency	Key behaviours/indicators (demonstrated by)
	•
	•

### Annex 5.A3

## The use of indicators to assess performance in the US office of personnel management

The US Office of Personnel Management (OPM) has adopted a series of performance indicators to report progress on the different strategic goals on managing the federal workforce. One of the priorities has been to streamline the hiring process. The aim is to ensure that federal agencies acquire, assess, and retain employees with the specific experience and skills necessary to achieve agencies' goals and missions. By using effective recruitment, hiring, assessment and retention strategies, OPM helps agencies compete successfully with other employers. Some indicators of progress include the following:

- Reduce the time to hire (T2H)-End-to-End 80 day model
- An increase in applicant/manager satisfaction as reported in surveys
- An increase in hiring manager involvement in the process
- Diversity is valued and recognised in Federal agencies, as demonstrated by improved employee and manager satisfaction scores as reported in employee surveys

### Detailed performance results

- Strategic Goal: Hire the Best
- Strategy: Reform the Federal hiring process

**Background:** OPM's Federal Hiring Reform promotes innovative and co-ordinated approaches to recruiting and hiring students, mid-career professionals, and retirees to meet agency talent needs. The goal of the Hiring Reform Initiative is to create a hiring process that ensures the right person is in the right job, provide timely hiring of applicants, is easy to use and understand, involves hiring managers in the process, respects merit principles and respect veterans.

**Activity:** Improving USA JOBS and integrating other components of the online hiring system to create a world-class experience for job seekers and agency recruiters

**Performance indicator:** Federal agencies institute an effective hiring process as demonstrated by:

- A decrease in the end-to-end hiring time frame for job applicants
- An increase in applicant satisfaction as reported in surveys
- An increase in managers satisfaction as reported in surveys

Performance measure	FY2006 Results	FY2007 Results	FY2008 Results	FY2009 Results	FY2010 Results	FY2010 Target	Met/ Not Met
Percent of Chief Human Capital Officer (CHCO) agencies using the USAJOBS resume format and integrating online applications with their assessment	35%	78%	84%	36%	100%	100%	Met

**FY 2010 Results:**

OPM met the performance target. Prior to FY 2009, Chief Human Capital Officer (CHCO) agencies were given credit for achieving this performance measure solely by demonstrating the agency's capability to use online resume builder. The Office of Management and Budget (OMB) identified new requirements for system integration and agencies must now post vacancies on USAJOBS. In concert with various Chief Human Capital Officers across government, OPM developed an End-to-End Hiring Roadmap that focused on reducing the time it takes to hire. It makes the application process easier and more readily understood by potential applicants. The significant progress that has been made in hiring has been in four areas: timeliness; plain language and streamlined announcements; communication with applicants; and involvement with hiring managers.

**Activity:** Streamlining the end-to-end hiring process to create a positive experience for applicants, managers, and HR specialists

**Performance indicator:** Federal agencies institute an effective hiring process as demonstrated by:

- A decrease in the end-to-end hiring time frame for job applicants
- An increase in applicant satisfaction as reported in surveys
- An increase in managers' satisfaction as reported in surveys

Performance measure	FY2006 Results	FY2007 Results	FY2008 Results	FY2009 Results	FY2010 Results	FY2010 Target	Met/ Not Met
Percent of hires in each agency hired within the 80-day time frame, as described in OPM's hiring time frame model.	n/a	n/a	n/a	50%	*	15%	TBD

\* The FY 2010 results are undetermined. Thus they will be reported in the FY 2011 APR.

Source: United States Office of Personnel Management (2011), "Fiscal Year 2010 Annual Performance Report", United States Office of Personnel Management, [www.opm.gov/gpra/opmgpra/performance\\_report2010.pdf](http://www.opm.gov/gpra/opmgpra/performance_report2010.pdf), accessed 4 December 2012.

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## *Chapter 6*

### **E-procurement: Implementing a strong IT environment to support IMSS' procurement activities**

*This chapter describes the current IT environment of the Mexican Institute of Social Security (IMSS). It focuses on the IT supply management system and e-procurement systems used by IMSS. It also discusses recent system integration efforts in the organisation and remaining opportunities to increase the efficiency of the procurement function through higher information management. The slow uptake of e-procurement is also addressed, describing the need to build awareness and capacity within its supply base.*

## Introduction

E-procurement, the use of information and communication technologies in procurement processes, is widely considered as a tool with strong potential to deliver major benefits to governments. E-public procurement can streamline and accelerate public purchasing, benefiting both public purchasers and suppliers along the way. It can lead to more efficient procurement administration and savings in terms of both cost and time. Moreover, e-procurement can help reach a wider audience and provide greater publicity by automating and strengthening the flow of information on individual tender opportunities. In turn, this leads to increased participation by economic operators and, as a consequence, increased competition.

This chapter describes the e-procurement development at the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS). It gives an account of the different digital platforms used to manage data and information in the back office, and to enable access to public tendering in the front office, e.g. portals.

## IMSS e-procurement systems

***IMSS e-procurement systems are generally well-developed, but uptake by small and medium enterprises is limited***

IMSS has a fairly well-developed e-procurement system to address the different needs, the information management systems used in the back office, and the portals, which provide information on IMSS public procurement. Since the reform of the procurement laws in 2009, it is compulsory for the public administration at federal level to undertake public tenders through a national e-procurement system, Compranet. However, the Law on

### Box 6.1. Overview of IMSS e-procurement platforms

- Institutional Supply System (*Sistema de Abasto Institucional* – SAI) is the system used by IMSS for the management of the entire procurement cycle for goods and services, including supporting the identification of procurement needs of all units.
- Compranet is the procurement management information system of the federal government. It was established in 2009 as part of Mexico's public procurement reforms. In addition to being used for competitive procedures, it supports back-office integration within various management systems of the federal government and provides transparency in government operations. It is used by IMSS for all planned purchases (i.e. excluding urgency requirements), which are addressed through another system.
- Single Registry of Supplies (*Bolsa Única de Ofertas* – BUO) is the internal IMSS e-procurement system used by the local entities (delegaciones) and high specialty medical units (Unidades Médicas de Alta Especialidad) to address immediate needs, i.e. needs to be covered within 30 to 40 days and based on prior authorisation from the central level.
- Transparency Portal is the revised version of the portal, which had been established in 2003/2004, based on the Transparency Law (IFAI, May 2005). That portal implemented in 2010 aims to share IMSS vision on public procurement, not only with a specialised audience, but with the wider public, i.e. providing a full picture on how, on what and why IMSS spends its resources, as well as on the benefits achieved through IMSS procurement. This portal is further discussed in Chapter 14.



Acquisitions, Leasing and Services (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público* – LAASSP) still allows suppliers to use paper-based processes to participate in public tenders. Box 6.1 provides an overview of the main e-procurement platforms in place in IMSS.

Some units of IMSS are quite advanced in the use of e-procurement, as they conduct public tenders completely electronically. These include, for instance, the Therapeutic Goods Division (*División de Bienes Terapéuticos*), which has an annual volume of public procurement equal to MXN 20 billion (approximately USD 1.6 billion). Furthermore, that division ran five public tenders in 2011 that were entirely electronic; making it compulsory for the suppliers to use electronic means to complete the entire process. The same cannot be said for many other units of IMSS, as their suppliers are mainly small and medium enterprises in which a large number – close to 50% according to the interviewees – still submit their proposal on a paper-based approach as permitted by the law.

***The latest version of Compranet (5.0) is considered as a significant improvement, but various functionalities could still be improved, such as for searching for information and generating reports***

Compranet ([www.compranet.gob.mx](http://www.compranet.gob.mx)) is the procurement management information system of the federal government, which was established in 2009 as part of Mexico's public procurement reforms. The system, managed by the Ministry of Public Administration (*Secretaría de la Función Pública* – SFP), is intended to streamline procedures in the procurement of goods, services, leasing and public works funded with federal public resources. It also supports back-office integration within the public administration among procurement, budget and accounting information management systems, as well as providing transparency in government operations (OECD, 2011). Compranet is used by IMSS for all planned purchases.

IMSS is currently completing the migration from Compranet (version 3) to Compranet 5. Interviewed users of Compranet within IMSS expressed a high level of satisfaction with the current version of Compranet 5, and consider it as a major improvement from the previous version. Nevertheless, they also identified some further areas for improvement. Among other issues, it appears that Compranet 5 does not have adequate search and report-generation functionalities that respond efficiently to users' needs.

As such, Compranet could be made more user-friendly for public officials, suppliers and the public through improved information sharing, e.g. constantly providing real-time information. Some information, for instance, is difficult to find or access (e.g. past events, or events running cannot be found by dependency). Compranet 5 does not enable users to search for information through predetermined fields of a specific event or fact, or by phase of an event. As an example, each hospital had an identification number under Compranet 3 which made retrieving all information on its procurement process much easier. IMSS users of Compranet 5 complain that they can only retrieve information on electronic tenders in the form of an excel file. This means that they then have to check the list manually to find the desired information. Moreover, Compranet 5 should make information available that not only records positive events (e.g. processes completed), but also potentially negative ones (e.g. how many times a provider was awarded a contract and how many times it was not). Finally, Compranet 5's ability to generate reports is quite limited. The system currently enables reports to be generated only by procedures, and it is not possible to obtain tailored reports.

Modernising information search and access, simplifying the language, and using single access keys would improve the system and make it more user-friendly. As it stands, there is

minimal scope to customise the information management, perform searches and produce reports tailored to the needs of specific users. Such changes could be made without the need for major investment, through adding certain technical features.

An additional issue hindering the agility of the process concerns the auditing mechanism on e-procurement. Users must print all information in order for auditors (both external and internal) to access and review it, as they cannot do it electronically. Such a process is not time-efficient. It would help if the auditors were familiar with Compranet 5 and users could avoid having to reprint the whole set of information each time.

Finally, various procurement units of IMSS considered that their training on Compranet 5, provided by SFP, was good but insufficient. According to interviews, the weaknesses in the training concerned both content and method. Moreover, few people were trained per unit, and only a general overview of the system was provided, rather than the details. As a result, many of the tools and capabilities of Compranet are learned through trial and error, which delays the process and may result in errors.

### ***The Single Registry of Supplies is a useful e-procurement tool, but needs further improvements***

The Single Registry of Supplies (*Bolsa Única de Ofertas* – BUO) is the internal IMSS e-procurement system used by the 35 local entities (*delegaciones*) and 25 high specialty medical units (*Unidades Médicas de Alta Especialidad*). It is intended to provide flexibility in responding to immediate needs, i.e. needs to be covered within 30-40 days and based on prior approval. These immediate needs are the consequence of suppliers' non-performance, unsuccessful tenders, or they emerge from an unforeseen exceptional procurement need. The BUO is an internal system to which interested suppliers can register, and then indicate the goods and services they provide, at which locations and at what prices. The system has been improved over time and users from various local entities report an overall fair level of satisfaction with it.

Even so, the commonly shared opinion is that the system could be further improved if some problems were properly tackled. One such problem does not relate to its functionality and performance *per se*, but rather to the obligation to use reference prices which are not considered competitive enough to allow an effective process (see Chapter 9 for further details). Also, suppliers were previously not able to access the needs and requirements of each agency and local entities (e.g. information on what they need, how much, by when, as well as who was awarded the contract). However, this limitation of BUO is being addressed through the improved integration with SAI (discussed later in this chapter). In addition, BUO's current reporting functionality is not optimal, as it enables reports to be produced only on the full-month acquisitions, rather than individual reports by drug. Enabling this feature would allow the local entities to see individual suppliers' quotes for specific drugs. Finally, actual and potential suppliers, some of whose are not at ease with the use of BUO, could benefit from further training.

## **Systems and back office integration**

### ***IMSS is currently in the right direction through the integration of its back office***

The Institutional Supply System (*Sistema de Abasto Institucional* – SAI) is the system used by IMSS throughout the entire procurement cycle for goods and services. This includes identifying the procurement needs of all units in IMSS. Efforts are underway to

transfer most procurement-related SAI modules to the Institutional Resources Planning (*Planeación de Recursos Institucionales* – PREI) platform used by IMSS to manage budget and accounting information. Some modules will continue to operate on the SAI, such as those associated with the pharmacies and stores, as the PREI does not have the technical capacity to support the running of all modules.

As a result of this transfer, all information on tenders, contracts, and acquisitions will also be made available on the PREI platform. This operation is of critical importance as it will establish an integrated back office for procurement as well as budget and information processes into a single platform, thereby increasing the overall transparency and efficiency of IMSS internal processes.

The migration of SAI modules to the PREI has already started and the estimated date of completion is the end of 2012. The migration will be performed by areas and in phases to ensure that the required capacities are in place. In deciding how to determine the transfer of the system, and in planning the relevant steps and actions, IMSS was guided by the Administrative Manual of General Application in the ICT Domain (MAAGTIC, *www.maagtic.gob.mx*). IMSS decisions are in line with the guidelines provided by SFP and, therefore, are also in line with the overall strategic directions of the Mexican Government. This will foster and ensure integration of IT systems across the federal public administration (OECD, 2011).

The integration strategy envisages training staff so as to ensure the development and availability of the needed capacities within IMSS. In order to guarantee that changes are implemented smoothly and efficiently, it is crucial for IMSS to create a comprehensive communication strategy and to properly prepare the users of SAI at all levels for the transfer to the new platform. From a technical point of view, it will be essential to strengthen and enhance the capacity of the existing PREI platform to support the efficient running of the new functions.

### ***There are further opportunities for system integration in IMSS, especially in information management***

BUO and SAI systems are well-integrated: the SAI feeds requirement information into BUO and, once the process is over, BUO provides relevant information back to SAI for the issuing contracts. Under the migration of various SAI modules to the ERP platform, modifications were made to improve the communication and integration of information between SAI and BUO. Even though BUO will continue working on a web platform, new functionalities of the SAI will allow its integration with the modules of the pharmacies and stores. Furthermore, the changes brought about by the new system will address the main limitations identified earlier, i.e. suppliers not being able to see the needs and requirements of each agency and local entities. These changes will provide incentives to the suppliers and increase overall transparency and efficiency. By allowing a better distribution of resources through a more opportune budget allocation and improved planning, the new system will also mitigate inadequate performances of some suppliers as well as the dependence of local entities on the suppliers when requirements have to be met on an urgent basis.

Despite IMSS' significant efforts towards integration, its procurement information systems are not fully integrated. The investment made to develop IT systems in order to facilitate information management and access – to make it easier, more transparent and less time-consuming – have been hampered by this lack of integration among the procurement information systems. The low-level of integration also defeats the overall purpose of developing a digitised environment to support procurement processes that are

more efficient and agile for both government and suppliers. Having to upload information more than once, for instance, slows down the process for IMSS, and creates risks of data errors. From the perspective of the suppliers, it might duplicate the points of access to public information on public tenders, leaving them with the impression of inefficiency and lack of transparency.

As further discussed in Chapter 14, the IMSS portal ([www.imss.gob.mx](http://www.imss.gob.mx)) is used to advertise calls for proposals, tenders, and contracts, and to enable easy access to procurement information. While the portal is linked to Compranet, the two systems are not integrated. As a result, the same information, e.g. on suppliers, has to be uploaded twice. This limits the agility and efficiency of the process.

Similarly, the transparency portal (<http://compras.imss.gob.mx/>) is not linked to the main portal of IMSS, although there is apparently an intention to do so. IMSS should focus on linking the two portals in the immediate future, as having them separate makes the citizens' and suppliers' search for information more confusing and time-consuming, thus defeating the transparency goal. Under the integration of these two portals, users could actually access the information from either of them, rather than being redirected through a link. While the transparency portal will provide a link to Compranet, integration of the two systems would further support full and transparent access to information on public procurement. For example, it would allow access to information stored in the e-archive of Compranet through IMSS' transparency portal.

Similarly, there is no integration between IMSS, SAI and Compranet. As result, information on procurement requirements must be uploaded one by one. The link between the systems is not made through a common interface, but through an excel file used to transfer internal data and information to Compranet. Integration of the electronic archives of the two systems is crucial to ensure greater efficiency of the process.

There are many opportunities for enhancing integration of Compranet with IMSS IT platforms and solutions. Ensuring a direct and open dialogue between Compranet users in IMSS with Compranet personnel in SFP, as well as with the company contracted by the Ministry to deploy and manage the system, would be most efficient.

## **Uptake of e-procurement**

### ***Addressing suppliers' needs to increase the uptake of e-procurement***

Currently, half of IMSS suppliers (about 90 000) use the e-procurement platform Compranet. The others participate in the public procurement process by completing the procedure manually, as allowed by the procurement laws. The limited uptake of the e-procurement platform is due, in part, to the suppliers' lack of trust in the system's security and reliability. This is particularly true for small suppliers, who represent a considerable portion of IMSS supply base.

Suppliers seem to fear that their information will not reach the public organisation concerned. Technological limitations also impact on suppliers' confidence in the system and their willingness to use it: network unreliability makes uploading information cumbersome and time-consuming, which is made worse by Compranet's inability to accommodate the number of users. Additionally, assistance in using the system is inadequate. Users at IMSS mentioned that the assistance plan did not take into account realistic expectations, especially with reference to requests for clarifications.

Many interviewees at IMSS were also of the opinion that, until the use of the system is made compulsory, many suppliers will continue using the paper-based procedure. The decision to make the use of e-government services compulsory for businesses has been adopted by a number of OECD countries to ensure a level of uptake sufficient enough to guarantee the desired return on investments. However, such a decision implies a high level of technical skills which are currently not present in many Mexican businesses.

The suppliers' reluctance to use e-procurement platform is also explained by the advanced digital signature: FIEL (*Firma Electronica Avanzada*). The Compranet 5 guidelines, published in June 2011, stipulate that suppliers must use FIEL. However, many suppliers have only one FIEL key holder located in the finance department, rather than in the commercial departments, limiting their ability to use Compranet. Many suppliers would like a certification for the person in the commercial department who interacts with the customers. An awareness-raising and training campaign aimed to increase the suppliers' knowledge and capacity to use the FIEL would assist in its integration within the supplier's structure. This would also help suppliers familiarise themselves with the use of FIEL, improving the uptake and acceptance of Compranet. Even though the management of Compranet is the responsibility of SFP's E-Government Unit, IMSS could contribute to developing a solution. For example, it could provide specific knowledge on the concerns of IMSS suppliers and help devise a proper and incisive strategy targeting the needs of its suppliers.

Finally, the system of supplier assistance could be improved. Currently, when the suppliers have a problem, they call SFP which transfers the call to IMSS. However, IMSS employees do not always have the capacity to respond adequately to these requests, hindering the system uptake. As such, internal capacity should be reinforced, both in terms of technical expertise and human resources, so as to ensure the necessary level of support to suppliers.

## Proposals for action

In order to enhance the efficiency of the procurement process through increased use of e-procurement and integration of the various associated systems, IMSS could consider:

1. Improving various functionalities of the various existing procurement IT systems to make them more user-friendly and responsive to IMSS needs, as well as those of its suppliers. This may include:
  - a. Strengthening the collaboration with SFP to support improvements to Compranet, such as modernising its search tools, harmonising its numbering systems and improving its report-generation capabilities.
  - b. Improving the BUO reporting functionality so as to enable individual reports by drug.
2. Advancing the integration of various IMSS IT systems among themselves, with IMSS IT platforms and with Compranet (through engagement with SFP). This will make procurement processes more efficient, transparent and agile for government agencies, suppliers and citizens. Opportunities for improvement include:
  - a. Integrating IMSS Transparency portal, in terms of content and back-office, with its general portal, as well as with Compranet. This will ensure synergies, avoid overlaps and provide a clear and coherent image to the portals' users.

- b. Integrating IMSS SAI and Compranet (including their electronic archives), for example, so that procurement requirements do not have to be uploaded one by one on Compranet.
  - c. In support to the migration of various modules from SAI to ERP platform and the subsequent development of new functionalities, strengthening the capacity of the existing PREI platform and developing a comprehensive communication strategy to properly prepare and reassure the users of SAI at all levels.
3. In order to boost the digital skills of the various users of the IT procurement systems (both IMSS employees and suppliers) and stimulate the uptake of e-procurement, IMSS could organise awareness-raising campaigns, training sessions and capacity-building initiatives. These could include:
- a. Engaging with SFP to provide improved Compranet 5 training (both in terms of method and content) to a larger number of users in IMSS.
  - b. Implementing an awareness-raising and training campaign aimed to increase the suppliers' knowledge and capacity to use the FIEL, thereby encouraging their acceptance of Compranet.
  - c. Providing training to suppliers on the use of the BUO system, especially at the level of the local entities.

## *Reference*

OECD (2011), *OECD Public Governance Reviews: Towards More Effective Dynamic Public Management in Mexico*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264116238-en>.

## *Chapter 7*

### **Procurement data and performance management system: Toward evidence-based decision making in IMSS' public procurement**

*This chapter demonstrates how lack of data and of an adequate performance management system hinders evidence-based decision-making and effective management of the procurement function of the Mexican Institute of Social Security (IMSS). Various performance monitoring and management strategies undertaken in OECD countries are also presented.*

## Introduction

Efficient management of a procurement function requires an evidence-based assessment and decision-making process. It is essential, therefore, that the organisation collects sufficient high-quality procurement data and systematically assess them. These activities are strongly enhanced by the implementation of a performance monitoring and management system. Such a system allows for a regular monitoring of progresses against the priorities identified by the organisation. It also detects specific opportunities to improve the efficiency and effectiveness of the procurement process, and thus contributes to the ongoing improvement of the function.

The review found that there is a lack of sufficient, clear and appropriate procurement data in the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*, IMSS). This lack of data is a significant hindrance to the management and growth of its procurement function. It also constrains the development of optimal procurement strategies. The situation is made worse by the absence of a performance management system, which means that the organisation cannot fully assess the results of its procurement activities nor opportunities to identify areas of potential improvements. This results in reduced incentives and capability to improve the function and in limited awareness of its strategic contribution to the operations of the organisation.

## Procurement data

***The lack of sufficient and credible procurement data within IMSS strongly limits its capacity to make fully informed strategic decisions and optimise the efficiency of that function***

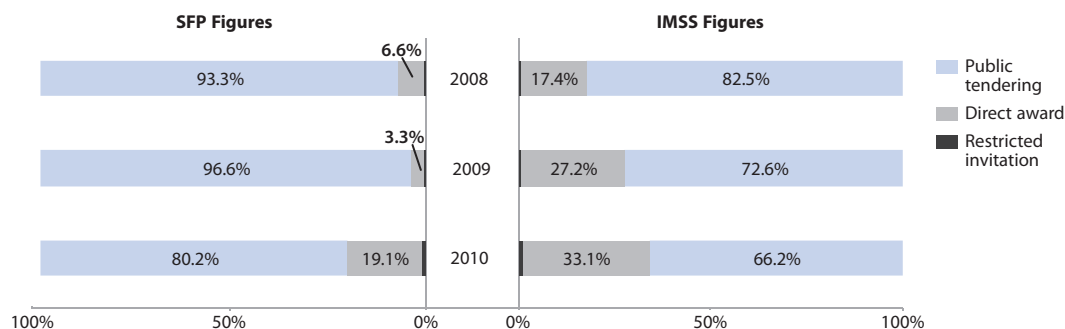
While IMSS procurement units collect various procurement data and statistics, there is no systematic or common data collection strategy. The current lack of capacity to consolidate rapidly and accurately data into organisational-wide statistics and reports is a significant shortfall within the organisation. As an example, IMSS had difficulties providing the OECD with various pieces of information under this review, such as the number and value of all contracts issued for goods and services under Law of Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público* – LAASSP). Another example relates to data on the use of exceptions to the public tendering process which are collected at regional committee for approval, but which are not consolidated on an organisation-wide basis, with no mechanism in place to do so.

Furthermore, the limited data available is often inaccurate; some significant errors exist but are not identified and corrected internally. As an example, using information captured by IMSS, the Ministry of Public Administration (*Secretaría de la Función Pública* – SFP) reported in both its fourth (SFP, 2010) and fifth (SFP, 2011) annual reports of activity (*Informe de Labores*) that contracts awarded on a direct award basis to national suppliers for goods and services represented MXN 225 billion (approximately USD 16.7 billion) in 2009. Under this review, IMSS subsequently indicated that the actual figure was MXN 1.3 billion (approximately USD 100 million), attributing the error to manual data entry. Similarly, significant divergence can be found between IMSS data and figures published by SFP in relation to the distribution of IMSS contracts by type of procedure (Figure 7.1).

The current lack of capacity within IMSS to consolidate reliable procurement data at the organisational level and to transfer these data to another Mexican authority like SFP appears to be partly attributable to limited integration of the various systems used (Chapter 8 for further details). This often results in the need for repetitive manual data



Figure 7.1. Comparison of data available from IMSS and SFP on IMSS' contracts by type of procedure (value)



Source: Data provided by IMSS; SFP (2011), “Quinto Informe de Labores” [Fifth Activities Report], [www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to\\_informe\\_labores\\_sfp.pdf](http://www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to_informe_labores_sfp.pdf), accessed 7 April 2013.

manipulation in different systems, including extracting, uploading and consolidating data, which leads to errors and discrepancies. Such discrepancies defeat the overall purpose of developing a digitised environment to support management of the procurement function, and works against creating efficient and agile processes.

By the end of 2012, collection and consolidation of procurement data will be facilitated by the migration of most procurement modules to the Institutional Resources Planning (*Planeacion de Recursos Institucionales* – PREI) platform used by IMSS to manage budget and accounting information (see Chapter 6 for further details). However, the current continuous presence of significant errors in key data published indicates a limited use of procurement statistics for planning and evaluation purposes. Data collection therefore appears to be an end in itself at this time. It is essential that it rather become a tool for enhanced assessment and procurement function management.

The current lack of availability and use of credible and complete procurement data prevents IMSS from assessing the procurement system as a whole. It thus prevents addressing various strategic management elements, such as its procurement strategy, internal control, performance monitoring and management, etc. As part (and in support) of the recognition of the strategic role of the procurement function in the organisation, IMSS could consider improving the existing capacity of its procurement information systems. These systems should ensure the efficient collection of key procurement data required for strategic purposes at the procurement unit level. They should also facilitate electronic consolidation of that information at different aggregation levels organisation-wide, eliminating the need for repetitive manual data entry which leads to errors.

In support of that effort, IMSS first needs to look inside the organisation to identify what type of data – such as costs, schedules, methodologies and outcomes – are already available and useful. It could then develop an action plan to collect missing data. Relevant reports should also be produced following adequate collection, use and assessment of that information. This will provide a clearer picture of the various procurement activities undertaken within IMSS, and show the value of that function.

## Performance monitoring management system of the procurement function

### ***The actual performance of the procurement function in IMSS is not effectively assessed internally, hindering identification of deficiencies and ongoing improvement***

As discussed in Chapter 2, the goals of the procurement function, against which performance should be tracked, are under-defined and not clearly understood throughout IMSS. The leadership of IMSS suggests that there is a strategy for transparency and efficiency, but this does not translate into the procurement function.

Identifying opportunities for improvement and establishing strategic priorities and objectives in a procurement function requires a thorough understanding and assessment of its actual performance. However, such an analysis is currently not available in IMSS as there are no organisation-wide indicators. Some indicators seeking to measure the effectiveness of the procurement function are in place in IMSS, but they are not consistently used and applied among the different units of the organisation. Examples provided include:

- savings compared to previous years;
- the number of contracts awarded;
- timelines for procurement procedures;
- unsuccessful public tenders (*desiertas*);
- number of bid protests and their outcomes; and
- observations of audit bodies.

Furthermore, the *ad hoc* indicators that are available in a few areas are underused in assessing performance. There is no clearly defined reward or penalty system to reflect actual performance. Similarly, the various handbooks issued by the SFP (discussed in Chapter 4), propose performance indicators. They focus, however, on measuring the implementation of the handbooks rather than the real performance of the procurement function.

In order to develop a strategic procurement function with clear objectives that is also focused on continuous improvement, IMSS needs to identify clear organisation-wide priorities and targets and to regularly assess the progress of all procurement units through specific key performance indicators (KPIs). IMSS could therefore consider developing a performance-monitoring and management strategy for its procurement function. This initiative should be based on a well-thought plan determining:

- The specific elements of the procurement that should be subject to ongoing assessment. These elements should cover all important areas of risks, efficiency and initial weaknesses in the various activities of the procurement function, and should be linked to the main objectives identified under the organisational procurement strategy.
- The specific metrics used to evaluate these various elements, including the data collected and the formulas used for their calculations.
- Specific targets for each metric in order to identify improvement objectives and to measure progress against them. These targets should align with the priorities established in the organisation procurement strategy and business plan.

- How continuous improvements will be promoted. Rather than simply identifying weaknesses, current best practices should promote performance-measurement activities that add value through continuous improvements.
- The process under which the procurement performance will be assessed (frequency; responsibility to collect data, calculate the metrics and assess the results; etc.), and the results communicated within the organisation which should be used for strategic planning purposes.

Implementation of the strategy should be carefully considered, so as to minimise the required resources (in time and effort) and costs, while maximising the benefits. The low availability and quality of procurement statistics and data will initially restrict the organisation's implementation capacity. As such, IMSS could consider initiating a performance management monitoring system in stages. For example, the first round of evaluation could focus on a few key metrics and a limited number of procurement units. Other metrics and units could be gradually introduced as required data become available. In order to ensure a timely and efficient assessment of the performance of the entire procurement function, it is crucial that a clear timeframe is established and complied with for integrating these other metrics and units.

To ensure their full integration in ongoing procurement activities, performance priorities and targets should transpose to all levels of the procurement function. This includes the employees, for whom they would be part of the annual evaluation, and the main suppliers subject to performance strategy.

***IMSS effort to develop and implement a formal performance monitoring and management strategy is facilitated by the extensive work already done by other organisations, including in the health sector***

When developing its performance monitoring and management strategy, IMSS should consider the experience of other OECD member countries (Box 7.1).

Similarly, a supply chain performance measurement report prepared for the Government of Ontario, Canada (Box 7.2) may be of particular interest to IMSS, as it was prepared by health care supply specialists and focused specifically on hospital supply chain.

In addition, OECD member countries are introducing a growing number of strategic and transactional reviews on their procurement systems, which can offer IMSS significant insights on performance monitoring and assessment.<sup>1</sup> The UK reviews briefly described in Box 7.3 offer an example, with further details in Annex 7.A2. While strategic reviews are sporadic exercises rather than periodic ones, as ongoing performance management, they share many key elements and can therefore assist greatly in the development of IMSS performance monitoring and management system.

While assessing and considering such reports and similar initiatives, IMSS should not directly apply their results. Rather, it could endeavour to develop and implement a strategy which reflects its specific context (legal framework, structure and processes, strengths and weaknesses, etc.), as well as one which reflects the priorities and goals identified in its organisational procurement strategy.

### Box 7.1. Case studies of procurement performance measurement

#### 1. ENEL Performance Indicators in Italy

*Ente Nazionale per l'Energia Elettrica* (ENEL) is a partially privatised and government-controlled Italian electricity company with annual spending of EUR 56 billion and EUR 168 billion worth of assets under management (in 2010). It maintains a dominant position in Italy and operates in over 40 countries internationally. It manages a workforce of 80 000 people, approximately half of which are outside of Italy. As such, its contracts are subject to different laws and its procurement processes are diverse. ENEL also has a strong renewable energy development programme, which is complemented by a well-developed green procurement policy (approximately one quarter of procurement spending is “green”). It has a well-developed e-procurement portal, with 70% of the value of contracts processed online. Seventy-five percent of expenditure is with local contractors. ENEL keeps and publishes a number of performance measurement indicators on its procurement systems, including the number of suppliers and the amount of their contracts; the local and foreign content of contracts; the number of contracts by stage of the procurement cycle; occupational health and safety records, and litigation proceedings of suppliers.

#### 2. Chile's Public Management Improvement Programme

The Public Management Improvement Programme (*Programa de Mejoramiento de Gestión* – PMG) is a national programme run by the Directorate of Budgets of the Ministry of Finance. It was established in order to achieve measurable improvement in key aspects of public management. In order to recognise the procurement function through adequate salaries and therefore improve capacity, the programme has included agency and employee incentives linked to performance. Thus salary increases are tied to achievement of PMG goals. Performance indicators, among others, include:

- the rate of acquisitions made as an emergency purchase process;
- the portion of the acquisition's budget carried out through public bids; and
- the difference between the annual plan and the actual acquisitions made during the year.

The Directorate of Public Procurement Contracting is the agency responsible for fixing goals and evaluating improvements made in the field of procurement. By the end of 2003, some 131 agencies had included procurement in their PMG plans and nearly all of them had improved the quality of their procurement function. These results can be partly explained by the efforts devoted to training employees, which included about 7 900 individuals up until 2004, and by investing in information services.

#### 3. Tracking information through workflow information systems in Germany

The German Federal Procurement Agency in the Ministry of the Interior has set up an electronic workflow that helps centralise all information related to the procurement system and provides a record of the different stages of the procurement procedure. Employees are assisted by an electronic workflow, which leads them through the process and coercively supports the application of the four-eye principle. Each decision is well-founded and documented along the milestones of the procurement procedure. All files are stored in a document management system. The Federal Procurement Agency has also recognised the importance of accurate records for maintaining transparency and providing an audit trail of procurement decisions. In addition, supervisors may access any document at any time. In case of suspicion, the person in charge of corruption prevention may also have access to documents for inspection purposes. In either case, the official concerned is unaware of this access. The department for quality management randomly examines documents in the system, while the internal audits review transactions of the previous year. These inspections are not exclusively used to prevent corruption, but also to ensure lawful and economically advantageous public procurement.

Sources: ENEL 2010 Annual Report website, <http://annualreport2010.enel.com/en>, accessed 4 December 2012; OECD (2007), *Integrity in Public Procurement. Good Practice from A to Z*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264027510-en>.

### Box 7.2. Procurement performance measurement in health care systems: Experience from Ontario (Canada)

In November 2005, the Ontario Ministry of Finance invited 12 health care supply chain specialists to assess the current state of supply chain performance measurement at Ontario hospitals, resulting in the report, *Performance Measurement – a Report by the Hospital Supply Chain Metrics Working Group* (Government of Ontario, 2006). This document proposes a series of 48 metrics and 21 supporting standards for hospitals to use in evaluating their supply chain performance and target performance improvement. Furthermore, it advises on how to adopt and use the metrics in support of underlying leading practices and recommends their implementation in three stages: basic supply chain operations; emerging supply chain practices; and supply chain excellence.

Two companion reports (Government of Ontario, 2009a and 2009b) issued in 2009, expand on 20 of the metrics and 12 of the standards introduced in the original reports. Each defines the objectives, rationale and proposed benefits, together with formulas, targets, associated variables and potential data sources, related metrics and predicted implementation challenges. The 20 metrics proposed by these recent reports cover six areas of interest (governance and process; financial; transactions and technology; customers; suppliers; and people) and are presented with their objectives in Annex 7.A1 to this chapter.

### Box 7.3. Procurement Capability Reviews: Experience from the United Kingdom

In the United Kingdom, Procurement Capability Reviews were first announced in the HM Treasury Report, *Transforming Government Procurement*, and piloted in early 2007. The Reviews are modelled on Departmental Capability Reviews operated by the Cabinet Office but focus on commercial activities of public organisations, both across the whole life cycle, from policy and strategy to delivery and disposal, and across different commercial activities (i.e. from commodity procurement to complex procurement). In order to foster a high level of confidence in the report and its recommendations, the reviews are conducted by a team with significant depth and breadth of experience and knowledge of commercial issues.

The objective of the procurement capability review is to assess three broad areas with corresponding indicators, namely: *i*) leadership (visibility, vision, and confidence levels); *ii*) skills development and deployment (effective resourcing and intelligent client capability); and *iii*) systems and processes (governance and organisation, strategic and collaborative approach to markets, effective use of procurement techniques, and knowledge management).

#### Use of indicators

A primary aspect of the reviews is the use of key performance indicators to help organisations continuously improve. There are three different types of indicators:

- **Key metrics:** designed to help the public organisation and other governmental stakeholders track whether performance is improving over time. There are nine key metrics.
- **Contextual metrics:** inform the key metrics and are useful to track changes over time, but need to be interpreted alongside other information. Six contextual metrics are used.
- **Diagnostics metrics:** more detailed measures to inform specific lines of enquiry during the Procurement Capability Review or subsequent evaluation. They are not intended for ongoing monitoring of procurement performance. There are eight diagnostic metrics.

### Box 7.3. Procurement Capability Reviews: Experience from the United Kingdom (continued)

Key performance indicators are awarded scores on a five-point Red/Amber/Green scale. These scores are subsequently subject to a rigorous moderation process by an independent panel comprising representatives from the National Audit Office (the supreme audit institution), Confederation of British Industry, HM Treasury, and the Cabinet Office. A snapshot of 23 procurement capability review performance indicators over four areas of interest (leadership; skills development and deployment; systems and processes; and results delivered) used under such review can be found in Annex 7.A2.

#### Improvement and engagement plans

Each reviewed organisation is expected to develop and implement an Improvement Plan in response to the review. The departments, together with appropriate governmental authority, agree on an Engagement Plan based on assessed risk to delivery against the approved Improvement Plan. Follow-up plans include self-assessment by the department six months after the approval of the Improvement Plan, an evaluation around 12 months after the first review to measure progress against the Improvement Plan, leading eventually to a follow-up full review within 24 months.

*Source:* Based on United Kingdom Office of Government Commerce, Procurement Capability Reviews website.

## Proposals for action

In order to improve the management of its procurement function and allow ongoing improvements, IMSS could consider the following proposals:

1. Improving the rapid availability of key solid procurement data in a user-friendly manner. In addition to the increased system integration recommended in Chapter 6, this could be achieved by:
  - a. Identifying key procurement data to be regularly collected and assessed to enable evidence-based management and planning of the procurement function. Includes assessing the data already being collected in various units, and establishing a plan to collect those missing.
  - b. Until the migration of various procurement modules to PREI is completed, implementing a short-term strategy for the collection and validation of key procurement data required for the development and implementation of important strategies and initiatives (including the organisational procurement strategy).
  - c. Strengthening the existing IT capacity to rapidly consolidate electronically that information to various aggregation levels (and organisational-wide) in a user-friendly manner, while minimising data entry. Furthermore, appropriate automatic reports should be generated and analysed in support of various strategic activities (such as annual planning, organisational procurement strategy, internal control, performance management, etc.).
2. Implementing a performance monitoring and management system promoting ongoing improvement, and allowing for the regular assessment of all procurement units by:
  - a. Identifying clear performance indicators, setting a clear and realistic target for each one and monitoring achievement against them on a regular basis.

- b. Communicating progress against these targets throughout the organisation (procurements units, senior management, other departments) in order to increase visibility of progresses made and of the value-added provided by the procurement function.
  - c. Transposing these performance priorities and targets to all levels of the procurement function, including IMSS employees and the main suppliers subject to performance strategy.
3. Due to the current data constraints experienced in IMSS, the performance and monitoring system could be implemented in stages, starting with a pilot including the indicators and units for which data is available and gradually enlarging its scope to all identified indicators and all procurement units.

### Note

1. For example, strategic reviews have been conducted in the United Kingdom since 2007 (Procurement Capability Reviews) and the United States since 2008 (Contracting Acquisition Assessments). Transactional reviews have been conducted in the United Kingdom since 2000 (Gateway Reviews), the United States since 2002 (first as Management Reviews and in 2008 as Peer Reviews), Australia since 2005 (Gateway Reviews) and Canada since 2010 (Project Gating).

## Annex 7.A1

## Snapshot of Ontariobuys supply chain metrics

Area	Governance and process	Financial	Transaction and technology
Goal	Control the plan-to-pay process and use of leading practices	Reduce operating and purchasing costs of the supply chain	Reduce the transactional burden and improve information
Proposed Metrics	<p><b>Metric 1.1. Percentage of Active Items under Contract</b> Objective: To improve the control of supply chain spending by increasing the number of items bought under a negotiated contract.</p> <p><b>Metric 1.2. Purchasing Response Time</b> Objective: To improve the ability to quickly issue rush orders to suppliers</p>	<p><b>Metric 2.1. Average Cost to Issue a Purchase Order</b> Objective: To maximise the productivity of supply chain staff associated with purchasing goods and services, including supplier management, contract management, order processing and problem resolution</p> <p><b>Metric 2.2. Inventory Turnover in One Month</b> Objective: To optimise the investment in inventory by balancing the cost of storing goods against the cost of replenishment, stock-outs and resulting service failures</p> <p><b>Metric 2.3. Operating Costs as a percentage of Expenditures</b> Objective: To optimise the overall operating costs of the supply chain department relative to the expenditures on goods and services</p>	<p><b>Metric 3.1. Number of Purchase Orders in One Month</b> Objective: To create efficiencies and reduce costs by optimising the number of purchase orders</p> <p><b>Metric 3.2. Percentage of Rush Purchase Orders</b> Objective: To reduce the number of unplanned and unscheduled rush purchase orders by improving planning and demand management</p> <p><b>Metric 3.3. Number of Purchase Orders Placed per Full-Time Equivalent in One Month</b> Objective: To improve the productivity of the supply chain department in creating and issuing purchase orders</p> <p><b>Metric 3.4. Average Lines per Purchase Order</b> Objective: To reduce transactional costs by consolidating purchase order lines into fewer purchase orders</p> <p><b>Metric 3.5. Average Number of Purchase Orders Placed to Top Ten Suppliers in One Month</b> Objective: To consolidate and reduce the number of purchase orders issued to the top ten most active suppliers</p> <p><b>Metric 3.6. Percentage of Invoices with Purchase Orders</b> Objective: To reduce the number of invoices processed without a purchase order to properly control and manage organisational spending centrally through the supply chain department</p> <p><b>Metric 3.7. Percentage of Invoice Matches</b> Objective: To improve accuracy in the information contained in purchase orders, receiving slips and supplier invoices</p> <p><b>Metric 3.8. Percentage of Low Dollar Value Purchase Orders</b> Objective: To increase the use of alternative, easy-to-use purchasing methods for low dollar value purchases</p>



Area	Customers	Suppliers	People
Goal	Improve service delivery through comprehensive understanding of patient and clinician needs	Leverage supplier expertise and resources to drive better supply chain outcomes	Invest in employees to improve their contribution and help make supply chain a profession of choice
Proposed Metrics	<p><b>Metric 4.1. Stock-outs at the Cart Level</b> Objective: To optimise stock levels at point-of-use storage locations across the healthcare organisation to safeguard patient safety and improve customer service</p> <p><b>Metric 4.2. Fill Rates to Customers</b> Objective: To improve customer satisfaction at point-of-use storage locations across the healthcare organisation</p> <p><b>Metric 4.3. Percentage of Items Activated in the Master File in One Month</b> Objective: To increase the scope of goods and services purchased by the supply chain department to include new products and suppliers</p> <p><b>Metric 4.4. Percentage of Items Inactivated in the Master File in One Month</b> Objective: To rationalise the number of duplicate and alternate products, services and suppliers used across the organisation</p>	<p><b>Metric 5.1. Percentage of Invoices Paid within Due Date</b> Objective: To increase compliance with agreed-upon payment terms to maintain good supplier relationships</p> <p><b>Metric 5.2. Supplier Performance</b> Objective: To ensure reliable delivery performance from an organisation's top ten suppliers</p>	<p><b>Metric 6.1. Voluntary Turnover</b> Objective: To improve retention of quality supply chain staff</p>

*Sources:* Adapted from Government of Ontario – BPS Supply Chain Secretariat (2009), *Performance Measurement: Phase II – A Framework for Action*, BIS Supply Chain Secretariat of the Treasury Board Office, Queen's Printer for Ontario, Ontario (Canada), [www.fin.gov.on.ca/en/bpssupplychain/documents/perf\\_meas\\_framework.html](http://www.fin.gov.on.ca/en/bpssupplychain/documents/perf_meas_framework.html), accessed 20 September 2011; Government of Ontario – BPS Supply Chain Secretariat (2009), *Performance Measurement: Phase II – User Guide*, BIS Supply Chain Secretariat of the Treasury Board Office, Queen's Printer for Ontario, Ontario (Canada), [www.fin.gov.on.ca/en/bpssupplychain/documents/perf\\_meas\\_userguide.html](http://www.fin.gov.on.ca/en/bpssupplychain/documents/perf_meas_userguide.html), accessed 20 September 2011. © Queen's Printer for Ontario, 2009. Reproduced with permission.

## Annex 7.A2

## Snapshot of United Kingdom procurement capability review performance indicators

Metrics	Leadership	Skills development and deployment	Systems and processes	Results delivered
Key	<ul style="list-style-type: none"> <li>Stakeholder confidence</li> <li>Supplier confidence</li> </ul>	<ul style="list-style-type: none"> <li>Ratio of procurement value-for-money savings to the cost of procurement function</li> </ul>	<ul style="list-style-type: none"> <li>Average processing cost per purchase order/per invoice</li> <li>Percentage third party spend via pre-arranged contracts</li> <li>Percentage third party spend via collaborative procurement</li> </ul>	<ul style="list-style-type: none"> <li>Procurement value-for-money savings as a percentage of third party spend</li> <li>Percentage third party spend via small and medium enterprises</li> <li>Performance against sustainable consumption and production targets</li> </ul>
Contextual	<ul style="list-style-type: none"> <li>Percentage third party spend actively managed by procurement professionals</li> </ul>	<ul style="list-style-type: none"> <li>Cost of procurement function as percent of third party spend</li> <li>Percentage staff turnover of procurement professionals</li> </ul>	<ul style="list-style-type: none"> <li>Percentage of third party spend via procurement cards</li> <li>Percent achievement of payment terms/within 30 days of receipt</li> </ul>	<ul style="list-style-type: none"> <li>Average unit cost of a basket of eleven commodities</li> </ul>
Diagnostic	<ul style="list-style-type: none"> <li>Level of head of procurement function</li> </ul>	<ul style="list-style-type: none"> <li>Percentage procurement staff full-time equivalent that are qualified</li> <li>Percentage procurement staff undergoing professional training</li> <li>Percentage procurement employees externally resourced</li> <li>Percentage third party spend covered by supplier relationship management</li> </ul>	<ul style="list-style-type: none"> <li>Percentage third party spend via structured category management</li> <li>Percentage third party spend management via e-sourcing (e-procurement)</li> </ul>	<ul style="list-style-type: none"> <li>Customer satisfaction with supplier performance</li> </ul>

Source: Adapted from United Kingdom Office of Government Commerce, Procurement Capability Reviews Website.

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## *Chapter 8*

### **Ensuring clarity and reducing procurement risks in IMSS through strong tender documents and model contracts**

*This chapter assesses the strengths and weaknesses of the template tendering documents and contracts used by the Mexican Institute of Social Security (IMSS). Potential improvements to the template contracts are proposed to increase certainty and reduce risks in IMSS' procurement activities.*

## Introduction

Tendering documents, together with the legal framework applicable to any public procurement procedures provide the umbrella framework under which public entities contract with the private sector. These documents preferably include the template versions of the contracts to be executed following tendering procedures (which are called “model contracts”). Tendering documents which set forth comprehensive rules on the three most relevant phases of the tendering process (invitation to tender; evaluation; award) privilege competition between bidders and are likely to ensure a level playing field as well as transparency and integrity in contracting procedures (OECD, 2009).

Similarly, the consistent and systematic use of strong templates of contractual documents provides clarity, security and consistency to both the buying organisation and the marketplace, and reduces risks in the contractual process.

The purpose of this chapter is to assess the template tendering documents and contracts currently used by the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) for the acquisition of goods and services, and to provide some proposals for action in order to enhance IMSS contracting procedures.

## Model tendering documents and contracts

### *IMSS model tender documents are clear and in adherence with the applicable legislation*

The legality of tender documents, i.e. their compliance with the applicable legislation, constitutes the first step towards a transparent awarding procedure. Considering the volume and diversity of public contracts to be awarded and the known vulnerability of procurement systems to corruption and fraud, the rule of law in the context of public procurement is of the outmost importance.<sup>1</sup>

IMSS has provided the OECD review team with nine template versions of tender documents for the acquisition of goods, and another version for the acquisition of services. All templates pertain to contracts formed under open tendering. Considering the nature and type of contracts at hand, these tender documents and the contracts to be awarded under them must comply with the terms of the Law of Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público* – LAASSP), the LAASSP Regulation (*Reglamento de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*) and IMSS guidelines on acquisitions, leasing and services (*Políticas, Bases y Lineamientos en Materia de Adquisiciones, Arrendamientos e Servicios*) (altogether hereinafter referred to as the “Applicable Legislation”).

All tender documents assessed have the same general contents. While there are not many clauses in these documents, some of their terms are further developed in annexes. These annexes provide, for example, details on how to present a joint bid, the form and terms of performance bonds, and the clear description of the quality and characteristics of the goods, rentals and services being acquired. This use of annexes completing and complementing the solicitation documents has the virtue of offering a more comprehensive tender framework, which strongly details the most relevant features of the awarding procedure, and therefore of increasing its transparency.

Furthermore, the actual terms of the IMSS solicitation documents provide the prospective bidders with a reasonable and sufficient set of the tender rules applying to the relevant aspects

of the tender procedure. As opposed to the use of several different and diffuse solicitation documents for awarding the same kind of contract, IMSS's use of template documents containing similar provisions (in some cases identical provisions) strengthens its procurement process. This practice, on the one hand, shows that IMSS is currently contracting pursuant to uniform and coherent tender procedures. This is likely to lead to a specialisation of its employees, to an increasing know-how on public procurement procedures, and to an enlightened application of contractual terms and legal rules. On the other hand, it allows prospective bidders to better prepare themselves to participate in IMSS tenders by referring to their previous experiences and participation in different tenders launched by IMSS.

A thorough review of IMSS solicitation documents shows that they are generally in line with the relevant terms of the Applicable Legislation, with no particular flaws identified. Most importantly, they contain all the elements required by law (LAASSP, article 29) to be included in tender invitations. In addition, these template documents identify other key elements of the law, such as the review and remedy mechanism, as well as the obligation of the winning bidder to present a performance bond and to demonstrate compliance with tax obligations in high-value contracts. This enhances transparency and integrity in IMSS procurement procedures.

However, all template tendering documents provided appear to relate to standard goods and services and are based on the binary system, using solely mandatory requirements and selecting the winning bid on the lowest price. IMSS could consider developing template tendering documents for complex or sensitive requirements, using other evaluation and selection methods, such as the points and percentages approach. In fact, the LAASSP stipulates that this method of evaluation should prevail over the binary one.

### ***IMSS model contracts are also clear and in adherence with the applicable legislation***

As required by the Applicable Legislation (LAASSP, article 29), all solicitation documents assessed include the template version of the contract to be executed (hereinafter referred to as the "Model Contracts"). This encourages a transparent procurement system by guaranteeing:

- that the contract to be executed pursuant to the tender is in line with both the Applicable Legislation and the terms of the tender invitation (if not, the bidders may immediately challenge its terms); and
- that all bidders will be executing the agreement under the same general terms.

The OECD reviewed IMSS Model Contracts against the relevant terms of the Applicable Legislation, and considered the following items:

- Obligations and liability of the parties
- Basis and method of payment
- Inspection, acceptance and warranty
- Dispute resolution mechanisms
- Pre-established deductions and penalties
- Adequate provision for a clear description of the goods or services to be provided by the contractor
- Intellectual property

- Subcontracting
- Replacement of contractor personnel
- Transfer of ownership
- Termination clauses
- Performance guarantee

The review showed that the Model Contracts are in line with the relevant terms of the Applicable Legislation, and did not show contravention or deviation, except in relation to intellectual property.

As required in the Applicable Legislation, the Model Contracts set forth a provision according to which the bidder shall bear exclusive responsibility in case of breach of intellectual property rights (LAASSP, article 45). However, IMSS Model Contracts do not include the necessary provision required by the law which says that IMSS is entitled to the intellectual property rights deriving from contracted consultancy services, advisory, studies and investigations, except when there is an impediment. By inserting such rule in the Model Contracts, IMSS intellectual property rights entitlements under the resulting contracts would be made apparent, enabling it to make free use of the same information in similar future circumstances without the risk of litigation.

### ***The model contracts appear to be generally complied with at time of award***

A set of contracts awarded in 2010 and 2011 under national and international tendering procedures is easily accessible from the IMSS website. Even though the actual solicitation documents are not made public, a comparison between these contracts and the Model Contracts provides an indication on the extent to which the models are adhered to at time of contract award. The assessment identified a sustainable and remarkable level of coherence between the two sets of documents, with no substantial or material deviations found which could affect the transparency or legality of the awarded contracts.

Furthermore, a common structure between the Model Contracts and these contracts is clearly traceable, with not only the most relevant clauses replicated, but also the contracts' annexes. It is also noteworthy to point out that the executed versions of these contracts sufficiently complete some provisions that could not be fully described in the template documents, such as annexes with the exact description of goods, rentals or services being acquired, and with detailed delivery timelines). However, due to the draft nature of the Model Contracts and solicitation, some of these documents were left incomplete. Notably, the description of the goods, rentals or services set out in the annexes of the contracts assessed is fairly exhaustive and technically clear.

From the assessment of these reviewed executed contracts, it is evident that their most relevant terms are in line with the several IMSS Model Contracts provided for analysis. This ensures coherence, clarity and legal security in the procurement process and reduce the risks of dispute and litigation. Nonetheless, application of these templates does not appear to be consistent; solicitation documents are reported to diverge from one unit to the other, as discussed in Chapter 9.



## Potential improvements to the Model Contracts

### *The current Model Contracts could be modified to provide higher results to IMSS and better manage risks and lack of clarity*

In a subsequent assessment, the strengths, weaknesses and risks of the Model Contracts used in IMSS were evaluated in a comparison with relevant benchmarking legislations and good practices. The assessment showed that the current provisions of the Model Contracts may not fully prevent or mitigate some contractual risks, nor do they provide full legal clarity to IMSS and its suppliers. They also do not maximise the results reached by IMSS under some contracts. In particular, the following items were identified:

#### *A. Intellectual Property*

Even when correcting the missing provision identified before, i.e. associated with contracted consultancy services, advisory, studies and investigations, it may be appropriate for IMSS to secure similar intellectual property rights for some goods and services it acquired. An example is the right to modify or maintain, either in-house or through a third party, a piece of equipment developed specifically for the organisation. Doing so would prevent IMSS from being “locked-in” with a single supplier for such services and potentially allow it to obtain better value through competition.

#### *B. Basis and Method of Payment*

All Model Contracts assessed contain draft provisions for instances where *i)* the contract has a fixed price regime and *ii)* the contract is subject to a price adjustment regime. In the latter case, the Model Contracts expressly determine that the contract should establish the formula or adjustment mechanism as well as the factor attributed to each one of the relevant components. However, only provisions for advance payments and final payment upon delivery are included, no other methods of payment (such as milestone or progress payments) are considered. Such mechanisms are valuable for the proper risk management of some types of requirements. Therefore, IMSS could consider including such provisions in the relevant Model Contracts.

#### *C. Subcontracting Rules*

In accordance with the Applicable Legislation, the Model Contracts specify that the rights and obligations deriving from the contract (except for the collection rights) cannot be assigned to another entity, such action being cause for termination of the contract (LAASSP, article 46). However, they do not encompass any provision concerning subcontracting.

Loose subcontracting rules may jeopardise the integrity of a contract if the winning bidder subcontracts a significant portion of the contract in order to reduce its costs, or as part of a collusion agreement.<sup>2</sup> However, as the European Union’s Directive 2004/18/EC states, the possibility to subcontract a share of a public contract (not the entire contract) is one of the most important prerogatives of a procurement system aimed at encouraging the involvement of small and medium-sized enterprises in the public contracts procurement market. Allowing subcontracting does not only promote the development of that important sector of the economy, but also increases the level of competition in public procurement.

As a result, subcontracting is generally accepted. However, limits aimed at guaranteeing the compliance with public procurement's main principles are enshrined through subcontracting rules. This is done differently by OECD countries, some have general subcontracting rules applying to all contracts (Portugal, Box 8.1) while others apply restrictions and rules only to specific contracts (like Canada).<sup>3</sup>

### Box 8.1. Subcontracting provisions of public contracts in Portugal

The Portuguese experience, as set in its Public Contracts Code of 2008 (which aimed at incorporating the European Union (EU) directives on the subject), provides a fair example of the EU standpoint.

The Portuguese Public Contracts Code sets forth sufficient rules allowing subcontracting to operate in a transparent way, without endangering the good compliance of the public contract at hand and without putting competition in jeopardy.

As a general rule, reflected in article 316 of the Portuguese Public Contracts Code, subcontracting in public contracts is possible as long as it is not clearly forbidden by the relevant contract's clauses or by the contract's specific nature.

Nevertheless, according to article 317, no. 2, of the Portuguese Public Contracts Code, "subcontracting is always forbidden:

- when the contract has been awarded pursuant to an invitation procedure, in the cases where only one entity could be invited;
- when (...) the entity to be subcontracted is not allowed to participate in public procurement procedures;
- whenever there is strong evidence that (...) the subcontracting arises from acts, agreements, practices or information susceptible of defrauding competition rules."

If not forbidden, or if specifically allowed in the contract's wording, the public party's authorisation for the private party to subcontract, pursuant to article 318, no. 3, is dependent on:

- the prior presentation of the habilitation documents pertaining to the subcontracted entity, which presentation was mandatory for the private contractor during the contract formation phase; and
- the fulfilment by the prospective subcontracted entity of technical or financial minimum capacity requisites, whenever the contract expressly subordinates the subcontracting to the evaluation of both capacities or, at least, one of them, or to the fulfilment, by the prospective subcontracting entity, of the minimum requisites on technical capacity in connection to the instalments to subcontract whenever the private contractor resorts to the prospective subcontracting entity capacity for the purpose of complying with the qualification requirements in the contract formation phase."

In addition, no. 4 of article 318 of the Portuguese Public Contracts Code sets forth that "the contract may prohibit the subcontracting of certain contractual instalments or of instalments which accumulated value supersedes a percentage of the contractual price". Such a limit will vary in accordance with the nature of the contract and the interests in presence.

Finally, it is also noteworthy to point out that article 321 stipulates that, "In subcontracting situations, the main private contractor stays fully responsible before the public contractor for the due and punctual compliance of all contractual obligations".

*Source:* Portuguese Public Contracts Code (2008), [http://ec.europa.eu/youreurope/business/profitting-from-eu-market/benefiting-from-public-contracts/portugal/index\\_en.htm](http://ec.europa.eu/youreurope/business/profitting-from-eu-market/benefiting-from-public-contracts/portugal/index_en.htm), accessed September 2011.

IMSS could consider developing and introducing clear subcontracting rules in its Model Contracts. These rules should set forth instruments that scrutinise subcontracting in public contracts and provide sufficient checks and balances, and thereby increase transparency and integrity in the procurement process, making it a “pro-competition” tool.

#### *D. Transfer of Ownership*

Even though the Model Contracts contain several rules that are connected in one way or another with the transfer of ownership of the acquired goods (such as acceptance of goods, liability until delivery, substitution of defective goods, etc.), there are no direct, clear and undisputed clauses stating that, from a given date or fact, the goods become IMSS’ property. Given the fact that transfer of ownership of the acquired goods is not clearly dealt with in the Applicable Legislation and the Model Contracts, the documents analysed show a contractual risk for both parties, which may lead to poor regulation in this area in the concluded contracts.

It is likely that other Mexican general law contains provisions that clarify how to determine the date and terms of the transfer of ownership. Nevertheless, the inclusion of a clear clause in the Model Contracts would bring further transparency and certainty to IMSS procurement procedures, which reduces the chances of unnecessary dispute or litigation. This would be especially important if IMSS uses flexible methods of payment under which some amounts are paid to the contractor before actual and complete delivery of the goods (such as progress or milestone payments).

#### *E. Inspection, Acceptance and Warranty*

Except as it relates to transfer of ownership, the Model Contracts include clear rules covering the right to return/replace products which do not meet the contractual requirements. However, for contracts requiring testing of the acquired goods after installation, additional clarity could be introduced as to the nature of the particular specifications and tests to be done, and the respective responsibilities and liabilities of each party (especially in relation to contractor’s obligations should any test fail).

#### *F. Dispute Resolution Mechanism*

While the Applicable Legislation considers the possibility of arbitration for long-term services contracts,<sup>4</sup> none of the Model Contracts mentioned the possibility of doing so, nor the terms and conditions to be used if such an approach is chosen. In view of the higher confidence that this dispute resolution mechanism may provide to some suppliers, IMSS could consider including arbitration provisions in the service model contracts, potentially through the creation of a model contract for long-term services.<sup>5</sup> It is also worthwhile noting that the Applicable Legislation prohibits arbitration for disputes related to contract termination by the public entity (LAASSP, article 80), which can be considered a weakness of the IMSS system (especially in international contracts).

Similarly, the Model Contracts do not mention any other types of dispute resolution mechanisms. This includes conciliation, even though the law provides the right of both IMSS and its suppliers to request its use at any time (LAASSP, article 77). Notwithstanding the fact that IMSS is the second Mexican institution having most often used this mechanism in 2009,<sup>6</sup> it could promote it further by clearly indicating in all Model Contracts the parties’ right to request it. Doing so would heighten awareness of that mechanism which has proven extremely efficient for the organisation,<sup>7</sup> increase the frequency of its use, and enhance the suppliers’ confidence in the procurement process.

### G. Termination Clauses

As required by the LAASSP, the Model Contracts include provisions for contract termination on the grounds of contractor's default of the contractual provisions, of public interest, or of a *force majeure* event. However, they do not provide for any specific clauses covering the possibility of termination by mutual agreement of IMSS and the contractor. Increased clarity and balance could be introduced in the tender documents and contracts through the inclusion of the specific terms associated with such termination, notably in relation to payments due, compensation and liability.

### H. Replacement of Contractor Personnel

Depending on the nature and complexity of the requirement to be met, the experience and qualification of the individual providing part of the work may be of utmost importance. In such instances, this need for high-level expertise will be evaluated as part of the proposal and the individual should be identified by name in the contract to ensure he/she is the one providing the service. However, no such provisions are found in IMSS Model Contracts. This leaves the possibility for the contractor to subsequently replace that

#### Box 8.2. Personnel replacement provisions in some public contracts in Canada

The Canadian experience provides an example of how contractor personnel replacement can be managed in public procurement. While such replacement is not limited in most instances, the standard provisions of Canada's central procurement department put the following conditions on goods or services contracts of higher complexity:

“If specific individuals are identified in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control.

If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with similar qualifications and experience. The replacement must meet the criteria used in the selection of the Contractor and be acceptable to Canada. The Contractor must, as soon as possible, give notice to the Contracting Authority of the reason for replacing the individual and provide:

- the name, qualifications and experience of the proposed replacement; and
- proof that the proposed replacement has the required security clearance granted by Canada, if applicable.

The Contractor must not, in any event, allow performance of the Work by unauthorised replacement persons. The Contracting Authority may order that a replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with subsection 2. The fact that the Contracting Authority does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.”

Through this approach, Canada protects the integrity of the procurement process and reduces the risks of inadequate performance while leaving adequate flexibility to the contractor to manage the conduct of its work.

*Source:* Public Works and Government Services Canada (2012), “Standard Acquisition Clauses and Conditions (SACC) Manual”, <https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>, General Conditions ID 2030 and 2035, accessed 15 March 2012.

individual by another, perhaps of lower qualification and expertise. This jeopardises the integrity of tendering process as well as increasing the risk of inadequate performance.

In line with the Canadian practice described in Box 8.2, IMSS may consider including in the relevant Model Contracts clear provisions on the rights and obligations associated with the replacement of contractor personnel which are set out in its proposal and referred to by name in the contract.

## Proposals for action

The IMSS tender documents and template contracts assessed show a fairly advanced procurement system. It is safe to consider that these documents, if correctly enforced, generally provide a reasonable level of impartiality, competition and integrity.

However, they could be improved to further promote competition, transparency and equality of opportunities for prospective bidders, as well as clarity in the resulting contracts, while increasing IMSS rights as well as reducing various procurement risks. As such, and in order to increase the benefits of its procurement function, IMSS could consider the following proposals:

1. Developing template tendering documents and model contracts for non-standard or complex requirements. These documents could include provisions associated with the use, when appropriate, of:
  - a. evaluation and selection approaches other than mandatory requirement and lowest price, such as the points and percentage approach;
  - b. arbitration for long-term services contracts, such as allowed in the Applicable Legislation; and
  - c. replacement of contractor personnel evaluated as part of its proposal and identified in the resulting contract.
2. Including the following provisions in all pertinent model contracts:
  - a. IMSS entitlement to specific intellectual property rights, in addition to those deriving from contracted consultancy services, advisory, studies and investigations;
  - b. subcontracting rights and obligations;
  - c. clear description of any testing to be done on acquired goods after their installation, including the respective responsibilities and liability of each party for that testing and correction of identified deficiencies;
  - d. clear statement of both parties' right to request conciliation at any time; and
  - e. termination for mutual consent, including related terms such as payments due, considerations and liability.

## Notes

1. According to the 2005 World Bank indicators, bribery in OECD countries' government procurement is estimated to be adding 10% to 20% to total contract costs. Furthermore, the World Economic Forum Global Competiveness Report for 2010-2011 refers to corruption as the second most problematic factor for doing business in Mexico (right after inefficient government bureaucracy).
2. Subcontracting part of the work to the losing bidders has been identified as a method used in collusion to make it worthwhile for them to come up with uncompetitive bids (OECD, 2005).
3. As stated in article 8.85 of the *PWGSC Supply Manual (PWGSC, 2011)* – a manual of policies and procedures of Canada's central procurement agency – standard provisions applying to some types of contracts (such as high-complexity goods or services contracts) require contractors to obtain consent from the contracting officer before subcontracting can take place. The contracting officer will only consent if satisfied with the subcontractor and the proposed subcontract. It further specifies that any deviations are entirely at the risk of the contractor, and that the award of a subcontract does not relieve the contractor of any contractual obligations, nor does it impose any liability upon Canada in relation to the subcontractor.
4. For example, article 80 of LAASSP.
5. Only one Model Contract provided by IMSS relates to services and is not specific in duration (apparently it is used for short, medium and long-term contracts). The creation of a long-term service model contract would allow for appropriate arbitration provisions to be added (therefore ensuring that they are not used by error for shorter-term contracts). It would also allow provisions that are potentially appropriate for these kinds of contracts (such as subcontracting and personnel replacement rules).
6. The Ministry of Public Administration reports that IMSS took part in 78 mediations in 2009, second to the Ministry of Public Administration (with 129 in that year) (SFP, 2010).
7. According to the Ministry of Public Administration, 79% of the conciliations undertaken by IMSS over the period 2006-10 resulted in agreement between the parties (SFP, 2010; SFP, 2011).

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## **Part III**

### **Optimising IMSS' Procurement Process**



## *Chapter 9*

### **Revisiting IMSS' pre-solicitation activities for a stronger procurement function**

*This chapter identifies various constraints and shortcomings in the pre-solicitation activities of the Mexican Institute of Social Security (IMSS), notably in market research and preparation of requirement definitions. Opportunities for IMSS to improve its procurement strategies are also presented, notably through the use of a larger range of evaluation and selection criteria. Finally, the chapter discusses how the current use of unique reference prices hinders urgent procurement activities of decentralised units.*

## Introduction

The purpose of a procurement function is essentially to obtain goods and services of the right nature, quantity and quality to meet an identified need at the right time and at the right price. Actions and decisions taken in very early stages of the procurement process have a profound impact on an organisation's capacity to meet these objectives and should therefore be carefully planned and implemented.

Once a need has been identified, the first stage of the procurement process is to define the goods and services required to meet the need, and to develop the procurement strategy which would do so at the best possible conditions for the organisation. The first activity will require careful balancing to ensure a clear description of the requirement without being unnecessarily restrictive, as this may prevent suppliers from submitting valid proposals meeting the need. The development of the procurement strategy will require gathering and assessing a significant level of information in order to identify all pertinent factors, benefits and risks and establish the optimal balance between them so to achieve best value.

The Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) currently undertakes activities in its initial phase which generally allow it to obtain the goods and services required to fulfil its obligations and mission. However, this review found that the approaches and processes currently used in its procurement function are not always optimal. Elements that could be improved include: requirement definition; identification and avoidance/mitigation of contractual risks; consideration of all pertinent benefits and risks in the determination of the procurement strategies; and pricing and evaluation approaches. This chapter describes the general context associated with these topics and provides recommendations for improvement.

## Requirement definitions and market research

### *Some requirement definitions and solicitation documents lack clarity or balance*

The importance and difficulty in adequately translating an organisation's need from generally identified strategic outcomes to specific and clearly-defined functions or performance characteristics is often underestimated by the user areas and procurement officers. Similarly, clarity in solicitation documents is crucial for an effective and fair process and adequate contractor performance under the resulting contract(s). Together, these activities often present some of the greatest contributions to achieving the best results.

Adequately identifying and defining the nature and characteristics of the goods or services to be obtained is a particularly critical activity, but it is also highly subjective. Other elements of the requirement definition, such as the quantity and delivery schedule, are not usually subject to similar sensitivity, as they are determined by evidence-based analysis of data and by various constraints (such as available budget).

Obviously, the primary objective of that activity is to ensure that the defined requirement will allow the organisation to meet the identified need. This demands that: *i*) the appropriate good or service is identified and *ii*) that the description is sufficiently clear to ensure that what is received is what was intended. On the other hand, a secondary objective is to do so under the best conditions of efficiency, time, costs, risks, etc. As many of these elements are generally better achieved through openness and competition, it is usually beneficial that the requirement be as flexible as possible while meeting the need, with some trade-offs permitted between different solutions based on functional and performance characteristics.

The OECD review team has received repeated claims that some statements of requirement issued by IMSS and solicitation criteria are too restrictive or overly specified. The requirement that cleaning services suppliers hold a formal certification only used by IMSS was one example given. It was also suggested that users sometimes define the requirement using specific brands rather than their functional attributes. For example, a doctor may require a specific brand of medicine, rather than considering other products on the market which achieve the same result. IMSS procurement units apparently are in a difficult position to challenge such restrictiveness.

Overly restrictive statements of requirement limit the participation of potential suppliers and their possibility of providing valid solutions. This reduces the level of competition and may prevent IMSS for obtaining the best conditions. Furthermore, this can stifle innovation and bias the procurement cycle, weakening its integrity if the intent is to favour a particular supplier. Due care must therefore be taken that specifications are limited only to the extent necessary to fulfil the need. The use of performance requirements (i.e. describing the needs and functionalities to be met) rather than the specification requirements (i.e. describing the goods to be purchased) could be a valid alternative. This would increase the range of solutions proposed, and therefore enhance competition.

According to some interviews, the description of other IMSS requirements is sometimes unclear or underspecified, with only a very generic description being provided. Also, solicitation documents sometimes differ significantly from one procurement unit to the other, or even within the same unit, despite the fact that adequate templates exist (as discussed in Chapter 8). The resulting confusion creates inefficiencies and delays in the procurement process due to the need to clarify or change the requirements (for example, at clarification meetings). It also hinders the participation of some suppliers, lowering the level of competition. There is also an increased risk of interpretation disagreements and disputes during the performance of the contract, damaging the relationship with suppliers, as well as an increased risk of receiving and paying for goods and/or services that do not meet the needs of the organisation due, for example, to incompatibility with existing equipment.

***Better market knowledge is required for IMSS to identify the solutions which meet its needs at the best conditions***

Some of these over or under-specifications can be explained by IMSS' deficiencies in market research capacity. Substantial information asymmetries exist between the organisation and the market, leaving internal stakeholders unaware of all the available solutions and conditions.

Currently, market research is often performed in IMSS as an administrative task which must be rapidly complied with, rather than as a strategic activity. This is particularly the case for decentralised units, who have reported the market research activity to be burdensome and time-consuming. Decentralised units also identified a lack of expertise in the area of market research and indicated insufficient training on the methodology and systems to be used. In order to increase their capacity, IMSS has recently designed a project of regional market research.

Furthermore, little sharing of experience takes place across the different levels and areas of the organisation, as discussed in Chapter 1. "Commodity experts" could be established for key groups of products and services, as to provide specialised knowledge and market research support.

A related (and somewhat resulting) issue is that many market researches may not comply with the laws and regulations. As an example, the regulations specify that the market research must include information on Compranet. If such information is not available, it must be based on historical information available to the procurement unit. However, decentralised units have indicated that they do not always use Compranet, deeming it too complex and time-consuming. Instead, they often rely on data and prices available on the Single Registry of Supplies (*Bolsa Única de Ofertas* – BUO), the e-procurement system used by local entities (*delegaciones*) and high specialty medical units (*Unidades Médicas de Alta Especialidad* – UMAEs) to address immediate needs. Such practice has resulted in numerous observations from the Internal Control Office (*Órgano Interno de Control*).

IMSS recently took action to remedy this situation by creating a specialised unit in charge of market researches for the central area and partial outsourcing to specialised firms. However, the resources are limited and do not appear sufficient to meet entirely the needs. Moreover, while there is online support to decentralised units, the information is too limited and of little use to the local entities and UMAEs. They are thus required to perform the market researches on their own without having the necessary internal knowledge and tools.

Due to this lack of capacity, IMSS currently does not reach all potential benefits of market research. Furthermore, there is information asymmetry in the procurement cycle, as the organisation does not possess adequate knowledge of the opportunities available. As a result, IMSS often relies on known products and uses restrictive specifications. This prevents some suppliers from participating in the procurement process and limits IMSS supply base.

The *OECD Principles for Enhancing Integrity in Public Procurement* (OECD, 2009) emphasise the need to reduce information asymmetry with the private sector. In line with these principles, IMSS could take actions to ensure that end-users are appropriately informed of new market offerings and product obsolescence. Greater co-operation and communication between different areas on market research would also be beneficial. Similarly, specialised personnel could be used to develop and update global market researches on commodities most commonly purchased but not yet centralised through consolidated contracts. Procurement units could then use them as a starting point for subsequent assessments, adjusting it for the specificities of their requirements. It is essential that these studies are updated on a regular basis as to remain pertinent.

To address efficiently this issue in the medium and long term, training and assistance must be provided to all IMSS employees undertaking market researches, so as to ensure they have the required knowledge, tools and capability to perform adequately that activity. IMSS could consider implementing the recommendation of the Co-ordination of Supply Control area (*Coordinación de Control de Abasto*). It suggested that external experts could be employed to design a methodology, provide training to IMSS employees, and co-ordinate their efforts in doing market researches and identifying adequate reference prices.

In addition, it is essential that the organisation engages with the market to increase IMSS market intelligence. Suppliers' main areas of concerns or difficulties must be understood, and information on potential solutions available in the market, gathered. For new and complex need, it is also important to have complete and up-to-date knowledge of potential product development. Such interaction also enhances suppliers' understanding of IMSS' public procurement process and framework and facilitates their participation in the procurement process. In order to preserve the efficiency and integrity of the procurement system, it is crucial that such dialogue is structured and based on the principles of fairness and transparency.

Therefore, it is of the utmost importance that the dialogue does not unfairly influence the outcomes of the pre-tender decision-making process, e.g. by guiding the procurement units to set procurement specifications in line with a supplier's competitive advantages. Similarly, IMSS must monitor information exchanges and ensure that they do not facilitate collusion between suppliers. Records of pre-tender information exchanges should also be kept.

The Mixed Consultative Supply Commission (*Comisión Consultiva Mixta de Abastecimiento*) has allowed positive progress in this regard. Since 2009, IMSS has met with major Mexican associations and chambers of relevant industries to discuss its procurement activities and processes. This has resulted in improved communication, procurement processes and documentation, and in increased transparency. However, industry representatives have reported that these meetings have not reached their full potential in terms of benefits.

### ***Implementing formal reviews of the requirement documentation would assist IMSS in better meeting its needs***

The presence of both over-specifications and under-specifications in different areas (and sometimes within the same area) suggests a lack of clear guidelines on what constitutes appropriate specifications, or a lack of drafting capacity. In order to correct this situation, IMSS could consider developing tools (such as checklists, best practices and templates) to facilitate the preparation of the requirement definition documents and to provide relevant training as needed.

While responsibilities for drafting the specifications should remain with the requesting areas, IMSS could also consider implementing a formal review process to assess their adequacy in relation to clarity and level of restrictiveness (including any apparent intent to favour a particular supplier). As a minimum, such a review should be performed by the procurement unit that would have the right to reject specifications deemed unclear or unduly restricting competition. Revision by an independent commodity expert or committee could also be considered for some types of requirement (such as complex, sensitive or large contracts).

## **Procurement strategy development**

### ***A large number of factors must be considered in determining optimal procurement strategies***

Once an identified need has been adequately translated into a clear and balanced requirement, the organisation must determine the optimal procurement strategy to meet it. Failure to do so can have significant negative impacts, such as reducing the organisation's ability to obtain the best solution under the best conditions as well as limiting efficiency (for example, through an unsuccessful solicitation process).

The development of a strong procurement strategy for a specific requirement can be complex and difficult. It entails careful assessment of the various prevailing specificities and risks associated with the product or service, its potential suppliers and particular market sector. Many other elements must also be considered, such as:

- the applicable legal framework, as it will strongly influence various strategy factors such as the selected solicitation approach, the evaluation criteria and selection method, as well as acceptable prices;

- organisational constraints, such as availability of all relevant information (market research, data and lessons learned of similar past procurements, etc.), budget availability in size and timing, as well as the timeframe available to complete the process adequately (impacted by elements such as procurement workload and existing review and approval processes);
- the market conditions at that specific point in time, in relation to suppliers location, their production and delivery capacity, number and market weight of their clients (including IMSS); and
- the various risks that may negatively impact the performance of the contract and prevent the organisation from achieving best values.

The starting point of any procurement strategy should always be to determine if an acquisition is really necessary or whether the need can be satisfied internally, i.e. through existing in-house capabilities and resources, or through goods in excess quantities which are available in another part of IMSS (see Chapter 11 for further details on stock transfer).

Furthermore, the strategy should not be limited to what is allowed by the law to expedite the process, for example, systematically using the direct award process for requirements below the authorised value threshold. Administrative efficiency is only one of many elements defining best value. IMSS should therefore take a more comprehensive approach. For example, it could obtain these small requirements through more competitive approaches and pooling when the expected savings outweigh the additional administrative efforts (in time and resources) and costs. Similarly, it could consider standardisation of the requirements when the detriment of having access to a reduced number of solutions is outweighed by the organisational benefits in terms of price, quality, and administrative efficiencies.

Finally, risks identified through fact-finding researches and past experiences can often be avoided or mitigated through appropriate solicitation strategy, for example, in the tendering method and the evaluation and selection approach. This objective can sometimes also be achieved through the selection of more appropriate contractual provisions for the resulting contract, for example, on the basis and method of payment, subcontracting rules, and requirements for progress reports and meetings.

### ***However, internal deficiencies limit the availability of required information***

As mentioned in Chapter 1, lack of proper communication channels within IMSS sometimes prevents the procurement units from obtaining, assessing and taking into account all relevant information in determining the procurement strategy. It was suggested, for example, that the process of centralising the responsibility for some categories of requirements was entirely dictated by the centre. Little or no co-ordination or knowledge transfer from the regional areas would have taken place, resulting in a significant loss of market intelligence, experience and lessons learned. IMSS could significantly benefit from improving communication within the organisation to facilitate the exchange of information and lessons learned on specific types of requirements or contracts, potentially channelling this information through “commodities experts”. Some OECD countries have created such positions that function to centralise knowledge and expertise on specific products.

Similarly, insufficient attention is given to market research on identifying all pertinent information and risks. The current procurement regulations require IMSS to perform a market research prior to any solicitation or contract associated with goods, services or leases, with the stated objectives, so as to:



- determine the existence of supply of the intended goods or services in the quantity, quality and availability required;
- verify the existence of national or international suppliers with the capability to meet the requirements; and
- determine the current prevailing market prices of the goods or services.

This information can have a crucial impact on the success of the procurement process by impacting key strategic elements, such as:

- the specific requirements and the description approach (technical specifications versus performance requirements) used, the market research potentially identifying other solutions meeting the organisation's needs;
- costs estimates, as well as minimum and maximum prices that will be accepted for the contract;
- the solicitation process (public tender versus limited competition) and eligible suppliers (national versus international);
- the opportunity to consolidate requirements or use reverse auctioning; and
- various other elements allowing them to obtain the best value for the organisation, while minimising various contractual risks (such as collusion, non-performance, etc.).

As indicated before, IMSS currently does not reap all potential benefits of market researches. This is mainly due to a limited awareness of its benefits and to insufficient capacity within the organisation, both in the time available to perform that activity and in the level of resources and knowledge. Current initiatives for consolidation and streamlining may free some resources and time to perform that activity better. However, IMSS will not be able to fully exploit market researches unless it promotes their strategic importance and benefits, increases relevant internal knowledge and tools (especially at the decentralised level), and ensures that a sufficient level of good-quality information is available.

However, even information that is available is often not assessed, partly due to inadequate planning or unreasonable client expectations. This means that not enough time is given to the procurement unit to properly consider all pertinent information. In order to facilitate planning, the Administration and Evaluation of Local Entities Directorate (*Dirección de Administración y Evaluación de Delegaciones*) recently established a timeframe to clarify the time required and allocated to each stage of the procurement process (Table 9.1). This will help to ensure that sufficient time is available for procurement officials to collect and adequately consider all important information in the development of the procurement strategy.

Table 9.1. **IMSS procurement process timeframe**

Stage	Procurement process	Timeframe (weeks)
Stage 1	Requirement validation	2
Stage 2	Market research	5
Stage 3	Procurement strategy	2
Stage 4	Pre-solicitation process	3
Stage 5	Solicitation process	6
Stage 6	Contract signature	4
Total		22

Source: Information provided by IMSS.

### ***IMSS focus on mandatory criteria and lowest prices may result in sub-optimal strategies***

The current procurement laws and regulations require that all solicitation documentations contain the specific criteria used for the evaluation of the proposals and selection of the contractor. The Law of Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público* – LAASSP) indicates a clear preference for the points and percentages (*puntos y porcentajes*) and cost-benefit approaches. It specifically requires their use for requirements involving highly specialised technology or technical innovation and calls for specific points to be awarded in support of complementary policies (e.g. to small and medium enterprises and to firms employing handicapped persons). The recent revision to the Regulations to the LAASSP goes one step further by stipulating that the procurement area must provide a written justification whenever the mandatory criteria/lowest bid approach (*evaluación binaria*) is used.

The use of mandatory criteria and of the lowest-price selection approach ensures that minimum requirements are met and facilitates the evaluation process. However, it does not allow taking into consideration characteristics which, while not essential, provide better value for the organisation. More flexible evaluation approaches (such as points and percentages) not only allow this, but also balance conflicting objectives and better mitigate or eliminate specific risks at all stages of the procurement process (both pre- and post- award).

In order to increase consistency and clarity in the use of the points and percentages approach, in September 2010, the Ministry of Public Administration (*Secretaría de la Función Pública* – SFP) issued specific guidelines. They were clear on the criteria categories allowed, their respective weightings, as well as the methodology to calculate the total score (taking into consideration the financial proposal) from which the best proposal is determined.

Notwithstanding the legal framework and guidance by SFP, IMSS currently bases its procurement strategies almost exclusively on the use of mandatory requirements. The use of the points and percentage approach in decentralised units is close to (if not completely) nonexistent, while central units use it almost exclusively for the acquisition of integral services.

Similarly, IMSS' selection method is almost entirely based on lowest prices, including for large consolidated contracts. This is very different from practices in many OECD member countries. Recent research on the centralised purchasing systems in the European Union indicated that they almost never establish their framework contracts based on lowest prices (OECD, 2011).<sup>1</sup> During interviews, many IMSS stakeholders demonstrated a willingness to increase the use of the points and percentages approach, but indicated an inability to do so due to a lack of training and experience.

IMSS emphasis on the lowest price can be expected to increase in the future. The organisation has officially announced its intention to increase the use of reversed auctions to all applicable purchases for which the laws and the market allow.<sup>2</sup> While the law allows the use of the points and percentage approach in reversed-auctions, IMSS has never benefited from that possibility. In the development of future strategies, it will therefore be essential to ensure that savings do not compromise other objectives or operations.

As indicated in Chapter 2, IMSS has achieved significant savings through its strategies such as consolidation of medicines. However, the focus on the lowest price has also resulted in undesirable effects. These include reduction in the quality of the good or service received, as well as failure by suppliers to deliver in accordance with the terms of the contract. As an

example, IMSS procurement officers reported that non-delivery by suppliers under current centralised medicine contracts would reach 30% in some remote regions, due to contracts prices and penalties that are too low to ensure full performance. In situations where IMSS represents a very important buyer of a market segment, due care must also be taken that simple reliance on consolidation to achieve savings does not result in the exit of some suppliers, and therefore in a reduction of the organisation's supply base.

While these adverse impacts can be mitigated through specific strategies (for example, see Box 9.1), and adequate supplier performance management practices,<sup>3</sup> they will remain significant if an unbalanced priority is put on prices.

Similarly, IMSS should be careful of false savings, i.e. reductions in procurement prices that are more than outweighed by cost increases in operation, disposal and implementation (training, facility reconfiguration, replacement of associated consumables, etc.). For some equipment, it may therefore be pertinent to consider a full life-cycle cost approach in the assessment of costs, not limiting it to initial acquisition prices, but also considering other associated costs. As an example, replacement of medical equipment may also require training (both to medical staff and to users), facility reconfiguration, replacement of consumables, as well as different operational and disposal costs, etc. This process could be facilitated and repetitive assessments avoided through the development of general guidelines for identifying the products for which this approach should be considered, costs elements to be considered, the methodology to calculate the life-cycle costs, etc. Similarly, preference should be given to long-term contracts for products whose replacement results in significant expense or disruption to the operations.

### ***The current use of unique reference prices hinders some urgent procurement activities at the decentralised units***

The imposition of centrally established “reference prices” to regional units is another price rigidity creating inefficiencies and difficulties in IMSS procurement process. As mentioned in Chapter 2, decentralised units are sometimes left without adequate coverage for goods subject to centralised contracts, either due to delays or difficulties in putting these contracts in place or to suppliers' non-delivery of the goods or services. In such instances, IMSS decentralised units are authorised to procure the required goods or services through the BUO system. When determining prices that can be accepted under these procedures, it is mandatory to use reference prices often established at the central level based on large centralised contracts. However, these reference prices, currently unique for each good and service, usually do not adequately reflect the very different conditions of these urgent requirements (lower quantities, different delivery conditions in location and time, different supply base, etc.) As such, these reference prices can be too low to consistently secure supply and result in difficulties or incapacity in implementing required contracts.

IMSS is aware of this situation, but also highlights that determination of reference prices at the regional and local level is complicated by the lack of expertise. As indicated earlier in this chapter, the Co-ordination of Supply Control area suggests that external experts are employed to: design a relevant methodology; provide training to IMSS employees; co-ordinate their efforts in doing market researches; and identify adequate reference prices.

In addition to that training, it is recommended that the unique centrally developed reference prices no longer be used as formal thresholds for urgent contracts issued by decentralised units to cover inadequate contractual coverage from centre. They could rather be

used as the starting point of the market research performed by the decentralised units for these small contracts, with justifications for any significant deviation needing to be documented.

In support of such market research activities, IMSS could consider making available in a user-friendly manner not only these reference prices and the relevant general contract information (date, total quantity and total price), but as much information as possible on the delivery conditions (average quantity, delivery location, delivery lead-time, etc.). Doing so would provide an easy and rapid access to key information and facilitate the determination of valid market prices under varying conditions.

***More strategic vision and approaches are required when determining the optimal strategy for each requirement***

Selection of the procurement strategy should be based on a systematic and evidence-based decision-making process using all data and information available. Such analysis enables a fuller appreciation of the specificities and risks associated with the requirement, and to adequately address them in the strategy. Blindly applying a single procurement strategy to all requirements is not a good practice and can prohibit the organisation from obtaining the best solution under the best conditions. It can also result in a loss of efficiency, and various other risks.

As discussed before, a large number of procedures are undertaken under the binary approach, i.e. are solely based on mandatory criteria and on the lowest price selection approach. IMSS would benefit from investing more effort in determining the optimal strategy and in the collection of necessary information. To support these activities, it could consider:

- Ensuring that sufficient time is available for that determination by the procurement units, which is not always the case at present. This objective can be facilitated through better planning of upcoming requirements (in terms of volume, timing and clients’ expectations), establishing a clear timeframe for the procurement cycle (taking into account the value, complexity and sensitivity of the contracts as well as the tendering approach selected), as well as organisational initiatives to improve the efficiencies of the procurement function (for example, by reducing the number of small value contracts).
- Making available in an user-friendly and timely manner key data to facilitate the collection of the information required to assess all pertinent factors of the strategy.
- In support of the two above points, strengthening the existing communication channels and creating new ones as required, in order to improve the exchange of information between the procurement officers and the users, between procurement officers of different units, and between the decentralised units and the central areas, etc. Specific point of contacts could be determined to facilitate management of specific groups of products or services, through the creation of “commodity experts” for example. This would facilitate strategic organisational discussions on topics such as potential consolidation or standardisation, as well as market and risks intelligence relevant to that commodity.

Furthermore, determining the optimal strategy requires considering existing constraints (such as time and budget) and balancing elements of benefits and risks, with prices being only one of these risks. Doing so will provide “reality checks” for everyday decisions by contrasting or competing objectives.

IMSS could endeavour to better identify and assess benefits and risks for each requirement, and to optimally balance them to obtain the best value based on the priorities of the organisation. Furthermore, it may be possible to mitigate many elements of risk and detriments without having to sacrifice other objectives. This could be achieved through better-adapted strategies and via contractual provisions, as well as by introducing contingencies in the procurement process (for example, in terms of budget, schedule and resource allocation).

As an example, Box 9.1 presents potential avenues for IMSS to achieve better value under its consolidated medicine contracts, with minimal effort and negative impacts on the organisation.

### Box 9.1. Potential improvements to the procurement strategy of consolidated medicine contracts

Various risks can be avoided or mitigated through specific procurement strategies and contractual provisions. IMSS' current difficulties in securing delivery of medicines under its centralised contracts present a good opportunity to illustrate this. The current difficulties in obtaining some medicines for several regions is generally due to two main issues:

- Failure to put in place a consolidated contract for that product or delays in doing so. This leaves some units without contractual coverage for a period of time and requires them to obtain the medicines on an urgent basis.
- Failure of a supplier to deliver all required quantities under consolidated contracts put in place.

Through higher market intelligence and consultations with its supply base, it may be possible for IMSS to reduce the occurrence of the first issue by better assessing the suppliers' capacity and willingness to supply the product on different geographic bases (nationally, specific regions, etc.) as well as by limiting any contractual condition strongly restricting their participation. That investigation may identify the relevance of issuing contracts on a regional basis, rather than through a single national contract. Issuing regional contracts, for example, reduce the incentive for a bidder to provide a low price in order to obtain the larger contract, even though he does not intend to deliver the entire requirements of some regions.

However, the possibility for failure or delays in putting in place the consolidated contracts will always remain. In order to mitigate the impacts of such events on the units, IMSS could include sufficient time contingency in its procurement strategy to address elements causing a delay or to initiate a new solicitation process if required, either through a new consolidated solicitation process or at a decentralised level at each unit.\*

Based on the interviews conducted, it would appear that a significant reason for the second issue is due to poor delivery conditions (quantity and price) of many regional units. This means that there are insufficient incentives (such as profit) to induce delivery from the suppliers, and that the contractual remedies are not strong enough to modify their behaviour (see Chapter 11 for further details).

Changes to the pricing and delivery elements of the procurement strategy may reduce the likelihood of the occurrence of this risk. Potential alternatives are:

- Allowing different prices among regions, to reflect different delivery conditions. Alternatively, more **flexible basis of payment** could be used to account for these different conditions. As an example, the contract could indicate a firm unit price for the product, with different delivery costs according to the location and the quantity delivered (for evaluation purposes, the total price of each offer calculated based on one or many estimated patterns of delivery).

### Box 9.1. Potential improvements to the procurement strategy of consolidated medicine contracts *(continued)*

- If delivery is determined as a significant cost element, IMSS could consider agreeing with the supplier(s) on **minimum delivery quantities** (potentially different for each region). Determining these minimum quantities should balance the cost reductions against potential negative impacts to the organisation. Such negative impacts can include the ad hoc need to transfer products between units of close proximity, and the possibility of some products reaching the end of their useful life (a risk that can be mitigated).\*\* Regional consolidation may be required to achieve minimum order quantities.
- Having “**standby suppliers**” in place to obtain urgently required medicines in case of non-delivery by the main supplier. Even with proper adjustments to the strategy, the possibility of non-delivery under a specific contract will remain. In order to mitigate the impacts of such occurrence, contracts could be awarded to more than one supplier for one or many delivery areas of high risk, allowing orders under the second contract in case of non-delivery under the first one.\*\*\*

This example illustrates the complexity in determining the best strategy. It also highlights the crucial role market research and internal discussions play in identifying the existence and potential impacts of the various risks, and in determining the best avoidance and mitigation strategies. Among others risks, the size and conditions of the market should be carefully reviewed to assess the risk of collusion between suppliers.

\* As an example, if the initial plan is to have the contract in place in January 2012, it may be advisable to include a time contingency of a few months in the procurement strategy. If four months is selected as appropriate, delivery under any resulting contract(s) would only start on May 2012 (that fact clearly indicated in the model contract of the solicitation documents). Units would be allowed to maintain their own contractual coverage up to that month.

\*\* As an example, the suppliers may agree to the free replacement of medicines which have reached the end of their life (or agree to a reduced cost) in consideration for the reduction in number of deliveries. In order to avoid unnecessary waste due to poor stock management, they may, however, require that such replacement be limited to an established percentage of the total quantity under the contract.

\*\*\* When selecting that form of protection, the procuring organisation should consider the competition impacts it may have. As indicated in OECD (2011), “Centralised Purchasing Systems in the European Union”, “(i)t should be noted that a single-supplier agreement would normally offer stronger price competition since it is a winner-takes-all situation”.

An effective approach for IMSS to balance conflicting objectives and priorities would be to promote the use of the points and percentage approach (including in reversed auctions) in cases where specific characteristics of the goods and services or of the suppliers, provide higher benefits to the organisation or reduce risks. The binary approach (mandatory requirements and lowest price) could then be reserved to common and standardised goods and services or in instances where the additional effort or costs associated with other approaches do not justify their use. However, IMSS does not appear to have the capacity to do so at this time, so training and support will be required. In order to gradually build the right experience and expertise, IMSS could consider implementing the use of the points and percentage approach on a reduced level (potentially with some consolidated requirements at the central level) and progressively expanding it to other products and procurement units.

## Proposals for action

In order to improve the benefits of its requirement definition and strategy development activities, IMSS could consider the following proposals:

1. Increasing the internal capacity to develop balanced and clear requirement definitions and avoid under or over-specifications by:
  - a. Reinforcing existing forums of dialogue with potential suppliers (such as the current meetings with associations and chambers of relevant industries) to increase IMSS' awareness of potential solutions to its needs and product obsolescence, and creating new ones as required. Due care must be taken to ensure that such dialogues are structured and based on the principles of fairness and transparency, without running a risk of collusion or of unfairly biasing the outcomes of the procurement decision-making process.
  - b. Developing tools such as checklists, best practices and templates, and providing necessary training to facilitate the preparation of requirement definition documentations.
  - c. Implementing a formal quality system to assess the adequacy, clarity and restrictiveness of requirement definitions. Depending on the nature, complexity and risks of the requirement, the review could be undertaken by procurement units, an independent commodity expert, or a committee.
2. Improving the resources (e.g. time, tools, specialised units) and capacity in market research, as well as promoting its strategic importance by:
  - a. Ensuring that sufficient time is allocated in the procurement process for adequate completion of that activity. Stakeholders undertaking market research need to be informed sufficiently in advance of future requirements to allow adequate assessments of the market. This will allow using their results in the development of the procurement strategy.
  - b. Making available in a user-friendly manner good-quality and detailed information on past procurements, so that different market conditions (quantity, delivery location and lead-time, commodity volatility, etc.) can be considered when determining a valid price.
  - c. Increasing co-operation between the different areas of IMSS that conduct market research, particularly by developing a more systematic framework to provide guidance, information and tools for the task. This could include increased co-operation and support from the central market research unit to the decentralised units.
  - d. Increasing market research expertise and capabilities through in-house and external training and the creation of relevant tools (e.g. templates, methodology, checklists, regularly updated market research on commodities most commonly procured, adequate regional reference prices) to be available to all stakeholders (i.e. user areas, procurement units, etc.).
  - e. To the extent required, continuing or increasing the outsourcing of market research activities, all the while ensuring that the final results are revised and concurred with by the specialised market research unit, and that appropriate knowledge transfer to the organisation take place.

3. When a need is identified, determining if it can be met within the organisation through existing in-house capabilities and resources or excess quantities in another part of IMSS.
4. Addressing the current limitations of the reference prices either by developing regional ones that better reflect their specifications and conditions, or by no longer using them as formal thresholds, but rather as a starting point for determining unacceptable prices.
5. Developing tailored strategies considering the specificities of the requirements and the market sector, and better mitigating the associated risks (including inadequate performance). This entails an increased use of the points and percentage approach as a way to reduce specific risks or achieve particular benefits not available under the mandatory criteria and lowest price approaches. This could be supported by:
  - a. Ensuring that sufficient time and information are available for the procurement units to develop a procurement strategy which assesses and balances all pertinent elements (such as costs, risks, applicable legislations and constraints) against the organisational objectives.
  - b. Increasing communication channels across the organisation in order to facilitate the collection and transfer of existing intelligence for the development of an optimal procurement strategy. “Commodity experts” could be established for key groups of products and services, and provide support to activities associated with them.
  - c. Requiring that each procurement strategy address the pertinence of using the points and percentage approach to favour non-mandatory characteristics of the goods and services, or to favour suppliers providing better value to the organisation or those who mitigate risks.
  - d. Gradually building experience and expertise on the points and percentage approach by initially providing training and implementing its use on a reduced level (potentially some consolidated requirements at the central level) and progressively expanding it to other products and procurement units.
6. Better integrating the concept of “best value” by taking into consideration all objectives and benefits to the organisation rather than focusing only on the lowest price. This could include:
  - a. Ensuring that strategies focusing on the lowest cost do not result in significant adverse impacts to the organisation (reduction of the supply base, low quality or certainty of services impacting operations, etc.) or in false savings (various cost elements outweighing the acquisition savings achieved).
  - b. Determining best value on a more holistic basis for appropriate requirements, considering not only the acquisition price, but other implementation and life-cycle cost elements. Developing associated guidelines would facilitate that process.
  - c. Promoting the use of long-term contracts for goods subject to high replacement or implementation costs.



## Notes

1. The report notes that when e-auctions are used for the award of framework agreements, all factors are usually expressed in quantifiable or monetary terms.
2. See the press release of 13 January 2011 at: [www.cfc.gob.mx/images/stories/Noticias/Comunicados2011/comunicado13-ene-2011.pdf](http://www.cfc.gob.mx/images/stories/Noticias/Comunicados2011/comunicado13-ene-2011.pdf), accessed 16 September 2011.
3. For further details on suppliers' performance management, refer to Chapter 11.

## References

- OECD (2009), *OECD Principles for Integrity in Public Procurement*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264056527-en>.
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## *Chapter 10*

### **Increasing efficiency and fairness in the solicitation and contract award process of IMSS**

*This chapter assesses the fairness and efficiency in the solicitation process of the Mexican Institute of Social Security (IMSS), notably as it relates to the evaluation of proposals received and the timing of award of contracts. It also discusses how IMSS' interface with the bidders could be strengthened when answering questions on the tendering documentation and by providing individual verbal debriefings.*

## Introduction

When a competitive process is selected as the best approach for a requirement, the organisational template documents can be used to *i)* develop the relevant tendering documents; *ii)* identify the requirement; *iii)* identify the terms of the resulting contract(s); and *iv)* determine how offers will be evaluated to select the winning bidder(s). During the following solicitation process, the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social – IMSS*) must: *i)* provide clarifications to potential bidders, including any resulting changes to the solicitation documents; *ii)* receive and evaluate the offers in strict adherence with the process and criteria established in the solicitation; *iii)* award of any resulting contract(s); and *iv)* debrief unsuccessful bidders.

This phase is particularly prone to errors or lack of integrity, and is subject to high scrutiny and potential challenges. The concepts of objectivity, equal treatment and transparency are therefore paramount throughout this process.

The review found that the solicitation process currently implemented by IMSS is not optimal: it is neither fair, nor particularly efficient. Opportunities for significant improvement were identified, particularly in relation to: reference prices; the quality of the solicitation documents; the process used to provide clarifications to bidders; the evaluation process; the timing of issuance of the contract; and the debriefing provided. This chapter will assess the context of these issues and set out recommendations for IMSS to minimise their impacts.

## Solicitation documents

### ***IMSS' lack of a quality assurance process compromises the efficiency and integrity of its procurement function***

As seen in a Chapter 8, sound model contracts and solicitation documents are available in IMSS. Furthermore, the review of a few actual contracts awarded indicated their consistency with these templates. However, the OECD review team has been advised in interviews that the use of these template documents would not be consistent within the organisation and that solicitation documents could differ significantly.

Other than the template documents, the review found no evidence of any formal organisational quality assurance process or strategy being in place for solicitation documents. The low quality of some on them is a source of risk, inefficiency and delay in the procurement process. As an example, model contracts or contracts previously issued for similar (but not the same) requirements would be used without adequate revisions, resulting in improper terms and conditions. Similarly, some contracts presented for signature would not correctly reflect changes agreed upon at the clarification meetings.

Unclear or inadequate contractual provisions introduce confusion and risks in the procurement process, potentially resulting in disagreement and dispute with the suppliers, additional costs to both entities, and the possibility that IMSS will not entirely meet its needs. In addition, low quality documents create significant delays in the solicitation stage (to clarify the requirement at clarification meetings) and in contract award (to significantly review and modify the contracts prior to their signature). This means that organisations are not always able to sign the contract within the required timeframe, as discussed below.

IMSS could consider implementing a formal quality system requiring the consistent and adequate use of existing template documents. Changes agreed upon at clarification meetings should be reflected immediately in solicitation documents reissued with the

meeting minutes, and all initial solicitation documents should be subject to a review process. This system could take the form of a dedicated quality assurance team who review all contracts above a specified approval level. Other contracts could be subject to a minimal peer-review (although review by the head of the procurement unit would be preferable).

## Solicitation clarifications

### *Providing clarifications solely through established meetings slows down the process and creates unnecessary delays and effort*

At this time, questions from potential suppliers under a solicitation process are only answered at formal clarification meetings. However, it remains unclear to which extent such meetings fully fulfil their role. The recent transparency study “APEC Procurement Transparency Standards in Mexico” (Transparency International USA et al., 2011) revealed a complaint from many suppliers that Mexican government officials often provide inadequate answers at clarification meetings or simply refer bidders back to the solicitation documents. In some cases, these officials would not have the necessary technical knowledge.

Furthermore, exclusively providing clarifications through meetings held at specific points in time does not represent the timeliest and most efficient method of communication thus reducing the amount of time available for suppliers to prepare their offer. This leads to an increased incentive for suppliers to obtain information outside the formal process, which creates information asymmetry between competitors. It can also lead to some suppliers failing to ask for clarification at all, resulting in a greater risk for them to lose competition due to confusion on the solicitation documents, and to present complaints against the procurement procedure. The study “APEC Procurement Transparency Standards in Mexico” estimates that 50 to 70% of bids would be rejected because the bidders did not ask questions to clarify the requirement.

Similar to the practice of other OECD member countries such as Canada (Box 10.1), IMSS could consider using Compranet not only to receive the questions from potential

#### **Box 10.1. Responses to questions during the solicitation period in Canada**

In Canada, suppliers are allowed to submit questions to the procurement officer up to a specific date. The solicitation documents provide the relevant information and the means of submission. When the question is non-technical and simple, and when its answer does not affect other suppliers and how they will respond to the solicitation, procurement officers are allowed to answer directly to the supplier asking the question.

Technical questions are submitted to the client who provides a response to the contracting officer. Technical questions and answers, together with questions and answers addressed by the contracting officer, are accumulated and published electronically as an addendum/amendment to the solicitation, in the case of public advertisement, or they are issued directly as an addendum/amendment to the suppliers invited to bid under a limited tendering. In doing so, due care is taken to protect the identity of the supplier asking the question(s).

Any changes to the solicitation document to reflect clarifications resulting from the questions, including any extensions granted to the solicitation period, are similarly made as an amendment to the solicitation document.

*Source:* Public Works and Government Services Canada (2011) “PWGSC Supply Manual – Version 11-1”, <https://buyandsell.gc.ca/policy-and-guidelines/supply-manual>.

bidders (as is currently the case for clarification meetings), but also to provide answers to all bidders (as is currently done for the minutes of the clarification meetings) as soon as they are available.

The OECD review team is aware of the legal obligation for IMSS to hold a minimum of one clarification meeting for public tendering, as spelled out in Article 33 of the Law of Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público – LAASSP*). While complying with that requirement, IMSS could consider providing electronically as many responses as possible, using the clarification meetings for complex or sensitive questions. Should IMSS prefer that all questions be answered electronically unless a clarification meeting is necessary or beneficial for a particular requirement, it could engage with the Ministry of Public Administration (*Secretaría de la Función Pública – SFP*) to explore the possibility of modifying the applicable procurement legislation. This would mean that the clarification meetings are optional (as is currently the case for the “invitation to at least three suppliers” process), subject to electronic responses being provided to all potential bidders through Compranet.

Through the provision of faster and clearer clarifications, IMSS could obtain various benefits, such as: *i*) a higher level of competition; *ii*) more innovative solutions offered by suppliers; *iii*) reduced effort and time required in the solicitation process; and *iv*) improved communication with its supply base.

## Bid evaluation

### ***IMSS failures to evaluate in accordance with the rules established in the solicitation documents significantly impact the integrity of the procurement process***

Bid evaluation has been identified as a particularly vulnerable step of the procurement process.<sup>1</sup> It is essential that all evaluation criteria are directly linked to the requirements, are as objective as possible and do not favour a particular supplier. Evaluation criteria, as well as other requirements for compliance, must be clearly identified in the solicitation documentation and the evaluation must entirely and exclusively adhere to them (other elements not being considered). Doing so is critical to ensure clarity, preserve the integrity of the process, and to maintain suppliers’ trust.

Concerns have been raised regarding breaches of that crucial principle by IMSS, as evaluations are not always held in accordance with the criteria and requirements specified in the solicitation documentation. While the OECD has not received the specific details of such events, similar occurrences in other entities have been found to include:

- bidders being disqualified on the basis of requirements unspecified in the solicitation documents;
- contracts being awarded to bidders who do not meet all compliance requirements; and
- contracts being awarded to suppliers even though another compliant offer represented a better value according to the selection method provided for in the solicitation documents.

As further discussed in Chapter 12, the Mexican procurement laws provide a mechanism for participants in public tenders to challenge irregularities in the procedure. Of all complaints raised against IMSS procurement procedures between 2007 and 2010, approximately 75%

specifically related to the activities of evaluation and selection (SFP, 2011). This indicates that, for some suppliers, these activities are not undertaken in accordance with the legal framework or the public tender documentation. Furthermore, more than 30% of the rulings of the claims during the last four years were found to be valid (SFP, 2011).

Such occurrences sorely compromise the integrity of the procurement system and prevent IMSS from meeting its needs under the best conditions. They also expose it to legal risks and the shrinking of its supply base, as suppliers refrain from submitting proposals under a system they perceive as “fixed” or “tainted”.

IMSS could consider implementing formal *ex ante* review of the evaluation results before the award decision (*fallo*) is announced. This would help ensuring that the process is up to standard. A minimum requirement is that the procurement officer reviews the technical evaluation to determine any divergence from the established process and criteria. For some contracts, particularly high-value ones, the review could also take the form of an *ex ante* audit of the entire tendering procedure.

Furthermore, all evaluators could be required to sign an “evaluation code of conduct”. This document clearly spells out evaluators’ responsibilities and obligations, as well as the evaluation process, criteria and compliance requirements they are to use. Ideally, they would prepare and sign a single report at the end of the evaluation process, clearly explaining why proposals comply or fail to comply with each criterion.

## Timing of issuance of the contract

### ***Some contracts are not signed and issued within the required timeframe, to the detriment of the contractors***

Under the current procurement legislation (LAASSP, articles 37 and 46), the respective contractor obligations of IMSS and the selected contractor become effective at the moment the decision is issued, with the contract to be signed and issued within 15 days (if not otherwise specified in the solicitation).

It appears, however, that IMSS is not always in the position to complete the signature and issuance process within that required timeframe. This is due to factors such as the need for extensive legal review and correction of the proposed contracts, or time-consuming approvals. The current system of not allowing any payment to the suppliers until the contract has been issued with reference numbers and relevant information put into the system, results in various suppliers, whose delivery obligations starts at time of the decision, not being paid timely in accordance with the law.

In addition to being a violation of the legislation, such delays in contract signature and issuance are sometimes hidden through a practice of “back-dating”, i.e. dating the contract as if it had been done within the required timeframe, rather than using the actual dates of signature and issuance.

While improvement in the solicitation documents may reduce the occurrence of such events, IMSS should investigate them (stopping any existing back-dating practice) in order to identify the underlying causes and implement appropriate remedy measures.

***Implementation of a standstill period could improve the strength of existing remedies and diminish the impacts of “faits accomplis”***

Furthermore, IMSS could consider implementing a minimum standstill period between the date bidders are notified of the contract award decision and the date IMSS can enter into the contract. This practice promotes fairness and integrity of the procedure by providing dedicated and sufficient time for bidders to use existing remedies. It also permits the suspension and annulment of the decision at a stage where the infringement can still be rectified or its impacts minimised.

Standstill periods are currently implemented in most countries, for example in the United States (see Box 10.2). IMSS should consider implementing it for a minimum of six working days, i.e. the period available to bidders to formally challenge the award decision. It should, however, not last for more than 15 calendar days, the maximum time allowed by law to sign and issue the contract when not otherwise specified in the solicitation document. As it relates to framework agreements or contracts with subsequent orders, it is recommended that this standstill period applies solely to the issuance of the agreements/contracts, rather than to the subsequent order documents, so as not to have a negative impact on the operations.

The benefits of standstill periods are however limited under the current procurement legislation due to the fact that the obligations of both parties become effective at the moment the award decision is issued, rather than at time of signature of the contract. In order to maximise the period of the standstill period, and to avoid a situation of *faits accomplis*, IMSS could consider engaging with the Ministry of Public Administration to explore the possibility of modifying the legislation. Such a modification would stipulate that the award decision is in effect a letter of intent which is not contractually binding. The obligations of both parties would only become effective at the time of signing the contract (i.e. after the standstill period).

**Box 10.2. Standstill periods in the United States**

In the United States, a “standstill period” of normally ten days between the communication of the award decision to the bidders and the conclusion (making) of the contract is implemented to facilitate the initiation of review proceedings. During this period, the contracting entity is not allowed to conclude (make) the contract. Not respecting this standstill period and concluding the contract before the ten days are over is one of the severe violations of the procurement rules, which can lead to the Court declaring the contract void (ineffectiveness), the other main violation being that no procurement rules have been followed at all (direct illegal awards).

*Source: OECD (forthcoming), United States Federal Procurement Review: Technical Assessment for Peer Review, OECD Publishing, Paris.*

## **Verbal debriefings**

***Verbal debriefings improve the relationship with suppliers and the quality of their offers while providing valuable insight to the organisation***

Another potential area for improvement within IMSS is to provide verbal debriefings to bidders. At this time, IMSS procurement units only adhere to the law’s minimum requirement and provide feedback to bidders solely through a written declaration of the elements of non-compliance.



Verbal debriefing is a recognised good practice that many OECD member countries use to promote a constructive and transparent dialogue with the marketplace and expand their supply base. If properly performed, verbal debriefing can provide benefit to suppliers and buying organisations.

The United Kingdom Office of Government Commerce (2003) indicates that it provides benefits to bidders by:

- helping them to rethink their approach in order to make future bids more successful;
- providing targeted guidance on how to improve the quality of their offer, therefore increasing their chances of doing business with the public sector;
- providing reassurance on the adequacy and legitimacy of the procurement process; and
- providing a better understanding of what differentiates public sector procurement from private procurement.

It also states that this activity can assist IMSS by:

- identifying ways to improve subsequent solicitation processes, including communications;
- making sure best practice and guidance is updated to reflect any relevant issues that have been highlighted;
- encouraging better bids from those suppliers in future;
- getting a better understanding of the practice and way of thinking of a specific segment of the market, enhancing the organisation's market intelligence; and
- helping establish a reputation as a fair, open and ethical buyer with whom suppliers want to do business in future.

A debriefing can also be made available to the successful bidder as a first step in establishing a sound working relationship and a precedent for a constructive feedback. Furthermore, open and transparent debriefings may also contribute to reducing the number of formal complaints against the procurement procedures of a buyer organisation, as illustrated by the experience of the United Kingdom (Box 10.3).

However, verbal debriefings require time and effort from the procuring organisation, so it may not be advisable for IMSS to systematically perform these. In order to maximise the benefits of that activity while limiting its costs, IMSS could consider offering it to bidders in the formal communications providing the results of the solicitation. When the procurement is relatively straightforward and simple, the organisation could indicate a preference to perform debriefings by telephone. For complex procedures or when specifically requested by the bidder, it could be done through meeting (either face-to-face or by videoconference).

Similarly, it is paramount that all debriefings are based on the principles of equal treatment and transparency and do not give rise to additional risks or issues for IMSS. When meeting with an unsuccessful bidder, the discussion must be solely limited to its proposal and the current solicitation process, and it must be formally forbidden to reveal information about other submissions or suppliers. As such, it is advisable that a pre-established and constant debriefing structure be used, potentially in line with the United Kingdom example above.

### Box 10.3. Verbal debriefing in the United Kingdom

The United Kingdom regulations require departments to debrief candidates in contracts exceeding European thresholds. They also strongly recommend verbal debriefing in contracts below thresholds, which is the responsibility of the contracting agency or public organisation.

Debriefing discussions – either face-to-face, over the telephone or by videoconference – are held within a maximum of 15 days following the award of the contract. Sessions are chaired by senior procurement personnel who have been involved in the procurement.

The topics for discussion during the verbal debriefing depend mainly on the nature of the procurement. However, the session follows a predefined structure. First, after introductions are made, the procurement selection and evaluation process is explained openly. The second stage concentrates on the strengths and weaknesses of the supplier's bid. After the discussion, the suppliers are asked to describe their views on the process and raise any further concerns or questions. More importantly, at all stages it remains forbidden to reveal information about other submissions. Following the debriefing, a note of the meeting is made for the record.

An important result of an effective debriefing is that it reduces the likelihood of a legal challenge because it proves to suppliers that the process has been carried out correctly and according to rules of procurement and probity. Although the causality between the introduction of detailed debriefing and legal reviews cannot be proven, a sharp decrease in the number of reviews was observed in the United Kingdom between 1995 and 2005 (from approximately 3 000 to 1 200).

*Source:* OECD (2007), *Integrity in Public Procurement. Good Practice from A to Z*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264027510-en>.

In order to increase the benefits of such debriefings while mitigating any potential risks, IMSS should draw up clear guidelines creating a clear framework for that activity. It is recommended that certain generic content be considered in its development (Box 10.4).

### Box 10.4. Generic content of guidelines for supplier debriefings

#### The necessity of debriefings

- For what types of tenders should debriefings be offered or granted?
- Who should be offered or granted a debriefing?
- Should debriefings be offered to suppliers/bidders who are not invited to submit a tender or suppliers/bidders who withdraw from the tender process?

#### Timing and location of debriefings

- How long after the selection of the supplier or bid award should a debriefing be held?
- How much time should be allocated to receiving requests for debriefings?
- In what circumstances can debriefings be held off the premises of the procuring authority?
- How are debriefings to be conducted for suppliers located in a distant location?

**Box 10.4. Generic content of guidelines for supplier debriefings** *(continued)***How to debrief**

- How should communications between the procuring authority and suppliers be managed in preparing debriefings?
- How can debriefings be tailored for written, verbal and face-to-face debriefings?
- What types of information can be prepared ahead of debriefings to ensure that appropriate information is available and so as not to disclose any confidential information?
- How can debriefings be tailored to different suppliers needs (e.g. small and medium enterprises)?

**Attendance at debriefings**

- Who may and may not attend debriefings from the procuring authority?
- When is the attendance of more senior or specialised procurement practitioners warranted?

**Information that may be – and may not be – divulged in debriefings**

- As a general rule, where information about proposals/bids is commercially sensitive or has been provided in confidence, it must not be divulged during a debriefing session.
- Under what circumstances can information on other suppliers' prices be revealed?
- What types of questions should not be answered?

**Expected conduct of suppliers during debriefings**

- As a general rule, suppliers/bidders are generally not allowed to take notes or record the debriefing sessions.

**Link between debriefings and other practices**

- What information should be recorded by a procurement practitioner after a debriefing?
- How can information from debriefings be used to update/amend the guidelines, market studies, etc.?

*Source:* OECD (n.d.) “Procurement Toolbox – Guidelines for supplier debriefings”, [www.oecd.org/governance/procurement/toolbox/guidelinesforsupplierdebriefings.htm](http://www.oecd.org/governance/procurement/toolbox/guidelinesforsupplierdebriefings.htm).

**Proposals for action**

In order to improve the transparency and integrity of its solicitation and contract award process, as well as the efficiency and value of its procurement function, IMSS could consider the following proposals:

1. Improving the quality of the solicitation documents by:
  - a. Enforcing better use of and adherence with available solicitation templates, while ensuring they are adequately adjusted for the specificities of each requirement.
  - b. Implementing a mandatory review process for all solicitations, taking into account the value and risk of the requirements. For that purpose, a dedicated quality assurance unit could be created and used for larger or more sensitive requirements.

- c. Mandating that solicitation documents are modified immediately after each clarification meeting to reflect changes agreed upon. These should be issued with the meeting minutes.
2. Improving the efficiency and quality of responses to potential suppliers under the solicitation process by:
  - a. Ensuring that clear and complete answers are provided to all valid questions raised by potential bidders.
  - b. Providing such answers electronically through Compranet, to the extent permitted by legislation, and holding clarification meetings only to the extent necessary or required by law.
  - c. Engaging SFP to explore the possibility for clarification meetings to be optional (as is currently the case for the “invitation to at least three suppliers” process). This would only be on the condition that electronic responses to questions raised by potential suppliers under a public tendering procedure are provided to all potential bidders through Compranet.
3. Improving the integrity of the evaluation process by:
  - a. Creating a formal review process – as a minimum by procurement units – to ensure that all bids evaluations strictly adhere to solicitation documentation criteria and mandatory requirements only.
  - b. Requiring all technical evaluators to sign an “evaluation code of conduct”, which clearly spells out their obligations, the evaluation process to be followed, and the criteria to be considered; and
  - c. Requiring that a single evaluation report be signed by all evaluators and identify, for each offer, the evaluation results against the solicitation documents’ criteria and mandatory requirements.
4. Implementing a mandatory standstill period of a minimum of six working days and a maximum of 15 calendar days between the date bidders are notified of the contract award decision and the date of entry into the contract, so as to allow sufficient time for bidders to exercise available remedies and challenge the decision. In order to maximise the benefits of such a standstill period, IMSS could also consider engaging with SFP to explore the possibility of modifying the legislation. This change would result in the award decision (fallo) only being a letter of intent which is not contractually binding. The obligations of both parties would then only become effective at time of signature of the contract.
5. Holding verbal debriefings (either by telephone or face-to-face), making them part of the company’s formal communication policy. IMSS should support that activity with clear guidelines that provide a structured framework, and clarify elements such as when and where debriefings take place, what information can and cannot be provided, and the standard discussion structure to be followed, etc.

## Note

1. This was highlighted during the back-to-back discussions at the OECD symposium, “Mapping out Good Practices for Integrity and Corruption Resistance in Public Procurement” and the OECD Global Forum on Governance in late November and early December 2006.

## References

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## *Chapter 11*

### **Ensuring results for IMSS: Implementing stronger post-award contract management activities**

*This chapter discusses the need for stronger management of the performance of the Mexican Institute of Social Security (IMSS) suppliers. Building on good practices of OECD countries, various options are provided for the implementation of a supplier performance management system. The chapter also describes inefficiencies in the current stock management practices that undermine the results of the procurement function.*

## Introduction

The post-award phase has a particular importance in the procurement cycle, as it is the stage when contracted goods and services are received and the suppliers paid. It includes all activities following contract award, such as: *i)* monitoring the supplier's work to ensure adequate progress and minimal risk of non-performance; *ii)* amending the contract to exercise specific provisions; *iii)* amending the contract to reflect agreements with the supplier to change the requirements or the conditions; *iv)* resolving misunderstandings or disputes; *v)* receiving and inspecting the goods and services to ensure compliance with the terms of the contracts; *vi)* paying the suppliers; and *vii)* exercising warranty provisions.

Despite its importance, the post-award phase often receives less attention and tends to be less regulated than previous stages. However, due considerations must be given to all the above activities and their processes so as to ensure that adequate value for money is received by the buying entity.

The review found that the post-award activities of the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) are generally effective and allow the organisation to fulfil its mission. However, there are two specific issues compromising the efficiency and cost-effectiveness of the procurement function: *i)* chronic non-delivery of some suppliers; and *ii)* less than optimal stock management. This chapter will assess the context of these issues and provides recommendations for IMSS to minimise their impacts.

## Suppliers' performance management

### ***The current framework may not provide sufficient incentives for suppliers to meet all their obligations***

No matter how well-planned and well-written, a contract will only bring value to the issuing organisation if the supplier fulfils its contractual obligations. Poor performance by suppliers affects an organisation's ability to provide high-quality services to the population and increases the workload of its supply function. This is an important issue within IMSS and has negative impacts on its operations, especially as it relates to supply of medicines to remote local entities (*delegaciones*) and high specialty medical units (*Unidades Médicas de Alta Especialidad* – UMAEs).

The recourses available to IMSS when suppliers do not deliver in accordance with the terms of the contracts are defined in the procurement legal framework. In some instances, these cannot be modified by the organisation. The first recourse is obviously to return to a supplier any product defective or not meeting the requirements, and to request its replacement. The other recourses available to IMSS are essentially limited to the following:

- Retaining a portion of the performance guarantee provided by the supplier at the onset of the contract, normally equal to 10% of the value of the requirement. Some regulations and guidelines allow a reduction for suppliers with satisfactory past performances and even exemption in some pre-established circumstances.
- Applying conventional penalties of 2.5% of the value of the good or service not delivered per day of delay, up to a maximum amount equal to the performance guarantee. It is possible for IMSS to modify the percentage of conventional penalty per day of delay, as such percentage is established in its internal guidelines. However, the same is not true for the ceiling which is established in the law.



- In addition to the above penalties, applying pre-established deduction identified in the contract for specific types of non-compliance with the contractual obligations.
- Cancelling a portion or totality of the requirement in default.
- Terminating the contract, potentially leading to the debarment of the supplier by the Ministry of Public Administration for a period of three months to five years. Such debarment will be considered if the supplier has had two or more contracts terminated within a period of three years.

Obviously, the first and essential step for IMSS in managing inadequate supplier performance is to apply such recourses. Failure to do so reduces significantly the role they play in incentivising the contractor to meet its obligations. While very few statistics are available from IMSS on this subject, the organisation does not appear to use these recourses consistently. As an example, pre-established deduction provisions are not used within the organisation and conventional penalties are often not applied. This is especially true when the delay does not result in a negative impact to its operations. Furthermore, the current limit to the conventional penalties does not appear sufficiently high enough to modify the behaviour of some suppliers and induce them to meet the totality of their obligations. For example, some suppliers of medicines find financially more advantageous to pay the conventional penalties under centralised contracts than to entirely meet the requirements of some remote regions, since such deliveries often involve low quantities and high delivery costs.

In such situations, the remaining recourses available to IMSS are: *i*) to cancel the portion of the good or service not delivered (obviously not an issue for the supplier) and not meet the requirement; *ii*) cancel the totality of that good or service (but keep the contract valid for other requirements it covers) or; *iii*) to terminate the contract. Again, IMSS has demonstrated little use of these more stringent recourses in the past. This may be due to: *i*) the requirement remaining valid; *ii*) deliveries of most products taking place; and *iii*) because any termination of the contract creates the risk of debarring the supplier and therefore of further reducing IMSS supply base. Therefore, only 17 contracts from 9 suppliers were terminated for non-compliance by the central area over the period 2009 to 2010, and a portion of the performance guarantee was retained in only two instances.

Such low and inconsistent use of the available recourses by the various procurement units of IMSS significantly weakens their role in incentivising contractors to meet their obligations. Some bidders would consider this fact in their bid strategy, reducing the prices in order to be awarded the contract, with no intention of meeting the portion of the requirements which entail highest costs to them.

Poor suppliers' performance affects the ability of the procurement function to provide high quality services and increases its workload. This has cascading impacts on the capacity of IMSS to fulfil its responsibilities in a cost-effective manner. While some procurement strategies can reduce the occurrence of such events, another avenue resides in improving the monitoring and management of the supplier's performance.

Currently, IMSS does not appear to have a supplier management strategy other than the established legal framework, which is essentially the punitive and reactive approach identified above, i.e. based on imposition of penalties and sanctions. Under a rule issued in June 2011 by the Ministry of Public Administration (*Secretaría de la Función Pública – SFP*),<sup>1</sup> a score must now be assigned to each supplier at the end of each contract. That score is to be based on sanctions imposed to the supplier, such as the application of penalties, deductions to payments, execution of any guarantee, as well as debarment of the supplier.

A recent rule allows the reduction by up to 50% of performance guarantee from suppliers with good past performances.<sup>2</sup> IMSS is currently collecting various suppliers' performance information. It still has, however, to fully implement the requirement of these regulations, as the methodology to calculate the compliance scores has not yet been established by SFP. Also, the rules on collecting necessary information under Compranet were only released in June 2011. SFP is currently developing a "Supplier Registry System" (*Sistema de Registro de Proveedores*) that will include their history of performance. In order to increase the incentives for suppliers to provide good performance, IMSS could consider reducing the contractual performance guarantees of suppliers with good contractual performance as soon as the required supplier performance scores are available under the Supplier Registry System.

The current measures are therefore insufficient to influence adequately the suppliers' behaviour and to ensure the level of performance required by IMSS for some essential products and services. The organisation could consider developing internal suppliers' performance monitoring and management programmes to reduce the risks and negative impacts on its supply function and on the whole organisation. While this mechanism can initially be perceived as complex and administratively burdensome, once established, it will assist IMSS in the management of these risks and impacts.

### ***Progressively implementing suppliers' performance monitoring and management programmes for key goods can assist in securing their supply***

Sound suppliers' performance monitoring and management strategies offer a range of benefits. In the context of IMSS, they could be identified as follows:

- **Fulfilment of obligations, including patient care:** Proactively managing suppliers' performance decreases the instance of stock-outs and ensures effective supply, allowing IMSS to fulfil its mission, such as client care.
- **Process efficiencies:** Managing suppliers' performance decreases the need to manage shortage of supply, expedite emergency orders and follow up on discrepancies. It thus results in reduced workload, time savings, and lower transaction costs for the procurement function.
- **Customer service:** Reliable performance of key suppliers is critical to providing high quality customer services. It increases the satisfaction and confidence of internal clients and of the entire population serviced by IMSS.
- **Risk management:** Monitoring suppliers' performance raises awareness of emerging trends and developing problems. This also allows actions to avoid or mitigate unplanned, unexpected and potentially critical supply issues.
- **Supplier relationship:** An effective and consistently applied supplier management process strengthens the working relationship and communication with the suppliers. It improves understanding and trust, reduces the risks of disputes and potentially augments the supply capability of the suppliers. It can also enhance IMSS supply base by setting clear expectations and by establishing a consistent approach to measurement across all applicable suppliers.

On the other hand, implementing and operating a supplier performance management strategy can require significant human and financial resources, especially in its early stages. If not properly developed and applied, it may create contractual risks and degrade the supplier relationship. It is, therefore, not cost effective to implement these strategies for all

types of goods and services and all suppliers. IMSS is advised to implement performance management programmes for only a few key suppliers whom it considers of particular importance. Such suppliers can be selected due to their significant share in the total procurement costs, or because they supply products that are critical to IMSS' operations but difficult to secure in adequate supply (such as medicines for some regions under centralised contracts).

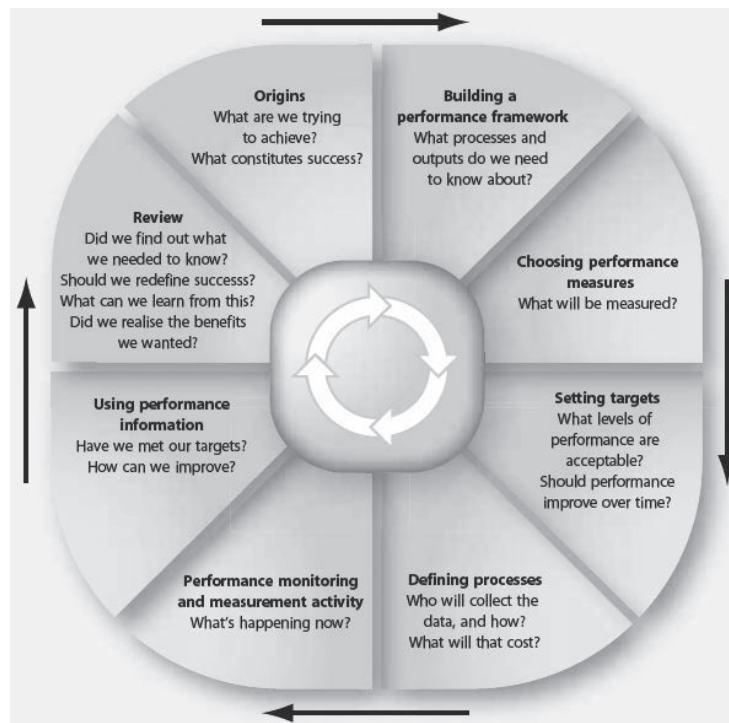
Each strategy should be adequately adjusted for the specific product or service (or group of similar products or services) covered in order to reflect their specificities, objectives to be achieved or issues to be resolved. IMSS could implement the strategies sequentially in order to build on lessons learned, and gradually obtain their acceptance by all stakeholders.

### ***Sound and differentiated strategies are essential to build solid foundations for performance appraisals***

Managing suppliers' performance is often perceived as a “downstream” activity undertaken after the contract is awarded. However, particular attention and resources must be channelled into its upstream development phase as it creates the foundation for subsequent performance appraisals and communications, and therefore determines not only its effectiveness and benefits, but also its costs and risks.

Sound planning as well as a framework for implementation and ongoing activities are essential to maximise the benefits of these programmes to the organisation. A clear and focused strategy must therefore be established in view of the specificities of each requirement

Figure 11.1. Performance management as a cycle of activities



Source: United Kingdom Office of Government Commerce (2007), “Improving performance project evaluation and benchmarking”, [www.forthconstruction.co.uk/downloads/achieving-excellence-guide-8.pdf](http://www.forthconstruction.co.uk/downloads/achieving-excellence-guide-8.pdf).

or group of requirements and in view of the objectives to be achieved. The strategy must also be communicated and understood by all applicable stakeholders (internal clients, procurement officers, senior management, suppliers, etc.). This should take place well before it is used under any solicitation process or contract. As shown in Figure 11.1, performance management is a cycle of activities, proceeding from a strategic determination to the performance management and eventually to the review of the strategy.

Any suppliers' performance management strategy should include at least the following elements:

- Critical areas of performance for the requirement considered, i.e. outcomes to be achieved and risks to be avoided or mitigated. This entails investigating past contracts and suppliers' performances, as well as root-cause analysis of the difficulties in securing supply. It is essential that proper communication and discussions take place with the pertinent internal stakeholders to ensure that all crucial elements and areas of risks are identified.
- Key Performance Indicators (KPIs) supporting such objectives (Box 11.1), including the data and minimum level of performance for each KPI.
- Methodology used for the collection of such data and calculation of the performance results under each KPI.
- Avenues through which performance results can be discussed between IMSS and the supplier (and potential disagreement or dispute resolved).
- Impacts of performance results (such as penalties, partial/total cancellation, termination, potential use in the evaluation of future solicitations, etc.) and level of dissemination of such information.

Each of the above items must be adequately balanced to reach the intended objectives while minimising the constraints and costs to the participants. As a general rule, the fewer and clearer the criteria and methodologies, the better. As such, the number of KPIs, data and documentation should be kept as minimal as required to adequately address the critical areas of performance identified. This will ensure their clear understanding and facilitate their implementation in the procurement process, while minimising the disturbances and costs.

To ensure that all relevant information is considered in the development of effective KPIs, it is preferable that the responsibility for strategy development is assigned to a team of experts (product specialists, market research, procurement experts, users, etc.), with appropriate communication and involvement of all applicable stakeholders. It is particularly important that the marketplace – preferably chambers of commerce or industrial associations, but potentially also suppliers – are involved in the process. This dialogue must, however, be structured, fair and transparent so as to ensure validity, transparency and buy-in. Also, the strategy and its elements must be spelled-out in any solicitation document or contract using them, so that they are understood and agreed to by the buying entity and the supplier.

***Monitoring and sharing the performance results on a regular basis will enhance communication with suppliers***

To be fully beneficial to IMSS and its suppliers, performance programmes require time, trust, mutual understanding, regular and consistent communications, as well as joint commitment to improved performance. Clearly establishing and communicating the suppliers' performance appraisal process is key to ensure its smooth implementation.

### Box 11.1. Establishing good key performance indicators

Good key performance indicators must possess some fundamental qualities to fully benefit the organisation and the suppliers, and should be:

- **Relevant**, i.e. linked to key objectives of the organisation (critical outcomes or risks to be avoided) rather than on process.
- **Clear**, i.e. spelled-out in the contractual document and be as simple as possible in order to ensure common understanding by the buying organisation and the supplier.
- **Measurable and objective**, i.e. expressed on pre-determined measures and formulas, and based on simple data that can be gathered in a cost effective manner and without subjectivity.
- **Achievable**, i.e. realistic and within the control of the supplier.
- **Limited**, i.e. as few as required to achieve the objectives while minimising their disadvantages (costs, efforts and risk of dispute) on both entities. The use of information and documentation already available under the contract management process should be promoted, rather than requiring collection of additional data and documentation.
- **Timed**, i.e. include specific timeframes for completion.

Procurement key performance indicators can be established for any of the organisation's important objectives. While a wide variety of subjects can be considered, the following ones may be appropriate in the context of IMSS (the list is not exhaustive):

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

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

*Sources*: Inspired from Queensland Government (2000), "Managing and Monitoring Suppliers' Performance", Queensland, Australia, [www.hpw.qld.gov.au/SiteCollectionDocuments/ProcurementGuideSuppliersPerformance.pdf](http://www.hpw.qld.gov.au/SiteCollectionDocuments/ProcurementGuideSuppliersPerformance.pdf), accessed 18 May 2012; Australian National Audit Office (2011), "Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework". Audit Report No. 5, Australian National Audit Office, [www.anao.gov.au/Publications/Audit-Reports/2011-2012/Development-and-Implementation-of-KPIs-to-Support-the-Outcomes-and-Programs-Framework](http://www.anao.gov.au/Publications/Audit-Reports/2011-2012/Development-and-Implementation-of-KPIs-to-Support-the-Outcomes-and-Programs-Framework), accessed 8 September 2011.

Monitoring contractor performance well is crucial to the effectiveness of the strategy. It allows to progressively anticipate, identify and facilitate the correction of shortcomings before the relationship with the supplier is adversely affected and before value for money is compromised. Due consideration must be given to selecting a combination of monitoring approaches (Box 11.2) maximising the performance and communication, while minimising costs and expenses.

### Box 11.2. Performance monitoring approaches

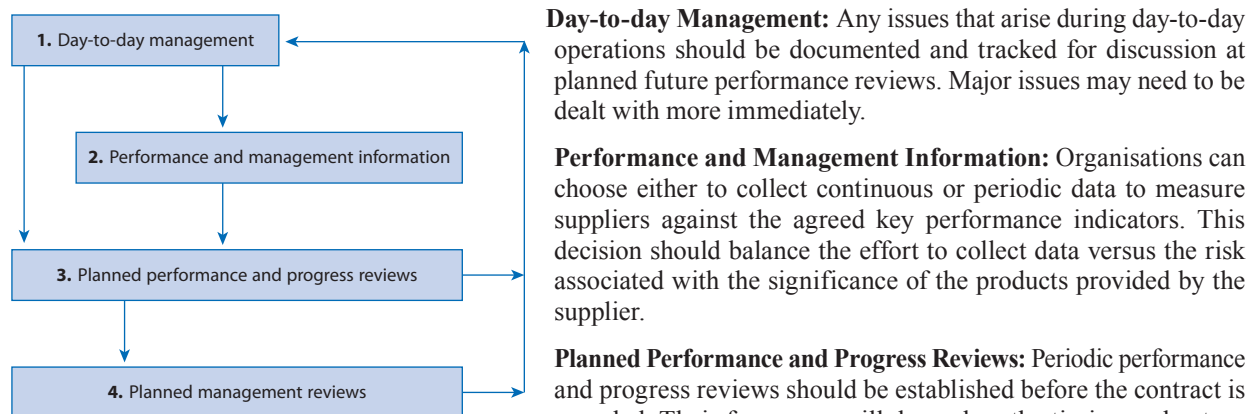
An important element of the strategy development is determining who is in the best position to collect the data required for performance monitoring. Various approaches are available, each with different benefits and disadvantages, so a particular combination can be determined for each requirement (or group of similar requirements), based on its specificities and risks.

- **Direct monitoring by the purchasing organisation** allows a direct control of the monitoring process as well as timely identification and resolution of any problem, but adds to the costs to the agency and the level of effort for the procurement function.
- **Monitoring by the supplier** increases its involvement and potentially reduces the costs to the agency. However, this approach requires that the information provided by the supplier is regularly audited to ensure its accuracy and reliability (an objective which may be addressed through a distinct key performance indicator).
- **Monitoring through regular follow-up with the users** allows a more accurate perception of the real quality of the supplier's performance under actual service delivery conditions, but the users may not report all cases of non-compliance and this approach can be potentially costly and time-consuming.
- **Monitoring through an independent third party**, either directly (the monitoring responsibility being given to that party) or indirectly (through certification and accreditation). Similarly, this may consist in some testing being done by a separate entity. While this approach may involve significant costs and delays, it can provide expertise otherwise unavailable and the independence of the third party may reduce the risks of dispute between the parties.
- **Combination of monitoring approaches:** A smart combination of the above methods may certify that the contract objectives are met while minimising the costs and risks to both entities. As an example, independent external testing may take place to ensure the product meets the required specifications. Follow-ups may then occur with the customers to assess the adequacy of the services. For its part, the supplier would be required to provide reports on the delivery quantity and timing, supported by receipt documents provided by the client.

*Source:* Adapted from Queensland Government (2000), "Managing and Monitoring Supplier's Performance", Queensland, Australia, [www.hpw.qld.gov.au/SiteCollectionDocuments/ProcurementGuideSuppliersPerformance.pdf](http://www.hpw.qld.gov.au/SiteCollectionDocuments/ProcurementGuideSuppliersPerformance.pdf), accessed 18 May 2012.

Furthermore, the scope of performance monitoring applied to a supplier should be determined by the level of risk involved in the purchase and the nature of the goods and services provided. All KPIs do not have to be monitored on the same frequency: the majority can potentially be assessed on a monthly basis, while some others only at each quarter or even year. In determining the model most applicable to each supplier performance program, IMSS may wish to consider the structure illustrated in Figure 11.2.

Figure 11.2. Structured Suppliers' performance Monitoring and Management Process Model



**Day-to-day Management:** Any issues that arise during day-to-day operations should be documented and tracked for discussion at planned future performance reviews. Major issues may need to be dealt with more immediately.

**Performance and Management Information:** Organisations can choose either to collect continuous or periodic data to measure suppliers against the agreed key performance indicators. This decision should balance the effort to collect data versus the risk associated with the significance of the products provided by the supplier.

**Planned Performance and Progress Reviews:** Periodic performance and progress reviews should be established before the contract is awarded. Their frequency will depend on the timing and nature

of the contract, for example, a higher frequency is appropriate during the early stages of a contract. Decisions regarding the protocol of reviews, including who should attend, who will act as chair, who will record and what documents are required, should also be agreed on before a contract is awarded.

**Planned Management Reviews:** Senior management meetings may be appropriate for some complex or critical contracts. These reviews, though less frequent, provide a strategic overview of progress, issues and future plans.

*Source:* Adapted from Government of Ontario – BPS Supply Chain Secretariat (2009), *Performance Measurement: Phase II – User Guide*, BIS Supply Chain Secretariat of the Treasury Board Office, Queen’s Printer for Ontario, Ontario (Canada), [www.fin.gov.on.ca/en/bpssupplychain/documents/perf\\_meas\\_userguide.html](http://www.fin.gov.on.ca/en/bpssupplychain/documents/perf_meas_userguide.html), accessed 20 September 2011. © Queen’s Printer for Ontario, 2009, reproduced with permission.

As a first communication stage, reporting of the data collected and KPIs can take place between the buyer entity and the supplier on a regular basis as specified in the contract. These reports do not only serve as records, but can be used by both parties to assess the performance against the objectives and obligations established in the contract. They proactively identify growing issues and serve as the basis for subsequent communications by the parties. Again, the frequency of reporting of each data and their KPIs should be established based on their relative importance, use and complexity of collecting the data. It is essential that both parties confirm in writing their agreement with the reports. Any discrepancy or disagreement should be raised and resolved rapidly, preferably within a timeframe pre-established in the contract. Doing so will only allow better and timelier communication and understanding between the parties. It will also prevent disagreements on these performance results in subsequent reporting or use (such as the calculating contract performance score, as discussed below).

***By applying the evaluation results in a predictable and consistent manner, IMSS could increase the incentives for suppliers to achieve high level performance***

For performance management opportunities not to be lost, it is vital that IMSS acts in a timely and consistent manner on the positive or negative performance of suppliers. A critical stage of the process consists in holding regular communications and meetings to discuss the adequacy of the performance, identifying early difficulties or potential disputes and increasing involvement of all parties. Different types of meetings – such as regular purchaser-supplier meetings, technical review meetings, longer-term or senior management meetings – may be held at different frequencies in order to reach specific audiences and achieve specific benefits.

To guarantee efficiency in these meetings, their nature and the elements of discussion should be clearly established in the contract. Preferably, the contract manager would have the possibility of increasing or decreasing their frequencies in order to reflect evolution of the performance. However, a minimum number of meetings should be held annually to ensure continuity of communications between the parties. Finally, it is essential that records of the meeting agenda and minutes are agreed upon between the parties and that they are kept for future references.

Effective performance monitoring will provide IMSS with a prompt warning if the supplier has difficulties in meeting the terms of the contract or the agreed performance standards. Suppliers should be advised as quickly as possible of any shortcoming in their performance, allowing for rapid corrective actions and preventing a potential problem from escalating into a full-blown dispute.

Good performance management strategies support stronger supplier relationships by clarifying the expectations. A consistent approach to measuring performance also levels out the playing field between suppliers. However, they can only be effective if IMSS fully and consistently applies all relevant contract provisions, reinforcing the importance and commitment to the established performance standards. Tolerating small performance problems may encourage an escalation of supplier default or poor performance, and weaken the legal basis of IMSS in case of a dispute. Similarly, failing to adequately implement provisions associated with positive performance – such as reducing the level of warranty required to enter under a contract – suggests to suppliers that superior performance is not noticed or rewarded by the organisation, and decreases significantly their incentive to achieve it.

IMSS may consider the possibility of using the performance records of a supplier to calculate a general performance score under contracts subject to these programmes. IMSS may then use them as evaluation criteria in subsequent solicitations associated with the same requirement. Doing so strongly increases the incentive for high performance. It also mitigates the risks of suppliers with chronic performance issues winning a contract on low price alone. Under such an approach, standard KPIs and a measurement methodology need to be first developed. They must then be clearly identified under subsequent solicitations for that product or service, and be used to calculate a “product performance score” under each resulting contract.<sup>3</sup> When it is deemed that sufficient suppliers have such scores, all subsequent solicitations can include supplier past performance as a formal evaluation criteria, with the rating for each bidder calculated as the average of all his product performance scores for the product or service.

When developing that strategy, IMSS should ensure that:

- All suppliers are evaluated in the same manner under relevant contracts and over time. This means ensuring that the KPIs, evaluation methodology and score calculation (formulas, weightings, etc.) are identical and clearly spelled-out under all contracts for that particular good or service.
- Only relevant past performance scores are used, i.e. usually limited to scores associated with the same products or services (or groups of products and services, as applicable).<sup>4</sup>
- Once the average of the “product performance scores” starts being used as an evaluation factor, it is consistently used in all following solicitations for the good or service. Failure to do so significantly reduces the incentives to contractors (and therefore the whole purpose and benefits of the strategy). It also introduces discretion, potentially leading to integrity breach. Such breach would occur, for



example, if a procurement agent intentionally excludes a solicitation from that approach in order to benefit a supplier with low past performance scores.

- This strategy does not become a barrier to the entry of new suppliers or disadvantage suppliers without a performance score. An approach ensuring fairness to all participants is to assign to each of these suppliers, on an interim basis and only for the purpose of a particular solicitation, the highest score achieved by the other bidders to that solicitation. That interim score would then be replaced by the actual score received by that supplier under the first contract where it is evaluated. This approach ensures that suppliers not yet evaluated are not disadvantaged under a solicitation while making certain they are not given a higher score than the current best bidder under it.<sup>5</sup>

Special attention should be given to the methodology for calculating such scores, and the relative weight given to each KPI. These factors have a significant impact on future competition and may result in suppliers favouring one KPI over another in order to get a higher score. Finally, it is important that consistent formulas and weightings are used for a single product or service (or group of products and services) in order to guarantee equity in the evaluation of suppliers under different contracts.

Due to the complexities and potential risks associated with the use of supplier performance management, it is recommended that IMSS take a gradual approach in the implementation of these strategies. Doing so would allow IMSS to incrementally improve their quality and efficiency through lessons learned and to build a sufficient base of suppliers with performance scores, while maintaining the incentive for suppliers to maximise performance under current contracts.

IMSS may therefore wish to consider the following step-by-step approach:

- first, introducing the strategy for a specific good or service (or group of goods and services), under which they can then assess suppliers' performance in new contracts and calculate the performance scores (clearly reserving the rights to use them in the future);
- when a sufficient number of suppliers have received performance scores, assessing the pertinence of using such scores in a solicitation evaluation in subsequent tendering for similar goods or services (or group of goods or services); and
- gradually developing and implementing strategies for other goods or services (or group of goods and services).

## Stock management

### *IMSS' management of its stock and orders process does not maximise the benefits of the procurement function*

Receipt and inspection of goods and services is an important element of contract management as it ensures that the organisation receives the products and services in the nature, quantity and timing stipulated in the contract. Similarly, proper inventory control and replenishment processes ensure that sufficient quantities are available on an ongoing basis to meet the organisation's needs.

Based on the researches and interviews missions undertaken by the OECD, IMSS reception, inspection and inventory functions appear to perform adequately their role and do not compromise in any significant manner the efficiency of the supply process.

However, the current replenishment process for some goods sometimes results in sub-optimal orders. As an example, three levels of stock exist for medicines (minimal, optimal and maximal). Replenishment orders are automatically issued when the optimal level is reached in order to refill the stock to the maximal level. Each warehouse has different inventory levels and issues their replenishment orders in isolation. As a result, some of the resulting orders are for small quantities, reducing their efficiency and increasing the risk of the supplier not delivering. To the extent it does not prevent any unit from meeting its obligations, IMSS could endeavour to ensure that the quantity required under each replenishment order is sufficiently high to be cost effective for the organisation while allowing appropriate returns to the suppliers. This could be achieved, amongst others, by:

- Decreasing the optimal stock level or increasing the maximal level at the local entities level so that the quantity ordered (the difference between these two levels) is cost effective. This may result in some products reaching the end of their life before consumption. Some suppliers may, however, agree to exchange unused quantities at no cost if it allows them to receive fewer orders of higher quantity.
- Consolidating the replenishment of some or all units in close proximity into combined larger orders, at a regional level. This reduces the number of deliveries required, increasing their profitability to the supplier. Due care should be taken, however to ensure that all local entities maintain adequate stock between deliveries, which may require transfers between units.

While best implemented as part of the initial procurement strategy (and reflected in the resulting solicitation documents and contracts), this approach could be applied to existing contracts to the extent that it does not contravene the conditions under which it was competed (and therefore does not favour the contractor over unsuccessful bidders).

***In situations of unexpected short-term shortage of supply, preference should be given to transfer of products between units***

As discussed earlier, various issues, such as difficulties and delays in issuing centralised consolidated contracts, as well as suppliers' non-performance, result in inadequate supply of some products and services critical to operations. This issue is particularly problematic for some local entities and high specialty medical units in remote areas.

The OECD review team has been informed of the commendable practice of a local entity of handling some emergency requirements through stock transfers from other units, rather than issuing small stand-alone contracts with unfavourable conditions. However, this particular practice is a local initiative, and such practices appear to take place only on an *ad hoc* basis within the organisation. In most cases, the local entities and high specialty medical units rely on emergency procurements performed under disadvantageous conditions (low quantity, rapid delivery, etc.).

IMSS could consider implementing a formal process by which inadequate stock levels associated with emergency situations could be dealt with first by identifying and transferring surplus stock from other units (presumably in close proximity), and then by issuing a larger replenishment order for these two units. The use of emergency contracts could then be limited to cases where transfers are not possible in a cost-effective manner or where they would prevent the providing units from meeting their obligations.

## Proposals for action

In order to improve the benefits of its procurement function, IMSS could consider the following proposals:

1. Communicate throughout the organisation the Compranet requirements for collection of supplier performance data and provide any required training.
2. In order to increase the role played by contractual recourses in incentivising contractors to meet their obligations and thereby increasing suppliers' performance, IMSS could consider:
  - a. Reducing the contractual performance guaranties of suppliers with good performances as soon as the required suppliers' performance scores are available from the Supplier Registry System of SFP.
  - b. Using the available recourse of pre-established deductions as an additional disincentive for inadequate performance. This is also an effective mechanism for transferring a portion of the resulting damages to the contractors.
  - c. More systematically and comprehensively enforcing the recourse available in order to maintain the role they play in incentivising contractors to meet their obligations. Implementing this recommendation will require the Administration and Evaluation of Local Entities Directorate (*Dirección de Administración y Evaluación de Delegaciones*) to collect and assess data on delays or non-compliance as well as the associated use (or non-use) of recourse.
3. Implementing tailored suppliers' performance management programmes for requirements crucial to the organisation and for which securing adequate supply has been difficult (such as some medicines under centralised consolidated contracts).
4. In all contracts for a specific product or service (or group of products or services) under which performance is evaluated, reserve the right to use the performance score in the evaluation of subsequent solicitations for similar goods and services. Once a sufficient number of suppliers have been evaluated for a specific product or service (or group of products or services), assess the relevance of implementing the use of such evaluation criteria.
5. Modifying the replenishment order process of some products to make sure that there is a sufficient quantity ordered to provide value for money for IMSS, while reducing the risks of non-delivery by the supplier.
6. Establish a process under which, in situations of unexpected short-term shortage, transfer of some quantities from another unit is first considered. Emergency procurement should only take place when it is not possible to do such transfer in a cost-effective manner or without the risk of the providing unit not meeting its operation requirements.

## Notes

1. The agreement on the use of Compranet published on 28 June 2011 requires that, following conclusion of a contract, a score is awarded to the contractor based on various criteria and recorded in the system. The “compliance rating” derived from the average of these scores can then be used as part of the evaluation “points and percentage” or to reduce the level of guaranty to be provided under subsequent contracts.
2. Guidelines “*De Los Lineamientos Para la Reducción de Los Montos de Garantías de Cumplimiento Que Deban Constituir Los Proveedores y Contratistas*”, published 9 September 2010.
3. The possibility exists to exclude, for specific reasons, a particular contract from the calculation of the “product performance score”. In such cases, it is essential to clearly indicate that exclusion in the solicitation documents and the resulting contract(s), so as to ensure clarity to all stakeholders. However, such exclusion should be subject to due consideration and oversight as it reduces the effectiveness of the strategy. This is because the incentive is no longer being consistently used in all relevant contracts. This results in a lower number of suppliers/contracts having scores for consideration in subsequent evaluations. It is crucial that such exclusion be limited to the calculation of the “product performance score” under a contract, and not be permitted as it relates to the use of past performance in the evaluation process (as further discussed later).
4. It is possible that past performance scores achieved under a different but related group of products and services is considered in the calculation of the bidder’s general performance score under a specific solicitation. However, doing so introduces discretion in the process and increases the risk of integrity loss, such as unequal treatment or preference being given to a given supplier. Therefore, careful consideration and oversight must take place prior to doing so.
5. Some suppliers with poor performance may attempt to circumvent this system by creating a new firm in order to benefit from that “interim score” and not be impacted by their past performance scores. However, this risk can be addressed by introducing simple mandatory criteria, such as minimum experience of the bidder.

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## **Part IV**

### **Fostering Integrity and Public Accountability in IMSS's Procurement Function**



## *Chapter 12*

### **IMSS' review and remedy system: A tool to improve procurement activities**

*This chapter describes the mechanisms in place in Mexico and in the Mexican Institute of Social Security (IMSS) to address formal complaints of suppliers on the tendering procedures. It assesses the nature of the complaints against IMSS and identifies opportunities to reduce their number.*

## Introduction

Review and remedy mechanisms contribute to increase the overall fairness, lawfulness and transparency of the procurement procedure and support its integrity. They also build confidence among businesses and facilitate competition in local public contract markets.

Review and remedy systems serve a procurement oversight function by providing means to scrutinise the activities of government procurement officials, to enforce their compliance with procurement laws and regulations, and to correct their improper actions. They provide an opportunity for bidders to contest the process and verify the integrity of the award.

To guarantee an impartial review, a body with enforcement capacity independent of the procuring entity needs to rule the review decisions. Complaints must be resolved in a fair manner whilst ensuring administrative efficiency through timely resolutions and adequate remedies (OECD, 2007).

In order to be effective, a review and remedy system needs to:

- provide timely redress;
- be effective in correcting (and thus preventing) instances of unlawfulness on the part of economic operators and/or contracting authorities;
- be transparent and clear (i.e. understandable and easy to use by economic operators); and
- non-discriminatory and available to all the bidders wishing to participate in a specific contract award procedure.

This chapter provides an overview of the review and remedy system applying to the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS). It focuses on the current system, following amendments in 2009 to the Procurement Laws, the Law on Acquisitions, Leases and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público* – LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas* – LOPSRM). These amendments modified the timeframe and conditions for filing formal complaints against procurement procedures (*inconformidad*).

## Review and remedy mechanisms of procurement procedures in the Mexican Federal Government

### *Mechanisms for review and remedy of procurement procedures in the Mexican Federal Government are independent and efficient*

Mexican procurement laws provide a mechanism to challenge the key acts in the pre-award stage, such as the call for tender, opening of the proposals, and the award decision. That system has precise conditions and timeframes for raising a formal complaint, as well as defined enforcement authorities and mechanisms – a snap-shot of which is provided in Table 12.1. Acts outside those outlined by the procurement laws are not subject to the complaint recourse and are therefore not considered.

Complaints can be raised by any supplier who has a manifest interest to participate in a procurement process. They can be submitted either in writing directly to the Ministry of Public Administration (*Secretaría de la Función Pública* – SFP) or electronically through Compranet, the e-procurement system of the Mexican Federal Government.



Table 12.1. Snapshot of review and remedies system for the procurement processes of federal government entities in Mexico

If the complaint relates to:	Who has right to submit a complaint?	When must a complaint be filed?*	Which body can consider complaints?	What costs are placed on claimant?	What are the possible outcomes of the complaint?	What remedies are available against the resolution of the formal complaint?
Tender invitation and clarification meeting	Suppliers with interest to participate	Within six business days following the last clarification meeting				
Call for invitation to at least three suppliers	Only suppliers who received an invitation	Within six business days following the clarification meeting				
Submission and opening of proposals and announcement of contract award	Only suppliers who submitted proposal	Within six business days following award/ notification	The Ministry of Public Administration through the Organ of Internal Control within each public entity	If the suspension of the procurement procedure is requested, a financial warranty equivalent to between 10% and 30% of the economic proposal or (when such amount cannot be established) of the approved budget is to be provided	The resolution of the objection may: Nullify the entire procurement procedure Invalidate the irregular act and order its replacement Reject the complaint Order the signing of the contract	Revision recourse Court action to nullify the decision Formal court complaint for infringement of Constitutional Rights ( <i>juicio de amparo</i> )
Cancellation of the tendering procedure by the contracting entity	Only suppliers who submitted a proposal	Within six business days following notification of cancellation				
Act and omissions by the tendering entity that prevent contract signing under terms of invitation to tender under the (LAASP and LOPSRM)	Only the supplier who was awarded contract	Within six business days after expiration of the deadline to formalise the contract				

\* If the tendering procedure is under the scope of a Free Trade Agreements of which Mexico is party, the time period changes from 6 to 10 days business days. This is applicable for all stages of the procurement process for which challenges can be raised. If the procedure includes a clarification meeting, claims can be filed within six business days after it.

Source: Adapted from articles 65-75 of the LAASP and articles 83-93 of LOPSRM.

The decision-making process results in remedies that are relevant to correcting any irregularity in the procurement process. To ensure the impartiality of review mechanisms, authorities independent from the buying entities rule the review decisions. Complaints are therefore addressed to the Internal Control Office (*Órgano Interno de Control* – OIC), an operational extension of the SFP located within each federal public entity, but independent from it. As described in Chapter 4, the OICs are also in charge of performing internal audit and of receiving and evaluating reports on the integrity of the procurement procedure. They must resolve each formal complaint within 40 working days of its submission. Moreover, the decision of the OIC can be subject to higher-level review.

***Requests to suspend the procurement process are expensive, but are not a condition for presenting a formal complaint***

Suppliers challenging a procurement procedure can request its suspension until a decision is rendered by the OIC. However, the 2009 amendments to the federal procurement laws sought to avoid prior abuses of that suspension mechanism, which may inappropriately delay or hinder the procurement process. As such, a financial warranty equivalent is now necessary when a supplier requests a suspension. That warranty is of an amount between 10 and 30% of the economic proposal of that supplier. If that amount cannot be established, the warranty is of an amount between 10 and 30% of the approved budget for the procurement procedure. Furthermore, a party wishing to avoid the suspension may also offer a counter-warranty equivalent to the same amount given by the supplier requesting the suspension.

This new requirement can increase the cost for suppliers to file a complaint. Yet, complaints can be filed without requesting suspension and the procedure then remains inexpensive. However, it is important to note that the OIC may also suspend the procurement procedure without any request or warranty from the objecting supplier if it finds flaws or irregularities in it when assessing a complaint.

***Information on formal complaints is not regularly made public and is incomplete***

According to article 73 of the LAASSP, once a complaint has been resolved, the decision must be made public in Compranet. Significant divergences can be found on the level of information available from the version recently implemented (5.0) and the previous one (3.0).

Compranet 3.0 provided statistics on the resolved complaints and disaggregated the information by governmental entity, by type of bid, by object of the complaint, by stage of the procedure when it was raised, and by resolution. Furthermore, it included a search engine to facilitate investigations. However, it did not publish the details of the resolutions issued by the OICs. The last entry of information in that version for complaints filed against procurement procedures undertaken by IMSS dates back to 2003.

Positively, the OIC resolutions of formal complaints are now made public through the new portal of Compranet 5.0. This enables interested parties to be better informed of the legal reasoning of the authority when resolving a complaint, and enhances the consistency, transparency as well as fairness of the process. It also enables future claimants facing a similar situation to understand the elements considered for the analysis and the methodology followed by the authority to reach its conclusion. However, only a few of the most recent resolutions can be found in Compranet 5.0. Moreover, data and statistics are no longer

available under it, nor any search engine allowing users to rapidly identify the resolved complaints for a specific entity.

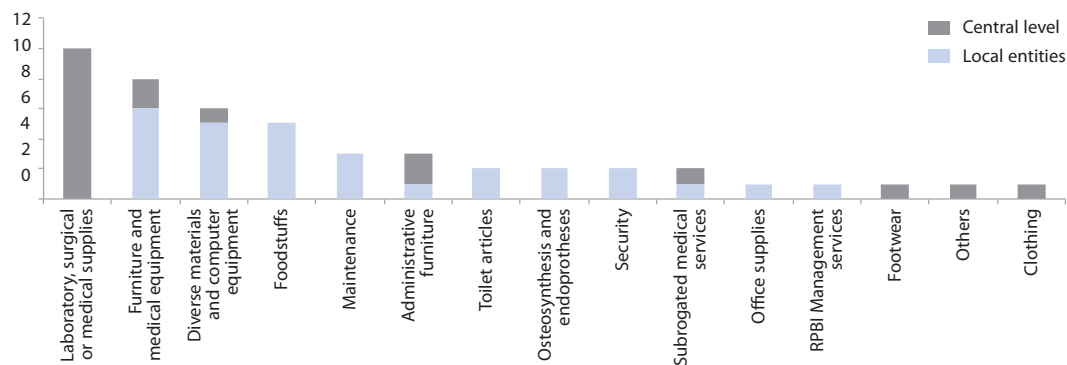
Keeping public information updated increases transparency and ensures compliance with the applicable procurement legal framework. However, such information will only allow interested parties and the general public to be better informed if it is presented in a user-friendly and effective manner. As such, IMSS could engage with SFP in order to explore ways of increasing transparency by committing to make public on Compranet, in a regular, user-friendly manner, the resolutions of the formal complaints and by implementing an effective search engine.

## Formal complaints against IMSS procurement procedures

### *IMSS receives the highest number of complaints against its competitive procedures*

Over the period 2007 to 2010, IMSS received the largest share (21%) of the formal complaints of the Mexican federal government, with a total of 1 732 complaints against its competitive procurement procedures. They concerned mostly procedures associated with goods (66%), services and public works accounting respectively for 31% and 3%. As indicated in Figure 12.1, 60% of the complaints arise from procurement activities performed by local entities.

Figure 12.1. **Complaints against IMSS procurement procedures by level of centralisation (central and regional level) and type of good or service in 2010**



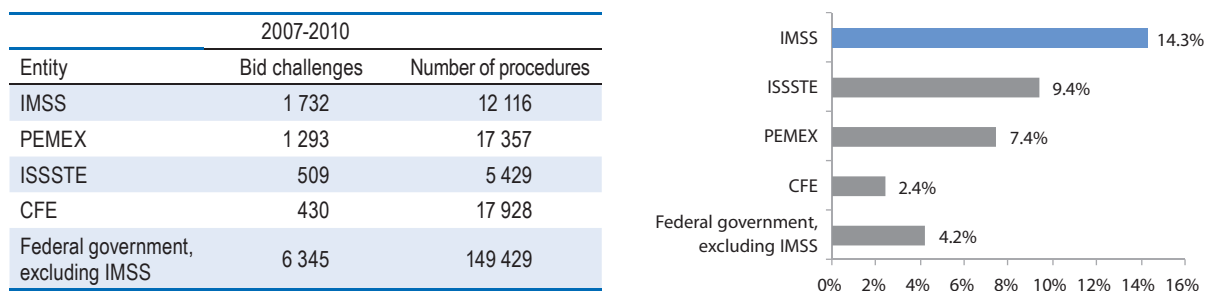
Source: Data provided by IMSS.

The complaints received by IMSS represent 14.3% of all its competitive procedures, well above the average of 4.2% for the rest of the federal government. It is, however, closely followed by SFP who has a total of 1 729 complaints (SFP, 2011) (Figure 12.2).

A downward trend can be observed in the number of complaints against IMSS competitive procedures over the period, dropping from 508 in 2007 to 352 in 2010. However, a similar trend is not observed in the ratio of complaints versus the number of competitive procedures (SFP 2010, 2011).

According to information publicly available from SFP (Figure 12.3), 34% of these complaints against IMSS procurement procedures over the period 2007 to 2010 were dismissed by the OIC without analysis of their merits. This dismissal was due to procedural deficiencies, e.g. inadequate documentation or information being submitted. Another 35% of the complaints were rejected as not valid, while 31% were sustained.

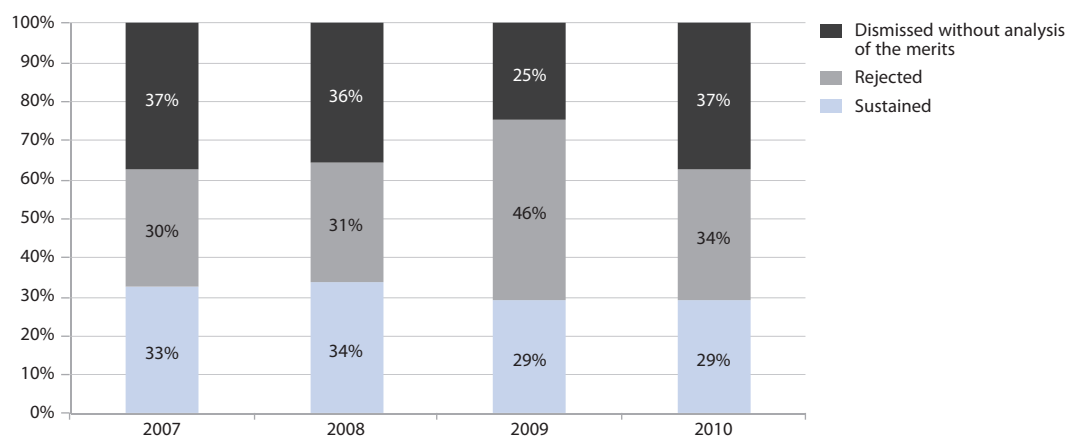
Figure 12.2. Share of complaints made against IMSS' competitive procedures in comparison with other federal government entities, 2007-10



Note: Information on the number of procedures of SFP is unavailable. PEMEX procedures do not include public tendering of PEMEX Gas y Petroquímica Básica as well as 2007 public tendering of PEMEX Petroquímica. IMSS procedures do not include restricted invitations for 2007.

Source: SFP (2011), "Quinto Informe de Labores" [Fifth Activities Report], [www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to\\_informe\\_labores\\_sfp.pdf](http://www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to_informe_labores_sfp.pdf), accessed 7 April 2013.

Figure 12.3. Number of complaints against IMSS procurement procedures by type of resolution, 2007-10

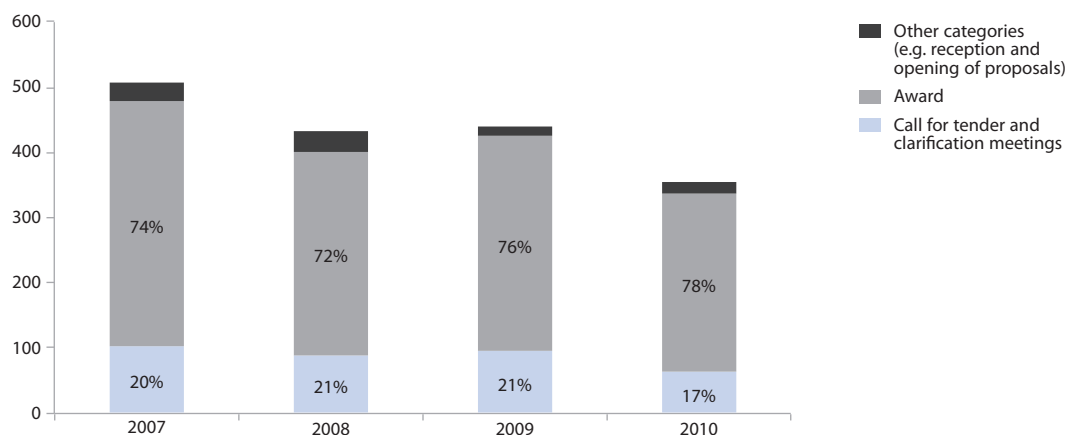


Source: SFP (2011), "Quinto Informe de Labores" [Fifth Activities Report], [www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to\\_informe\\_labores\\_sfp.pdf](http://www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to_informe_labores_sfp.pdf), accessed 7 April 2013.

### ***Most complaints against IMSS procedures relate to the award phase***

Between 2007 and 2010, the procurement stage for which the highest number of complaints was raised was the award phase (75%), highlighting the perception of some suppliers that the bid evaluation and winning bidder selection processes are not always undertaken in strict accordance with the legal framework and the relevant solicitation documents. Challenges on public tender notices and clarification meetings accounted for another 20% (Figure 12.4).

Figure 12.4. Number of complaints against IMSS procedures by stages of the procedure, 2007-10



Source: SFP (2011), “Quinto Informe de Labores” [Fifth Activities Report], [www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to\\_informe\\_labores\\_sfp.pdf](http://www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to_informe_labores_sfp.pdf), accessed 7 April 2013.

## Opportunities to reduce the number of complaints

### *Various mechanisms are available for IMSS to reduce the number of complaints on its procurement procedures*

IMSS could benefit from decreasing the number of complaints on its procurement procedures. Various actions can be taken by the organisation to this end. First, IMSS could implement the proposals suggested in Chapter 10 to increase the integrity of the evaluation process by ensuring compliance with the requirement and rules established in the solicitation documentation. In support of that activity, IMSS could perform a detailed analysis of the resolutions of the complaints sustained by the OIC in the last years, especially in relation to the award phase. This would allow identifying areas of opportunity to improve the relevant procedures and mechanisms.

Furthermore, IMSS could also strengthen communication with the suppliers through the verbal debriefing procedure suggested in Chapter 10. This would assist suppliers in understanding the results of the evaluation of their proposal and demonstrate them that the process has been carried out in accordance with the rules of procurement and probity. IMSS could also maximise the participation of civil society in public tendering, and particularly social witnesses (further discussed in Chapter 14), to identify and correct potential deficiencies in the process and ensure that all stages of the procurement procedure are managed in accordance with the legal framework and the applicable solicitation documentation.

Mexico could benefit from performing regular *ex ante* analysis. By taking the lead in revising the procurement procedure in order to find deficiencies and irregularities, IMSS can detect and resolve them in a timely manner, reducing substantively the number of complaints. The Polish experience (see Box 12.1) has demonstrated the positive outcomes of such analysis. Since its implementation, the number of infringements has been significantly reduced, as well as the number of recommendations to cancel the procedure or to re-evaluate a proposal.

### Box 12.1. *Ex ante* control of the award of major public contracts in Poland

With the 2004 Public Procurement Law, the *ex ante* control of the award became mandatory for public contracts of high value in Poland. The mechanism is used for contracts above EUR 20 million for public works and EUR 10 million for public supplies and services.

The aim of this preventive mechanism is to avoid improper spending of public money and reveal possible infringements before the conclusion of contracts, such as:

- negligent preparation of contract award procedures;
- incorrect evaluation of submitted bids or requests to participate in award procedure;
- defining the terms of participation in the award procedure in a way obstructing fair competition;
- failure of demand to submit documents necessary to evaluate whether an economic operator satisfied the conditions for participation in the award procedure;
- failure to exclude economic operators from a procedure in a situation when the premises for exclusion existed;
- failure to reject a bidder in a situation when the premises for rejection existed.

Awareness-raising and training activities were also carried out to reinforce the professionalism of procurement officials. In case of major infringement of public procurement that influenced the results of the procedure or the selection of the bidder, the Public Procurement Office may recommend the re-evaluation of the bidders, or cancellation of the whole procedure. When infringements of the Public Procurement Law are neither substantial nor influence the result of the procedure, the recommendations may concern future proceedings in the scope of confirmed infringements.

As a result of these reforms, the statistics below indicate the decline of the number of infringements:

#### Results of *ex ante* controls carried out by the Public Procurement Office (in %)

	May 2004-January 2005	January-July 2006
No infringements found	14	23
Recommendation to cancel procedure	18	3
Recommendation to re-evaluate bid	5	2
Minor infringements	63	72
Total	100	100

The findings of the *ex ante* controls are published in periodic reports every six months and are widely distributed (e.g. on the website of the Public Procurement Office). The information included in those reports has a preventive effect as it highlights to the awarding entities the scale, type and weight of infringements found and, as a result, enables them to avoid similar errors in future procedures.

*Source:* Case study provided by Poland for the OECD Symposium: “Mapping out Good Practices for Integrity and Corruption Resistance in Procurement,” Paris, 29-30 November 2006.

IMSS could consider implementing this good practice for large or sensitive contracts. For example, it could co-ordinate *ex ante* analysis with SFP, the procurement laws entitling its OIC to intervene and review the procedure without any party request if it considers it appropriate. Through *ex ante* analysis *proprio motu*, possible infringements can be identified and resolved in a timely and efficient manner. Disputes can thus be avoided, as well as the obligation to cancel and restart whole procedures. In addition to increasing the fairness and competitiveness of the procedure, such activities are helpful in avoiding similar errors in future procedures.

## Proposals for action

In addition to the proposals identified in Chapter 10 on the subject of verbal debriefings and proposal evaluations, IMSS could consider the following actions. Doing so would enhance the transparency of the review and remedy system in place and reduce the number of formal complaints against its procurement procedures:

1. Regularly performing analysis of past complaints sustained by the OIC so as to identify areas of opportunity to improve the procurement procedures and mechanisms.
2. Implementing self-correcting actions to identify and resolve in a timely and efficient manner potential infringements to the procurement legal framework and to the solicitation document. This could be achieved, for example, by maximising the participation of civil society in public tendering, particularly social witnesses. *Ex ante* analysis for large or sensitive contracts could also be implemented, with potential co-ordination with the SFP and its OIC located in IMSS.
3. Engaging with the SFP in order to explore ways of increasing transparency by publicising on Compranet – in a timely and user-friendly manner – the resolutions of the complaints and relevant statistics. An effective search engine could also be provided to facilitate investigation.

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## *Chapter 13*

### **Ensuring integrity throughout IMSS' public procurement cycle**

*This chapter highlights the risk of corruption in the pharmaceutical and health care sector. It describes the efforts made by Mexico and the Mexican Institute of Social Security (IMSS) to fight corruption and wrongdoing in procurement. The chapter also discusses the need for IMSS to complement its current discipline-based management with a value-based strategy. Various tools and mechanisms are outlined to strengthen prevention, detection, monitoring and management of corruption risks (e.g. red flags, transparency in the price of medicines and enhanced whistleblowers' protection) in IMSS' procurement and distribution activities.*

## Introduction

Public procurement is the government activity most vulnerable to waste, fraud and corruption. This is due to its complexity, the size of the financial flows it generates, and the close interaction between the public and the private sectors. Experience has shown that the health sector is particularly vulnerable to corruption, especially in relation to the supply of drugs and medical equipment. In Mexico, the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* – IMSS) is the largest single public purchaser of pharmaceuticals and other medical supplies. Hence, the risks of fraud, abuses and corruption are latent. Indeed, recent anecdotal cases of corruption in the procurement function of IMSS show that anti-corruption mechanisms were inefficient.

IMSS has recently taken an effective proactive approach against bid-rigging through collaboration with the Federal Competition Commission (*Comisión Federal de Competencia* – CFC) and the OECD, including building its capabilities. However, safeguarding the integrity of the procurement process and preventing corruption in IMSS is generally perceived as the entire responsibility of the Internal Control Office (*Órgano Interno de Control* – OIC), the operational extension of the SFP located within each federal public entity. There is no evidence of an anti-corruption programme currently being in force. Participation of procurement staff in a preventive, on-going process appears to be limited. In addition, the procurement legal framework does not appear to provide the necessary tools to properly prevent and combat corruption in public procurement. A value-based strategy combined with the existing discipline-based approach could further strengthen integrity in IMSS procurement processes.

## Awareness of corruption risks

### ***Corruption risks in public procurement in the pharmaceutical sector are particularly high and can have significant impacts***

Pharmaceutical expenditure and drug procurement account for 20-50% of public health budgets in developing countries (Chène, 2009). Moreover, the pharmaceutical industry is one of the least competitive. Therefore, the amount of money concerned, the lack of structural competition and the intrinsic risks of corruption in procurement processes make of the procurement of medicines a high-risk area of corruption. Specifically, weak governance systems and lack of transparency expose countries to higher corruption risks in the regulation, selection, procurement, promotion, distribution and sales of essential medicine (Chène, 2009).

The impact of corruption in the pharmaceutical sector is highly relevant as it has a three-fold impact:

- *Health impact*: the government capacity to provide access to good-quality essential medicines is reduced by the waste of public resources through the purchasing of expensive or non-essential products.
- *Economic impact*: public sector procurement agencies waste the budget by purchasing over-priced products instead of good-quality, less-expensive versions of the same product. Funds may be mismanaged, which impacts national health budgets and contributes to shortages of medicines.
- *Government image and trust impact*: inefficiency and lack of transparency reduce the credibility of public institutions and affect public perception and confidence on the government capacity (WHO, 2006).

Corruption can occur at any stage of the process, distorting decisions on the selection of the process (direct award rather than public tendering), type and volume of supplies needed, purchase prices and selection criteria. Vian (2002) identifies some of the corruption risks under different types of procedures as follows:

- Open tender: Corruption can occur when confidential information on different supplier' bids is selectively disclosed, allowing particular bidders inside information.
- Direct awards: Corruption may arise when the assessment of quality and reliability are unfair and influenced by bribes.
- Limited invitation: There may be opportunities for extortion and bribery during the back-and forth price discussions with firms.

Common corruption practices on the procurement of the health sector mostly include collusion<sup>1</sup> and bribes to public officials, and can result in severe financial losses for the buying organisation. A recent investigation of the CFC revealed bid-rigging practices among some suppliers to IMSS. As a result of that investigation, six pharmaceutical companies (as well as several individuals who had acted on behalf of such companies) were fined in January 2010 for a total of MXN 152 million (approximately USD 12 million), the maximum amount allowed by the competition law applicable at the time in Mexico (OECD, 2012).

Table 13.1. **Types of corruption in the health sector procurement**

Area or process	Types of corruption and problems	Indicators or results
• Construction and rehabilitation of health facilities	<ul style="list-style-type: none"> <li>• Bribes, kickbacks and political considerations influencing the contracting process</li> <li>• Contractors fail to perform and are not held accountable</li> </ul>	<ul style="list-style-type: none"> <li>• High cost, low quality facilities and construction work</li> <li>• Location of facilities that does not correspond to need, resulting in inequities in access</li> <li>• Biased distribution of infrastructure favouring urban- and elite focused services, high technology</li> </ul>
• Purchase of equipment and supplies, including drugs	<ul style="list-style-type: none"> <li>• Bribes, kickbacks and political considerations influence specifications and winners of bids</li> <li>• Collusion or bid rigging during procurement</li> <li>• Lack of incentives to choose low cost and high quality suppliers</li> <li>• Unethical drug promotion</li> <li>• Suppliers fail to deliver and are not held accountable</li> </ul>	<ul style="list-style-type: none"> <li>• High cost, inappropriate or duplicative drugs and equipment</li> <li>• Inappropriate equipment located without consideration of true need</li> <li>• Substandard equipment and drugs</li> <li>• Inequities due to inadequate funds left to provide for all needs</li> </ul>

*Source:* Vian, Taryn (2002) for USAID and MIS, “Sectoral Perspectives on Corruption: Corruption and the health sector”, November, summary.

Bribes can also occur at any stage of the medicines supply chain. In procurement, they can manifest in: *i)* bribery of public officials to gain a monopoly position at the tendering stage or providing procurement contracts; *ii)* not holding accountable suppliers who fail to deliver; or *iii)* by gratuitous payment to a person made for referral business (WHO, 2008).

Common weaknesses among countries include a lack of guidelines on conflicts of interest for all functions across pharmaceutical systems (WHO, 2010) and lack of transparency on the methods used to determine the volume of drugs needed. Furthermore, the difficulty of monitoring price and quality of drug products often materialises in poor management, frequent stock-outs and overstocks of other medicines (CGDEV, 2006).

Furthermore, health sectors often lack the management skills to write the technical specifications, supervise competitive bidding and monitor and evaluate contract performance. If the specifications are too vague, there is more discretion for procurement officers to open

the door for bribes to influence the selection. If they are too narrow or strict, they may limit competition, becoming a sort of “tailor-made” call for tender.

The low awareness of the risks of corruption among IMSS procurement officials could be reversed by a dedicated campaign. However, there appears to be no awareness-raising campaign in IMSS, specifically targeting the risks of corruption in the procurement process. In order to encourage awareness of those risks and enhance integrity in the procurement process, IMSS could develop such a campaign, taking into account the aforementioned elements. Raising awareness is the first stage in developing a fully-fledged strategy against corruption.

## Corruption prevention under the Mexican legal framework

### *The Mexican legal framework regulating integrity of the procurement function in IMSS has some limitations*

The Mexican legal framework applicable to public procurement in IMSS includes the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público – LAASSP*), the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas – LOPSRM*) and the Federal Anti-Corruption Law on Public Procurement (*Ley Federal Anticorrupción en Contrataciones Públicas – LFACP*) passed in June 2012. With the inclusion of the LFACP, the legal framework now directly addresses issues of corruption, and fraud, thus enhancing integrity in the procurement process. However, the scope of the legal framework is limited with regards to monitoring the procurement process. Furthermore, it does not compel procuring agencies to include references to fraud and corruption, conflict of interest and other unethical behaviour in the tendering documentation.

The criminalisation of public servants who partake in corrupt practices is covered in other applicable laws such as the Federal Law on Administrative Responsibilities of Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos – LFRASP*) and the Federal Penal Code. The LFRASP aims to enhance the legality and integrity of public servants' performance of their administrative duties. This law establishes the administrative faults, the procedure to take legal action, and the modality and degree of sanctioning to be applied to public servants. It also establishes the responsibilities for Mexican federal entities to set up special units where complaints can be filed, and to take permanent preventive actions to ensure legislative compliance.

Specifically for the procurement function, the LFRASP stipulates the following prohibitions for procurement officials:

- prohibition from contracting with any person who performs a public function, or with any company in which such person participates;
- prohibition from contracting with any person that has been prohibited from holding a job, position or commission in the public administration;
- abstaining from intervening in any situation which may create any personal or business-related conflict of interest;
- prohibition from participating in any act or procedure where integrity might be compromised;
- prohibition from exercising any form of influence peddling to former public servants, up to one year after they concluded their public function; and
- prohibition from inhibiting whistle-blowing or the filing of a complaint.<sup>2</sup>

Moreover, important legal reforms were made to enhance integrity in public procurement procedures. The LFACP, signed by the Mexican President on 9 June 2012, outlines changes to reinforce the position of Mexican entities to combat corruption in procurement by including the following:

- Penalties and liabilities to both Mexican and foreign individuals and entities for infringing the law during their participation in any federal procurement process, applying to other related professions that may affect integrity in the public procurement process; including but not limited to public servants. Mexican individuals and entities incurring in corruption in international business transactions are equally liable (Article 9).
- Acts such as influence, bribes, collusion, shams, omission, evasion, filing false information, and forgery are considered infringements among others (Article 8).
- Penalties for violation of the law consist of fines and legal incapacitation (*inhabilitación*) from the pertinent working sector for periods ranging from 3 months to 8 years for individuals and 3 months to 10 years for entities (Article 27).
- Pleading guilty and co-operation in investigation diminishes sanctions up to 50%, if the plead takes place within 15 working days after the following the notification of the administrative disciplinary proceedings (Articles 20 and 31).
- Identities of whistle-blowers shall remain confidential (Article 10).

In addition, amendments have been proposed to the Federal Penal Code (*Código Penal Federal*), enhancing protection of whistle-blowers and their families. It focuses on maintaining the confidentiality of the whistle-blower's identity, reassigning them another position in the public service, and diminishing the sanctions in case of confession of collaborative felonies.

Similarly, there is an initiative to reform the LFRASP to stimulate whistle-blowing by increasing the liability and sanctions for public servants who inhibit it, allowing anonymous reporting, and preventing suspension of public servants subject to an investigation procedure. Finally, the General Administrative Manual on Acquisitions, Leases and Services outlines integrity as a main principle to observe in procurement procedures.

## Prevention through a value-based strategy

### ***IMSS could change the culture within the organisation by adopting a preventive approach through a value-based strategy combined with the existing compliance-based approach***

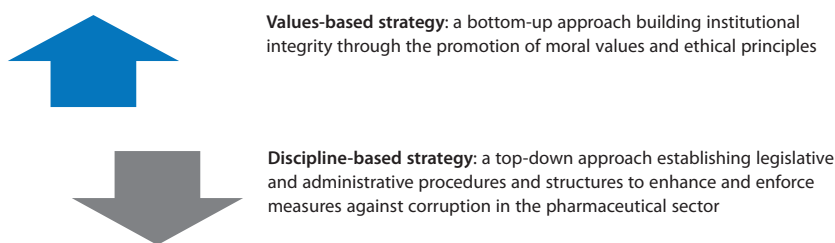
Combating corruption and promoting good governance in the pharmaceutical sector requires a long-term strategy for action. According to the OECD Principles for Integrity in Public Procurement (OECD, 2009), four key elements need to be in place to enhance integrity and foster corruption prevention, namely: *i*) transparency; *ii*) good management; *iii*) prevention of misconduct, compliance and monitoring; and *iv*) accountability and control.

Since April 2011, IMSS has been employing the so-called Reliability System (*Sistema de Confiabilidad*) to determine the high operational risk posts that may be the source of nepotism and corruption. The introduction of this system has been a step forward in enhancing the human resources function and assessment of candidates. It includes a psychometric exam and interview to assess candidates' competencies and skills, using a points system to determine the compatibility between the post and the candidate.

However, there is no evidence of a comprehensive anti-corruption programme currently in force in IMSS. Also, participation of procurement staff in a preventive, on-going corruption-preventive process appears to be limited. At this time, safeguarding the integrity of the procurement process and preventing corruption is perceived to be the responsibility of OIC, who must investigate and sanction such occurrences. Hence, integrity enhancement essentially relies on a corrective approach based on sanctions.

Effective prevention of corruption is not only influenced by the controls and policies implemented in the organisation, but also by its culture. While enhancing the implementation of the national legal framework, promoting awareness on the potential for corruption in medicines procurement systems and its impact on the health system functioning is highly relevant for building national capacity for sustaining good governance (WHO, 2010). Raising awareness of the risks and impacts of corruption and the need to pursue appropriate counter measures entails a culture of prevention within the institution. Active involvement and commitment from public servants is imperative to maintain an environment that stimulates integrity and rejects corruption. As such, the discipline-based strategy currently present in Mexico and in IMSS needs to be complemented with a values-based strategy (Figure 13.1).

Figure 13.1. **Good governance in the pharmaceutical sector**



Source: Based on World Health Organization (2010), *Good Governance for Medicines. Progress Report for 2010*, WHO Press, Geneva, [www.who.int/medicines/ggm/en/](http://www.who.int/medicines/ggm/en/).

The performance of a national assessment on transparency and vulnerability of the medicines procurement system and regulatory framework is a first step to tackle down corruption. The second one is to develop and implement, via a consultative process, national ethical frameworks promoting good governance in the public pharmaceutical sector. This should be followed by a third step to socialise such a framework through training national officials on good governance principles in the sector (WHO, 2006). Enforcement activities and community education should be combined with the adopted anti-corruption strategies.

The Chilean experience on reforming their drug and medical supply system is a helpful example on how to shift from a rules-based system to one grounded in transparency and good incentive structures. The main element of the reforms were: *i)* introducing electronic bidding for pharmaceuticals; *ii)* reform of the government-run system to change its mandate to procurement agent for hospitals and other providers who define drug priorities; and *iii)* information dissemination and clear understanding that pharmaceutical procurement would be under scrutiny. The reform reduced the asymmetries between the providers and procurers of pharmaceuticals. It produced clear and fair rules resulting in bids from a broader spectrum of companies and lower prices for government hospital and clinics, accounting an overall saving of pharmaceutical purchases of USD 4 million (CGDEV, 2006).

As discussed above, integrity enhancement is considered in IMSS to be related to the imposition of sanctions through a corrective approach rather than preventive. Attempts

to promote integrity in a non-corrective, non-prosecuting manner are therefore limited. Improving communication with the personnel targeting the prevention of corruption could help change the culture at IMSS. Opening new channels of communication within employees as well as towards OIC could enhance participation in the process. Appropriate training on the importance of prevention to tackle corruption could assist in implementing an on-going process of involvement and commitment to ensure the integrity of the public function (Box 13.1).

### Box 13.1. Integrity training in Germany

The Federal Procurement Agency is a government agency which manages purchasing for 26 different federal authorities, foundations and research institutions that fall under the responsibility of the Federal Ministry of the Interior. It is the second largest federal procurement agency after the Federal Office for Defence Technology and Procurement. The Procurement Agency has taken several measures to promote integrity among its personnel, including the support and advice by a corruption prevention officer, workshops and training dealing with corruption and rotating its employees.

Since 2001, it is mandatory for new staff members to participate in a corruption prevention workshop. With the help of a prosecutor from the district prosecution authority, they learn about the risks of getting involved in bribery and the briber's possible strategies. Another part of the training deals with how to behave when these situations occur, for example, by encouraging them to report it ("blow the whistle"). Workshops highlight the central role of employees whose ethical behaviour is an essential part of corruption prevention. In 2005, the target area of the workshops was enlarged to include not only induction training but also on-going training for the entire personnel. The involvement of the Agency's "Contact Person for the Prevention of Corruption" and the Head of the Department for Central Services in the workshops demonstrated to participants that corruption prevention is one of the priorities for the agency.

Another key corruption prevention measure is rotating staff after a period of five to eight years in order to avoid prolonged contact with suppliers, as well as improve motivation and make the job more attractive. However, rotating staff members is still difficult in the Agency. Due to a high level of specialisation, many officials cannot change their organisational unit, their knowledge being indispensable for the work of the unit.

*Source:* OECD (2007), *Integrity in Public Procurement: Good Practice from A to Z*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264027510-en>.

### ***IMSS could strengthen the content and uptake of its Code of Ethics***

At the individual level, core values provide guidance for the judgment of public servants on how to perform their tasks in daily operations. A code of conduct puts the values and ethical standards into effect (Box 13.2). IMSS has a code of ethics in place stating the core values of the institution as the expected conduct of the public servants. However, it neither provides specific guidelines for behaviour. It also does not assist public servants in dealing with situations of conflict of interest, bribery or influence peddling. Similarly, there is no formal procedure on the specific conduct that is deemed appropriate when interacting with suppliers. While general verbal suggestions are made to public servants on avoiding close contacts with suppliers, no specific guidelines are in place to monitor or report improper relationships.

### Box 13.2. Adopting and implementing a code of ethics for public procurement in Italy

Consp is a company entrusted with information technology activities for Italy's Ministry of the Economy and Finance (MEF). It is also responsible for the e-procurement system. It has recognised that public procurement is highly exposed to conflicts of interest and corruption, and has thus introduced a Code of Ethics. This Code of Ethics sets standards for Consip's personnel as well as anyone who co-operates with the company, including employees, consultants, suppliers, the Ministry of Economy and Finance and other stakeholders. It provides general standards of behaviour which must be respected in activities with Consip.

The Code of Ethics contains several provisions for standards of behaviour in the following areas:

- general rules on ethics and behaviour and on relations with suppliers and stakeholders;
- conflict of interest;
- gratuities;
- interaction with the public administration, civil society, politics and the media;
- confidentiality of information and documentation.

The Code has put in place internal controls to evaluate the compliance with the Code and verify periodically that corporate procedures, organisation and management of the company are in conformity with existing laws and regulations. To support compliance and application of the Code, the Office of Compliance was established with the following functions:

- communication and interpretation of the Code;
- verification of the effective application of the Code, and in case of violations;
- recommendations of appropriate measures to comply with existing laws and regulations;
- information to the Heads of departments in case of inappropriate behaviour in order to allow adopting adequate measures.

*Source:* OECD (2006), "Transparency in Public E-Procurement: The Italian Perspective", OECD Papers, Vol 5/10, OECD Publishing, Paris, [http://dx.doi.org/10.1787/oeed\\_papers-v5-art36-en](http://dx.doi.org/10.1787/oeed_papers-v5-art36-en).

IMSS could benefit from strengthening its code of ethics in order to specify guidelines and procedures to prevent unethical or corrupt practices. A more detailed description of the standard of conduct expected from procurement officials – specific restrictions and prohibitions in particular – helps ensuring that officials' private interests do not improperly influence the performance of their duties and responsibilities. Potential conflicts of interest can relate, for example, to personal, family or business interest, gifts and hospitality, or disclosure of information (OECD, 2007). IMSS could take advantage of modernising its code of ethics and re-defining the standards of behaviour expected from IMSS public servants.

### ***IMSS could further promote an integrity-prone environment by encouraging reporting of corruption***

The risk of corruption is substantially higher in organisations where reporting misconduct and corruption is neither encouraged nor protected. Facilitating the reporting of misconduct can substantially help monitor compliance and detect misconduct. A clear set of rules and procedures for public servants to follow, as well as protection should be available to reporting officials. An organisational environment which is perceived as safe stimulates reporting,



as public servants feel free to report irregularities with sufficient confidence that their job, physical integrity or family would not be compromised by doing so. A reporting environment could be promoted by implementing mechanisms that encourage reporting and assure public servants confidentiality of their identities and that no retaliation will be taken against them.

Although the LFACP has improved the legal framework by defining wrongdoings (Article 8 and 9) and sanctions (Article 27) to be applied in a timely manner, and emphasises maintaining the confidentiality of the whistleblower's identity providing a solution for retaliation, the law still does not explicitly prohibit retaliation. In IMSS, reporting is stimulated through the use of mailboxes. However, concerns have been raised by IMSS during the OECD interviews in Mexico about these mailboxes and about the non-existence of a real reporting environment. Furthermore, mistrust exists on the outcome of reporting.

Furthermore, IMSS raised concerns about public servants' ideas about reporting and on the approach they take towards it. Anonymous reporting is possible at IMSS and will lead to an investigation. Some misuses have however been reported, some public servants using such reporting to prejudice other colleagues with whom they have personal conflicts. This significantly reduces the efficiency and validity of this mechanism. Mistrust therefore exists and no effective mechanism is currently in place for reporting fraudulent, corrupt, or unethical behaviour.

An integrity-prone environment could be promoted in IMSS by implementing mechanisms that encourage reporting while assuring confidentiality and protection against retaliation. Specific practices could be adopted within IMSS to guarantee whistle-blowers' protection. Communication should be improved within IMSS in order to resolve personal conflicts under the appropriate channels. Training and education on the notion of integrity and the purpose of reporting could be adopted by IMSS to modify the organisational culture in the organisation. The whistle-blowing protection mechanism should ensure protection from victimisation and retaliation. At the same time, it should protect public servants from irresponsible and unethical whistle-blowing that could damage their reputations and careers due to false allegations (WHO, 2006).

### ***IMSS could manage potential conflicts of interest in its procurement activities through implementing specific standards and procedures***

The interaction between procurement officials and suppliers is always a source of concern in the procurement function and one of the areas of highest risk of corruption in procurement. For that reason, a number of OECD countries require procurement officials to declare their assets and potential conflicts of interest. In Mexico, public servants are obliged to declare their assets when taking-up and quitting a public position, as well as annually while exercising it.<sup>3</sup> Upon the public servants' approval, the assets declaration may be publicly disclosed.<sup>4</sup> As stated earlier, conflicts of interest are regulated by the LFRASP which obliges public servants to abstain from intervening in any situation which may arise any personal or business-related interest.<sup>5</sup>

Procurement staff in IMSS communicated to the OECD that there is no formal procedure outlining appropriate conduct for interacting with suppliers. It seems that, in general, verbal suggestions are made to public servants on avoiding close contact with suppliers. With the exception of what is necessary for the proper development of the procurement process, procurement agents are recommended not to interact with suppliers, for example, through sharing personal telephone numbers, meeting privately with suppliers, accepting gifts, etc. Nevertheless, no specific procedure or guidelines are in place for monitoring or reporting improper relationships.

However, well-defined integrity standards and conflict of interest rules do not preclude the possibility of regular, structured dialogue between procurement officials and industry. The OECD Principles for Integrity in Public Procurement (OECD, 2009) highlights the importance of this dialogue between the public and private sector so as to keep up-to-date with market developments and achieve the best outcomes at a reasonable price. Therefore, IMSS would benefit from encouraging specific kinds of interaction with industry and suppliers, using a clear set of rules on integrity and management of conflicts of interest. IMSS could develop specific guidelines for procurement officials to identify and manage conflicts of interest and set up a mechanism by which officials can obtain advice and support in case of doubts.

***It is essential for IMSS to develop mechanisms to monitor risks of corruption***

At this time, there is no formal mechanism for monitoring risks of corruption in IMSS, neither red flags nor alert mechanisms to assist procurement officials in detecting and tackling corruption in a timely manner during the procurement process. Deviations from IMSS standard procedures indicate a potential “red flag”. However, such irregularities in the procurement procedure are generally only detected through audits performed by the OIC, whose conclusions may lead to sanctions against faulty public servants. No alternative mechanisms or red-flags are in place which allow for the rapid detection of a corrupt practice so that action can be promptly taken.

Public servants’ awareness could be raised by identifying potential risks of corruption and developing alert mechanisms which explicitly typify potential corruption activities, such as an unusual inflation of costs, bypass of controls or strange arrangements with a particular supplier. IMSS could develop specific guidelines detailing potential “red flags” for each stage of the procurement procedure. These red-flags would assist the public servants on preventing, identifying, monitoring, mitigating and reporting possible corrupt activities (Box 13.3).

**Box 13.3. Red flags for procurement corruption**

Recognising the risk of procurement corruption through “red flags” helps to prevent and detect it. Examples of “red flags” are:

- Physical losses
- Manipulation of data
- Incomplete management/audit trail
- Budget overspends
- Unusual invoices (e.g. format, numbers, address, phone, VAT number)
- Duplicate/photocopied invoice
- Round sum amounts invoiced
- Sequential invoice numbers over an extended period of time
- Lack of supporting records
- Unusual increases/decreases
- Unusual relationship with suppliers
- Photocopied documents
- IT-controls of audit logs disabled
- IT-login outside working hours
- Vague description of goods/services to be supplied
- High number of failed IT logins
- Favoured customer treatment
- Interest/ownership in external organisation
- Non-declaration of interest/gifts/hospitality
- No process identifying risks (e.g. risk register)

*Source:* Chartered Institute of Public Finance and Accountancy (CIPFA) Better Governance Forum (2011), “Procurement Fraud Briefing”, Chartered Institute of Public Finance and Accountancy, London.

## Specific integrity risks with medicines

### *Increasing transparency in the price of medicines reduces the risk of corruption*

Experience in OECD countries has shown that an additional way for IMSS to prevent corruption is through enhanced transparency in the price of medicines in the organisation, including price of patented medicines negotiated in the whole Mexican health care sector. A key element for transparency in pharmaceutical procurement is to make price information publicly available. Having access to the prices paid by drug procurement agencies and distributors provides a standard against which to measure other procurements. Oversight and scrutiny can take place if the agency procures drugs at very different prices than those publicised, creating a deterrent for bribes and kickbacks that inflate the cost. For example, the United States' of America Supply Chain Management System established an online catalogue of prices for items procured under long-term supply contracts negotiated for anti-retrovirals and other commonly needed products, directly promoting price transparency to deter corruption (Vian, 2010).

The Argentinean experience is also relevant on the effect of publicising hospital procurement prices to constrain corruption. The beginning of the adoption of data collection showed a fall on the prices and on its dispersion. However, further analysis demonstrated that prices fell in anticipation that they would be reported and not as consequences of procurement officers learning from the information. The Argentinean case also sheds light on the fact that the impact of information by itself is insufficient to deter corruption if there are no investigations, reprimands or additional scrutiny when a hospital is overpaying for certain supplies. If there are no incentives for efficiency or integrity, procurement officers become used to reporting prices with the confidence that no further consequences will exist for poor or negligent performance (Savedoff, 2010).

IMSS could adopt a strategy to enhance transparency in medicine's prices in its procurement processes. Moreover, IMSS could explore benchmarking those prices with other Mexican health entities such as the State Workers Institute for Social Security and Services (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado – ISSSTE*) and Mexican Petroleum (*Petróleos Mexicanos – PEMEX*).

Furthermore, country benchmarking of prices – i.e. comparing the prices paid by IMSS with global median prices paid for identical products – is a helpful tool to assess adequate pricing and act in consequence. Experience demonstrates that the collection and publication of prices should lead to investigations and the corresponding sanctions in case of irregularities. There will be no deterrence of corruption if there is no accountability or concrete action in response to the facts evidencing corruption. Transparency and accountability could be reinforced by increasing the levels of reporting compliance, improving the reliability and accuracy of the collected data and assuring consistent, reliable access to disclosed information in a practical format (Vian and Waning 2010). The exchange of information with other buying organisations further improves the quality and efficiency of such a benchmark. However, careful assessment should take place to determine if public disclosure of such information may facilitate collusion between the suppliers, in which case, the information should not be released outside appropriate collaborating buying organisations.

### *There are risks of misappropriation in IMSS' drugs distribution system*

Once drugs have been procured, they must be efficiently delivered through the supply chain to the ultimate consumers. Cost-effective strategies should be employed to safeguard drug supply and avoid diversion focus on physical protection and security. Risk analysis should be performed for dispatch and transportation. Emphasis should be added

on information management to detect diversion of supply from public to private channels (Vian, 2010). Around the world, due to under-financed and badly managed systems, poor record keeping and ineffective monitoring and accounting mechanisms, large quantities of drugs and medical supplies are stolen from central stores and individual facilities, and diverted for resale for personal gain in private practices or in the black market.

Stolen medicines are a severe situation for IMSS. There have been 222 complaints to the public prosecutor for theft of drugs, surgical instruments and material. The Federal Superior Audit (*Auditoría Superior de la Federación*) has received several reports of shortages and illegal sale of anti-retroviral medicines.<sup>6</sup>

Experience shows that during the distributional phase, a useful strategy to tackle corruption in drugs supply is to help detect the diversion of the drugs through batch monitoring. Each product delivered from the manufacturer to the warehouse is assigned a unique code identifying the channel of distribution (either public or private). Suspected leaks in supply can be investigated by tracing the batch number and checking that the distributional channel is the correct one, evidencing leakage. IMSS could secure its distribution of medicines by creating such a mechanism. It could also make the messages printed on the drug packaging stronger, for example by using “Health sector product, not for sale. If you have paid for this item, it was stolen.” This type of public-private collaboration to deter drug diversion could assure IMSS increased access to public services by reducing theft of public supplies. This way, manufacturers also assure their regular non-discount, market prices (Vian, 2010).

### ***Promoting industry and suppliers' own integrity standards and programmes enhances integrity in their relationship with IMSS***

Evidently, in most cases of corruption in public procurement, suppliers play a crucial role. Therefore, it is essential that anti-corruption measures address that side of the responsibility. The Mexican procurement legal framework has a limited scope concerning suppliers' potential role in fraud and corruption. They do not define responsibilities, accountabilities, and sanctions for suppliers that engage in fraudulent or corrupt practices. Sanction of private parties is limited to administrative faults during the procurement procedure rather than tackling corruption. In other words, the legal framework mainly verifies suppliers' compliance with the procurement laws and regulations rather than combating corruption. It focuses on the supplier's administrative faults and omissions, which may lead to a suppliers' temporary debarment (up to five years) from participating in public tender procedures.

The LFACP stipulates larger fines to suppliers who partake in corruption and/or disqualifies them from participating in procurement procedures. In both situations, a maximum fine of 35% of the amount of the contract may be imposed. If the benefits earned illicitly surpass the quantity of the fine, a larger fine will be imposed reaching a maximum of 55% of the amount of the contract.

Many countries are moving the sole criminalisation of companies to inducing them to develop their own programmes to prevent corruption. For example, the Corporate Sentencing Guidelines in the United States represented a new approach to induce publicly traded companies to create ethics programmes, codes of conduct, effective training and whistle-blower systems. The incentive offered by the guidelines is that if a company is convicted of corruption, the judge must take into account the efforts the company has made to maintain integrity. This can result in a significant reduction in the civil penalties the company would have to pay. The private sector is also energetic in many parts of the world in proactively developing their own anti-corruption programmes and setting standards through self-regulation. Evidently, IMSS does not have the leading role in Mexico in

developing integrity and accountability standards for businesses. However, IMSS could engage with certain suppliers to explore ways to induce them to develop their own standards and programmes to enhance integrity in their relationship with IMSS.

### Proposals for action

In order to further promote integrity and fight corruption in its procurement process, IMSS could adopt the following actions:

1. Developing an awareness-raising campaign of the risks posed by corruption in procurement, and developing a long-term strategy for combating corruption and promoting good governance in the pharmaceutical sector.
2. Strengthening its code of ethics in order to specify guidelines and procedures to prevent unethical or corrupt practices. The code could include a more detailed description of the standards of conduct expected from procurement officials when interacting with suppliers.
3. Developing specific guidelines for procurement officials to identify and manage conflicts of interests and to ensure their private interests do not improperly influence the performance of their duties and responsibilities. This may involve establishing mechanisms for officials to obtain advice and support when in doubt.
4. Improving communication with personnel regarding inadequate conduct by opening up new channels of communication within the organisation as well as with OIC (potentially through an intranet site).
5. Developing specific guidelines and tools on “red flags” to assist procurement officials in identifying, monitoring and reporting improper activities for each stage of the procurement process.
6. Providing appropriate integrity training on the importance of prevention of corruption and reporting of misconducts. This will assist an on-going process of involvement and commitment to ensure the integrity of the public function.
7. Improving communication in order to resolve personal conflicts through appropriate channels, rather than through reporting mechanisms focusing on improper practices and corruption.
8. Adopting practices and rules to protect whistle-blowing against retaliation while protecting public servants from irresponsible and unethical whistle-blowing that could damage their reputations and careers due to false allegations.
9. Adopting a strategy to enhance transparency in the price of medicines it acquires, as well as exploring benchmarking those prices against other Mexican health entities such as the Ministry of Health, ISSSTE and PEMEX.
10. Securing its distribution of medicines through batch monitoring via a unique code that identifies the channel of distribution and facilitates the investigation of stolen drugs. IMSS could also make the messages printed on the drug packaging stronger, for example by using “health sector product, not for sale. If you have paid for this item, it was stolen.”
11. Engaging with the health industry and suppliers to explore ways to encourage them to develop their own integrity standards and programmes to enhance integrity in their relationship with IMSS.

## Notes

1. Supplier collusion, also known as bid-rigging, is an important integrity risk in the procurement cycle. However, it is not addressed in detail herein as it was subject to a distinct OECD review in collaboration with IMSS. The report “Fighting bid rigging in public procurement in Mexico” (OECD, 2012) provides the OECD assessment of the legislation and practices governing IMSS procurement as well as actions considered by IMSS to implement the OECD recommendations.
2. LFRASP, Article 8.
3. LFRASP, Article 37.
4. LFRASP, Article 40.
5. LFRASP, Article 8 (XI).
6. [www.jornada.unam.mx/2011/02/24/sociedad/044n1soc](http://www.jornada.unam.mx/2011/02/24/sociedad/044n1soc).

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## *Chapter 14*

### **Fostering accountability through transparency and civil society scrutiny**

*This chapter describes how the Mexican Institute of Social Security (IMSS) discloses procurement information proactively through a variety of web-based tools (including an innovative portal) as well as through citizens' requests for information. It also describes how civil society scrutiny of its procurement activities is facilitated through the use of "social witnesses".*

## Introduction

Transparency in the procurement process supports a level playing field for suppliers and plays a vital role in achieving value for money in government operations. There are various means of promoting transparency which include: *i)* increasing the level of competition; *ii)* providing adequate tools to enhance the effectiveness of review and remedy systems; *iii)* ensuring access to information on procurement processes and results; and *iv)* promoting the adequate participation of civil society. This chapter will concentrate on this last aspect of transparency: encouraging non-governmental organisations, the media and citizens to scrutinise public procurement as a means of complementing traditional accountability and control mechanisms.

The participation and consultation of civil society in policy making activities and public access to related information have become a high priority among governments and public entities. In fact, access to information in Mexico has been at the core of the government agenda for many years. Various laws have been created for that purpose, such as the Federal Law on Transparency and Access to Government Public Information, making Mexico one of the most advanced open governments in terms of transparency laws.

The ability of citizens, civil society and other non-state actors to demand better governance depends on their access to information and the degree to which they can effectively act on this information. For public administrations, openness has become an essential component in reducing waste, preventing corruption and restoring trust. However, openness is needed, not only in terms of laws and regulations, but also in terms of attitude and commitment from stakeholders. Governments could enable civil society organisations, media and the general public to scrutinise public procurement through the disclosure of public information.

Due to the position of the Mexican Institute for Social Security (Instituto Mexicano del Seguro Social – IMSS) in Mexico’s social and economic context, a transparent and streamlined public procurement is required. In 2009, IMSS provided health and social insurance for 45% of the Mexican population and was one of the biggest buyers of the Mexican Federal Government. It spends an average MXN 30.7 billion (USD 2.6 billion) per year. In order to improve transparency through access to information, IMSS has recently renovated its online transparency portal. Yet, there is still room for improvement. IMSS needs to establish clear guidelines in order to make information publicly available as well as to ensure consistency, impartiality, accessibility and easily understood information across the different portals. In addition, IMSS could develop further mechanisms to strengthen civil society participation throughout the procurement process.

This chapter examines IMSS’ efforts towards enhancing access to information as a means to achieve transparency and restore citizens’ trust. In addition, it assesses IMSS’ need to increase transparency through citizens’ participation and scrutiny.

## **The Mexican Open Government Framework: One of the most advanced among OECD countries**

Freedom of information laws (or “access to information legislation”) are key in enhancing transparency and accountability in the procurement process and in public entities’ activities. The 2002 Federal Law on Transparency and Access to Government Public Information created the Federal Institute of Access to Information and Data Protection (Instituto Federal De Acceso a La Información y Protección de Datos – IFAI) as an entity to promote access

to and dissemination of public information. This initiative was reinforced in 2007 when access to information became a constitutional right in Mexico. This legislation applies to the three central government branches (executive, legislative and judicial) and to all public entities using total or partial federal funding, including IMSS. The law makes the proactive disclosure of information mandatory in a wide range of areas (Table 14.1).

Mexican laws provide that information must be published through different online portals such as an organisation's or government's website, Compranet (e-procurement website) and the "Portal de Obligaciones de Transparencia". Recently, the Ministry of Public Administration (Secretaría de la Función Pública – SFP) has developed a new IT tool, the Portal ciudadano ([www.gob.mx](http://www.gob.mx)). With this portal, it is possible to search a particular topic and be redirected to different online portals which have the information.

Table 14.1. Proactive disclosure of information by the central government in selected countries, 2010

Country	Budget documents	Annual ministry reports, including accounts	Audit reports	All government policy reports	Commercial contracts over a stipulated threshold	List of public servants and their salaries	Administrative data sets	Information describing the types of records systems and their contents and uses	Information on internal procedures, manuals and guidelines	Description of the structure and function of government institutions	Annual report on freedom of information law	Freedom of information procedural information
Australia	●	●	●	○	●	○	●	●	●	●	●	●
Brazil	●	●	●	●	●	●	●	●	●	●	○	○
Canada	●	●	●	○	●	○	●	●	●	●	●	●
Chile	●	●	●	○	●	●	○	○	○	●	●	●
Denmark	●	●	●	●	○	○	●	●	●	●	○	○
France	●	●	○	●	○	○	○	○	○	●	●	●
Italy	●	●	●	●	●	●	●	●	●	●	●	●
Japan	●	○	●	○	●	○	○	●	○	●	●	●
Korea	●	●	●	●	●	○	●	●	●	●	●	●
Mexico	●	●	●	●	●	●	●	●	●	●	●	●
Russian Federation	●	○	○	●	○	●	●	●	●	○	●	●
Turkey	●	●	●	●	○	●	○	●	○	●	●	●
United Kingdom	●	●	●	○	●	●	●	●	○	●	●	●
United States	●	●	●	●	●	○	●	●	●	●	●	●

● Required to be proactively published by FOI law     
 ● Not required by FOI law, but routinely published     
 ○ Neither required nor routinely published

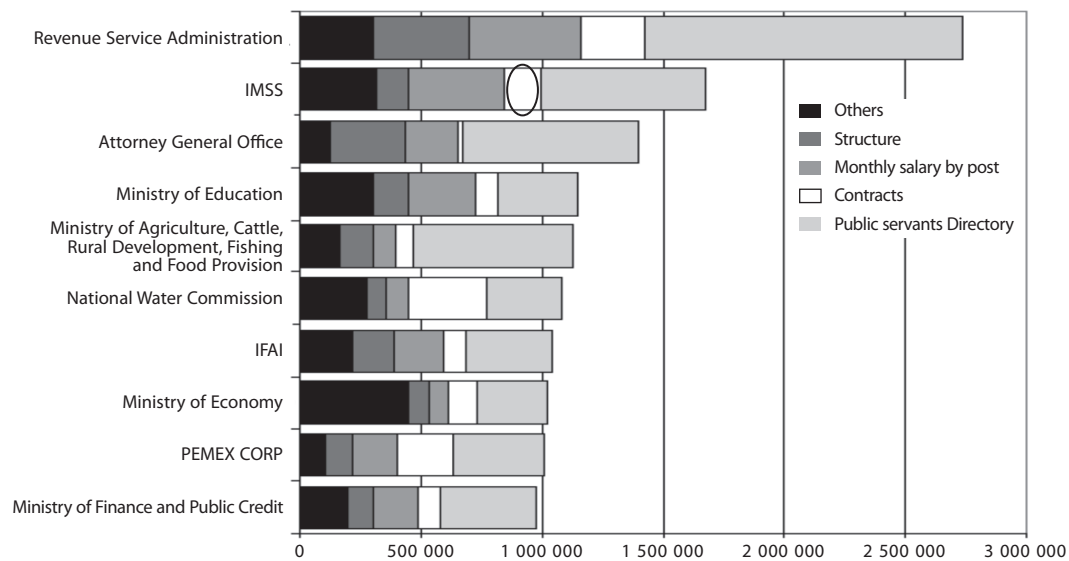
Notes: FOI = Freedom of information. Brazil is currently drafting laws on access to information. Some categories of information are required to be disclosed by laws other than FOI. Italy, Mexico, Turkey and the United Kingdom publish salary information for some public servants, such as managers who earn at the top of salary scales.

Source: Adapted from OECD (2011), *Government at a Glance 2011*, OECD Publishing, Paris, [http://dx.doi.org/10.1787/gov\\_glance-2011-en](http://dx.doi.org/10.1787/gov_glance-2011-en).

### ***IMSS is one of the Federal entities with the most visitors to the Portal de Obligaciones de Transparencia***

The Portal de Obligaciones de Transparencia publishes information such as the structure of the Federal entity, the number and value of contracts and the monthly salary of public servants. According to the IFAI, IMSS is the federal entity with the second highest number of visits to its online portal. However, information on contracts is not the main area of interest to the portal's visitors, but rather monthly salary by post (Figure 14.1).

Figure 14.1. **Federal entities with the highest number of visitors to the Transparency Obligations Portal, from 15 February 2010 to 4 August 2011**



Source: IFAI website, [www.ifai.org.mx/](http://www.ifai.org.mx/).

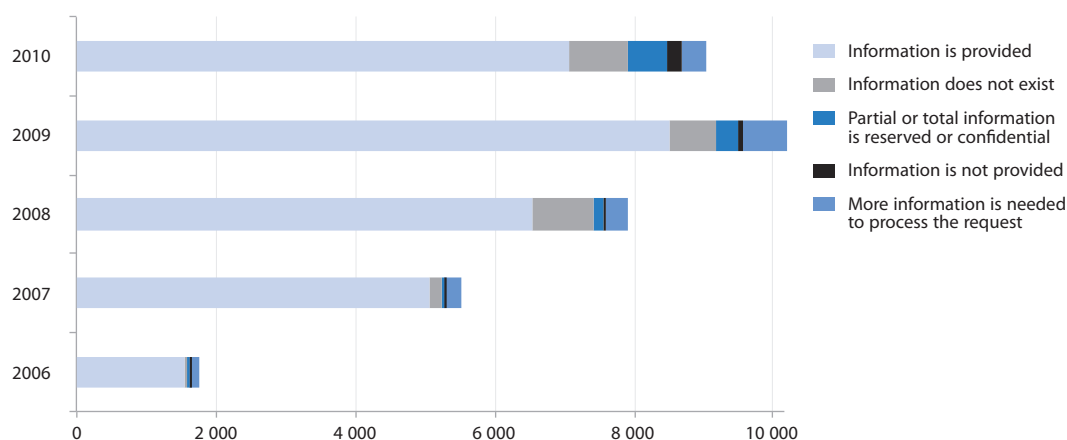
The Transparency Law empowers citizens to request specific information that has not been proactively disclosed. Data across the Mexican Public Administration has shown that the number of requests for information has increased substantially in the past four years. This can imply that the higher the level of awareness among civil society of its right to access information, the higher the willingness to use it.

The response to a citizen's request can be either positive (e.g. information is disclosed and provided to the requester) or negative (e.g. information is undisclosed). When disclosed, the information can be provided by electronic means or on paper. Between 2006 and 2010, the number of responses increased by 411%, being significantly higher in 2009. Between 2008 and 2010, in 81% of the cases, IMSS provided the information that was requested. In 29% of the cases, information was not provided because it was reserved, confidential, did not exist or because, in some cases, the request was incomplete. Evidence shows that, while the percentage of information provided decreased, the percentage of undeliverable, confidential information increased (Figure 14.2).

The federal law requires maximum disclosure of information from all Mexican entities. However, in some cases, information can be classified as reserved or confidential i.e. not subject to disclosure. There are specific conditions under which information cannot be made publicly available, such as commercial, industrial or banking secrets, previous enquiries and judicial or administrative files that are still in process. Nevertheless, it is impossible

to determine the scope of the exception or the criteria used by the person responsible for making the final decision on the disclosure of the information. In some cases, concerns have been raised about the potential unlawful use of withholding information. The criteria used to determine whether information can or cannot be published needs to be clearly identified and its scope of interpretation as narrow as possible.

Figure 14.2. Request of information by type of response. total for 2006-10



Source: INFOMEX, [www.infomex.org.mx](http://www.infomex.org.mx), accessed 31 August 2011.

### Mexico's procurement legal framework provides high levels of availability of procurement information for all public organisations, including IMSS

The interface between the public and the private sectors, where governments and state-owned enterprises buy a large number of goods, services and public works, is considered to be one of the government activities most vulnerable to fraud and corruption. In order to prevent this, civil society is demanding more openness from government and its entities.

#### *Public procurement information for all public organisations is made available on Compranet*

Compranet provides free information, including tender procedures, contracts awards history, and objections filed with the procuring entity's Internal Control body. In addition to Compranet, information can also be found on the website of a tendering authority. Supplying accurate information and access to civil society may prove to be a challenge despite the government's intent to promote the proactive disclosure of information and to provide the necessary technology and tools (websites). This is due to the manner in which public information is collected and its consistency. The quality of the information disclosed could be improved in order to better allow stakeholders to monitor and evaluate the procurement process. Information made publicly available is not always easily comprehensible, up-to-date or complete (for example, information on bid objections (*inconformidades*) is available only until 2003 and does not provide access to the complete file), and some information differs between different federal websites.

Furthermore, information on the procurement process (e.g. annual procurement programmes on acquisitions leases and services, calls for tender and its amendments, transcripts of the clarification meetings, testimony of social witnesses) could always be put on Compranet. This is particularly the case for all documents relating to contract award. It

is possible to find a contractor's name and the contract amount. However, no information is disclosed that allows understanding the reasoning behind the procurement agent's decisions, such as the basis on which the contract was awarded to that particular contractor. Amounts of subsequent modifications to the contract are also not available. In order to be as transparent as possible, IMSS could enable access to more procurement information, making sure that it is consistent, impartial, readily accessible and easily understood.

Table 14.2. **Overview of IMSS platforms to publish procurement information**  
(as of September 2011)

	IMSS NEW WEBSITE	<i>Transparencia en Adquisiciones del IMSS</i>	COMPRANET	<i>Portal de Obligaciones de Transparencia</i>
Website	<a href="http://www.imss.gob.mx/comprasimss">www.imss.gob.mx/comprasimss</a>	<a href="http://compras.imss.gob.mx/">http://compras.imss.gob.mx/</a>	<a href="https://compranet.funcionpublica.gob.mx">https://compranet.funcionpublica.gob.mx</a>	<a href="http://portaltransparencia.gob.mx/pot/">http://portaltransparencia.gob.mx/pot/</a>
Entity responsible to publish the information	IMSS	IMSS	IMSS	IMSS
Entity responsible to oversight the publication of information	IMSS	IMSS	SFP	IFAI
Information published				
Information on the entity's structure				✓
Procurement Legal framework		✓	✓	
Manuals and guidelines for suppliers	✓	Not yet online		
Procurement annual plans	✓	✓	✓	✓
Pre-solicitation documents	✓		✓	
Solicitation documents		✓ (Notice)	✓	
Minutes resulting from the clarification meetings	Not possible to access		✓	
Electronic submission of bids			✓	
Justification for awarding a contract			✓	
Contract modifications				✓ (sometimes and little detail)
Statistics and database related to past procurement	✓ (From 2006)	✓ (From 2009) Only amounts	✓	✓
Payment information	✓			
Blacklisted suppliers registry			✓	
Social witness testimony		✓ (From 2008)		
Possibility to file an objection			✓	
Objection's documents				

### ***IMSS has developed an innovative portal to ensure transparency and citizens' oversight on its procurement***

In 2011, IMSS created a new online portal (<http://compras.imss.gob.mx>) which replaces the procurement segment of its transparency online portal established in 2003/2004 ([www.imss.gob.mx/transparencia](http://www.imss.gob.mx/transparencia)). The new portal was created with the intention of enhancing public accountability and transparency and improving the understanding of IMSS expenditures. It is based on the Transparency Law and inspired by the US portal <http://usaspending.gov/>. IMSS personnel were key participants in its development. Responsibility for its deployment has been given to the unit already developing and maintaining the main IMSS portal. This allows the integration the two portals in terms of content and consistency, ensures synergies in their development and maintenance, avoids overlaps and provides a clear and coherent image to the portals' users. The resulting IMSS procurement transparency portal is operational since April 2011 and targets a wider public audience. It presents IMSS public procurement activities in a user-friendly manner, and provides a full picture on how, on what and why IMSS spends its resources, as well as the benefits achieved through these activities.

The portal not only focuses on a more advanced external audience – suppliers with a high number of public tenders – but also appeals to citizens in general. Currently the IMSS portal includes a database, which sorts and provides specific information (e.g. price paid and quantity procured) based on the type of acquisition, service or public work. It also includes procurement planning and solicitation documents, as well as other relevant information. Details concerning suppliers, such as the value of contracts and non-performance, will also be available in the future. Nonetheless, IMSS could include additional information, such as contract modifications and list of contracts awarded to each supplier, in order to further increase transparency. Plans also include the live transmission of key stages of the bidding process, as well as the possibility for any citizen to subscribe and receive automatic email alerts on public procurement. The goal is to strengthen the use of social media networks in connection with the IMSS portal in order to share relevant information on its overall procurement process, such as information on savings achieved.

In addition to providing important information to suppliers and the wider public, the portal functions as a knowledge tool for internal stakeholders such as local entities (*delegaciones*) and high specialty medical units (*Unidades Médicas de Alta Especialidad – UMAEs*). Its intention is to offer them useful information, such as reference prices and past procurement conditions, in order to enhance the efficiency of the process and increase competition.

With this new portal, IMSS will have the challenge of incorporating the same kind of information provided in different portals such as the Portal de Obligaciones de Transparencia and Compranet. IMSS must ensure that the versions of a same solicitation documents published through different websites are identical, as any small change can result in confusion in the process, needs for clarifications meetings and amendment to the solicitation documents and, in some cases, an unsuccessful public tendering procedure. IMSS could arrange for adequate co-ordination in order to avoid duplication of work and ensure consistency of the information and documentation available through the different websites.

## Social scrutiny

### ***Strengthening the role of the social witness and increasing the participation of social stockholders is needed to improve civil society scrutiny***

Citizen participation has long been a subject of active discussions in the field of political and administrative sciences. The term itself is often defined as a citizen action that influences or seeks to influence policy decisions, or as an action that incorporates the demands and values of citizens into public administration services. For procurements that involve important risks of mismanagement and possible corruption, governments could consider the possibility of involving representatives of civil society, academics or end-users in scrutinising the integrity of the procurement process. “Direct social control” mechanisms encourage their involvement as external observers of the entire procurement process or of key decision-making points. This practice of “direct social control” completes traditional accountability mechanisms under specific circumstances. Strict criteria could be defined to determine when direct social control mechanisms may be used, in relation to the high value, complexity and sensitivity of the procurement, and for selecting the external observer (Young Suh, 2007).

In this regard, Mexico is also one of the most advanced countries. Since 2004, Mexico has implemented the role of the social witness to facilitate the participation of civil society as external observers in public procurements processes. Following the 2009 amendments to the Law on Acquisitions, Leasing and Services (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público – LAASSP*), social witnesses are now legally required to participate in all stages of the procurement process for major procurements exceeding regularly adjusted thresholds. In 2010, these thresholds were of MXN 299 million (approximately USD 23 million) for public tendering for goods and services and of MXN 598 million (approximately USD 47 million) for public tendering for public works. If deemed appropriate by the SFP, social witnesses can also take part in all the stages of the procurement process in lower value public tendering procedures, direct award procedures or invitations to at least three people.

Social witnesses’ functions are to propose strategies that improve the transparency, the impartiality and compliance with the legal framework, reporting any illegal acts they may find. They are elected by the SFP through a public call and must meet various requirements stated in the LAASSP. The SFP keeps a registry of the social witnesses and evaluates their performance, upon which they may revoke their participation if found unsatisfactory.<sup>1</sup> The buyer entity requiring the participation of a social witness asks the SFP to designate one to oversee the process.

As of August 2011, SFP had registered 39 social witnesses for public procurement projects, five Civil Society Organisations<sup>2</sup> and 34 individuals.<sup>3</sup> This number has grown exponentially, from 5 social witnesses in 2005 to 39 in 2010. In that year, they participated in 123 procurements valued at MXN 183 billion (approximately USD 14.3 billion) (SFP, 2011). Despite the increase in the number of social witnesses, they remain few for the total number of public tendering procedures in the federal government in that year, i.e. almost 96 000 such procedures for goods, services and public work. This can partly be explained by the fact that the legal requirements to apply and be registered as a social witness are numerous and difficult to meet, limiting the total number of social witnesses available. As shown in Table 14.3, IMSS ranks second as the public entity using the most social witnesses, preceded by Mexican Petroleum (*Petróleos Mexicanos – PEMEX*).



Table 14.3. **Entities using the highest number of social witnesses: Appointments and total value of public tenders for goods, services and public works**

Entity	2008		2009		2010		2008-10	
	Number of appointments	Contract value (USD million)	Number of appointments	Contract value (USD million)	Number of appointments	Contract value (USD million)	Number of appointments	Contract value (USD million)
Total Federal Government	194	31 077	127	23 375	123	14 501	444	68 953
Federal Electricity Commission (CFE)	5	8 528	11	1 313	22	3 594	38	13 434
<b>IMSS</b>	<b>13</b>	<b>1 440</b>	<b>8</b>	<b>2 795</b>	<b>33</b>	<b>4 755</b>	<b>54</b>	<b>8 990</b>
PEMEX, excluding PEMEX Petroquímica	151	19 771	62	15 406	26	2 983	239	38 160
Ministry of communications and transports	3	434	4	467	2	179	9	1 080
Other federal entities	22	904	42	3 394	40	2 991	104	7 289

Source: Secretaría de la Función Pública (SFP) (2011), “Quinto Informe de Labores” [Fifth Activities Report], [www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to\\_informe\\_labores\\_sfp.pdf](http://www.funcionpublica.gob.mx/web/doctos/temas/informes/informes-de-labores-y-de-ejecucion/5to_informe_labores_sfp.pdf), accessed 7 April 2013.

At the end of a procurement process, the social witness will issue a final testimony including their comments and recommendations, which will be published on the IMSS website as well as on Compranet. However, evidence shows that these testimonies are not easily accessible. For example, IMSS does not publish this information on their website in a clear and consistent manner and the testimonies are mostly inaccessible. However, in the new transparency portal, all testimonies from 2009 to date are accessible. Testimonies from NGOs (such as Contraloría Ciudadana para la Rendición de Cuentas) are also available on this transparency portal, as well as on the NGOs website.<sup>4</sup>

As rightly pointed out by SFP: “the monitoring of the most relevant procurement processes of the federal government through social witnesses have had an impact in improving procurement procedures by virtue of their contributions and experience, to the point that they have become a strategic element for ensuring the transparency and credibility of the procurement system” (SFP, 2010). An OECD-World Bank Institute study (2006) indicates that the participation of social witnesses in procurement processes of the Federal Electricity Commission (*Comisión Federal de Electricidad*) had already brought it savings of approximately USD 26 million in 2006 and increased the number of bidders by over 50%.

The OECD agrees with the importance of the social witness presence to provide technical advice as well as oversight during the procurement process. Nevertheless, concerns<sup>5</sup> have been raised regarding the extent to which a social witness can express an opinion and to make significant changes. Even though they are appointed by SFP, the buying entity finances the participation of the social witness. There is little evidence showing social witnesses reporting potential cases of corruption during a procurement process.<sup>6</sup>

According to the law, social witnesses do not have the authority to stop a procurement process or to revoke a decision. They may express opinions, but do not have any influence or right to make decisions. When a social witness raises concern over a possible corrupt action during a procurement process, their opinions and concerns are recorded in their testimony. IMSS takes these opinions and concerns into account and addresses them. Evidence shows,

however, that IMSS addresses the concerns of the social witness sporadically, rarely responding to them.<sup>7</sup> This gives the impression that the organisation does not take witness recommendations seriously. IMSS could make the social witness role more influential and reinforce witness oversight during the procurement process by providing a written response to every suggestion or comment received from social witnesses and allowing their inclusion in the final testimony. IMSS could even amend its Guidelines on Acquisitions, Leasing and Services (*Políticas, Bases y Lineamientos en Materia de Adquisiciones, Arrendamientos e Servicios – POBALINES*) to reflect that obligation.

Furthermore, evidence shows that the same social witness can participate in more than one process in the same entity, increasing the risk of familiarity between the procurement agents and the potential suppliers (Table 14.4). Evidence also shows that some public tendering procedures have been flagged as irregular after having been endorsed by social witnesses. These social witnesses are still part of the list provided by SFP.<sup>8</sup>

Table 14.4. List of social witnesses used by IMSS from 1 January 2010 to 15 June 2011

Person/Institution	Number of assignments
Transparencia Mexicana, A.C.	20
ONG Contraloría Ciudadana, A.C.	4
Lic. Gerardo Mendoza Briseño	3
Ing. José Francisco Ponce Córdoba	2
Lic. José Antonio Nava Gutiérrez	2
Lic. Pascual Sánchez Torres	2
C.P.C. Alejandro Frank Díaz	2
C.P. Fernando Dablantes Camacho	1
Ing. Enrique Alcántara Gómez	1
Ing. Héctor Alejandro Genis Juárez	1
Ing. Javier Delgado Serrano	1
Ing. Jorge Javier Jiménez Alcaraz	1
Instituto Mexicano de Auditoría Técnica, A.C.	1
Lic. Roberto Zavala Chavero	1
<b>Total 1 January 2010 to 15 June 2011</b>	<b>42</b>

Source: Information provided by IMSS.

Apart from the use of social witnesses, IMSS uses three other mechanisms to enhance civil society participation, such as IMSS “oportunidades social comptroller”, citizen oversight and social observers other than social witnesses. Only social observers are related to the procurement process. IMSS social observers consist of volunteers taken from the public who are interested in participating in various acts of public tenders made by the IMSS central level. They will attend as an observer to monitor transparency in the development of the acts, the application of laws and the impartiality and honesty of public servants responsible for their implementation. At present, it is difficult to measure the use of social observers and the impact of their participation on the procurement process.

Governments are seeking to inform, consult and engage citizens to enhance the quality, credibility and legitimacy of their decisions. In order to guarantee civil society’s adequate participation and broad engagement in procurement monitoring, information could be complete, objective, reliable, relevant, and easy to understand and find. Making large quantities of

information available does not ensure that the information is of good quality. Similar to other Mexican public entities, IMSS is making enormous efforts to improve transparency through access to information and civil society participation. However, in order to achieve transparency through the use of different online portals, IMSS needs to ensure that the information disclosed is reliable, consistent and easily understood by both potential suppliers and social stakeholders in general.

## Proposals for action

In order to enhance transparency of its procurement function and its scrutiny by civil society, IMSS could consider the following proposals:

1. Ensuring that the information made available through these portals is consistent, impartial, reliable, accessible and easily understood.
2. Organising the website's data and information for easier use and access, and ensuring that it complies with the law regarding information disclosure.
3. Providing a more standardised/consistent approach to classify information as reserved or confidential.
4. Implementing a survey and publishing indicators to measure suppliers' perceptions of the procurement process in terms of transparency and in relation to other federal entities.
5. Engaging with SFP in order to explore ways to strengthen the transparency and independence of social witnesses.
6. State in its guidelines on acquisitions, leasing and services (POBALINES) that every suggestion or comment from social witnesses will receive a written response that will also be published in the testimony.
7. Increasing the use of social observers and measuring their impact in order to further encourage citizens to participate in and oversee IMSS procurement processes.

## Notes

1. LAASSP, Art. 66.
2. *i)* Academia de Ingeniería, *ii)* Academia Mexicana de Auditoría integral y al Desempeño, *iii)* ONG Contraloría Ciudadana para la rendición de cuentas, *iv)* Transparencia Mexicana Capitulo Nacional de Transparencia Internacional en México, and *v)* Instituto Mexicano de Auditoría Técnica.
3. [www.funcionpublica.gob.mx/unaopspf/tsocial/tsocial.htm](http://www.funcionpublica.gob.mx/unaopspf/tsocial/tsocial.htm).
4. [www.contraloriaciudadana.org.mx/documentos/TESTIMONIO\\_IMSS011.pdf](http://www.contraloriaciudadana.org.mx/documentos/TESTIMONIO_IMSS011.pdf).
5. Such concerned were identified in interviews during the mission to Mexico and other documentation such as <http://contralinea.info/archivo-revista/index.php/2008/11/01/testigos-sociales-la-simulacion/>.
6. <http://contralinea.info/archivo-revista/index.php/2008/11/01/testigos-sociales-la-simulacion/>.
7. Interviews with social witnesses, OECD field mission to Mexico August 2011.
8. <http://contralinea.info/archivo-revista/index.php/2008/11/01/testigos-sociales-la-simulacion/>, and [www.funcionpublica.gob.mx/unaopspf/tsocial/tsocial.htm](http://www.funcionpublica.gob.mx/unaopspf/tsocial/tsocial.htm).

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## **Part V**

### **Improving Public Procurement: IMSS' Plan of Action**



## *Chapter 15*

### **IMSS' plan of action to improve its procurement system**

*This chapter presents the three immediate priorities identified by the Mexican Institute of Social Security (IMSS) to address the OECD recommendations. Detailed actions are identified for each priority, as well as associated timeframe and responsible areas.*

In order to advance in the implementation of the recommendations proposed by the OECD review, IMSS in collaboration with the OECD identified three central themes as immediate priorities:

1. training and professionalisation of procurement officers;
2. development of information systems and procurement data; and
3. monitoring the performance of suppliers.

The first two were selected to increase fundamental capacity within the organisation and build solid foundations for subsequent initiatives. The third was deemed essential to improve the quality of services received by the population and the relationship with suppliers.

On this basis, IMSS established an *Action Plan for the Comprehensive Improvement of Procurement (Mejora Integral de las Compras – MIC)* through its Administration and Evaluation of Local Entities Directorate (*Dirección de Administración y Evaluación de Delegaciones – DAED*). This Action Plan provides actions to address specific OECD recommendations on the three themes above, as well as other identified deficiencies. It was validated at a roundtable held in Mexico City in November 2011 with the participation of the OECD, the lead reviewer from Italy, the Ministry of Public Administration (*Secretaría de la Función Pública – SFP*), various external observers (Mexican Institute for Competitiveness and Transparencia Mexicana) as well as numerous areas of IMSS (e.g. General Director, Personnel Unit, Organisation and Quality Unit, Administration and Evaluation of Local Entities Directorate, Legal Directorate and Directorate for Innovation and Technological Development).

The following areas of IMSS are responsible for implementing the Action Plan:

<b>CABCS</b>	Co-ordination of Procurement of Goods and Contracting for Services ( <i>Coordinación de Adquisición de Bienes y Contratación de Servicios</i> )
<b>CCA</b>	Co-ordination of Supply Control ( <i>Coordinación de Control del Abasto</i> )
<b>CGRH</b>	Co-ordination of Human Resources Management ( <i>Coordinación de Gestión de Recursos Humanos</i> )
<b>CO</b>	Organisation Co-ordination ( <i>Coordinación de Organización</i> )
<b>COCTI</b>	Co-ordination of Technical Control of Supplies ( <i>Coordinación de Control Técnico de Insumos</i> )
<b>COP</b>	Co-ordination of Process Optimisation ( <i>Coordinación de Optimización de Procesos</i> )
<b>CSI</b>	Co-ordination of Information Systems ( <i>Coordinación de Sistemas de Información</i> )
<b>DAED</b>	Administration and Evaluation of Local Entities Directorate ( <i>Dirección de Administración y Evaluación de Delegaciones</i> )
<b>DJ</b>	Legal Directorate ( <i>Dirección Jurídica</i> )
<b>DIDT</b>	Innovation and Technological Development Directorate ( <i>Dirección de Innovación y Desarrollo Tecnológico</i> )
<b>UMAEs</b>	High Specialty Medical Units ( <i>Unidades Médicas de Alta Especialidad</i> )
<b>UA</b>	Administration Unit ( <i>Unidad de Administración</i> )



<b>UOC</b>	Organisation and Quality Unit ( <i>Unidad de Organización y Calidad</i> )
<b>UP</b>	Personnel Unit ( <i>Unidad de Personal</i> )
<b>SFP</b>	Ministry of Public Administration, Inter-institutional working group ( <i>Secretaría de la Función Pública, grupo de trabajo interinstitucional</i> )

The Head of the Personnel Unit is designated as the project leader and together with the support from other relevant areas is responsible for the implementation of the proposals for action relating to human resources (particularly Chapter 5). The Head of the Administration Unit is designated project leader and together with the support from other relevant areas is responsible for the implementation of the proposals for action relating to suppliers (particularly, Chapter 11).

### **Comprehensive improvement of IMSS' procurement: Training and professionalisation of procurement officers**

#### **Programme to strengthen the institutional vision and the strategic position of the procurement function**

<b>Proposal for action:</b> Strategic planning from the staff of the Management Unit and dissemination of a common understanding on the Institute's vision. Furthermore, raising awareness on skills gaps within the Institute.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Develop an internal communication campaign presenting the mission, vision and achievements of the Institute, as well as the strategic procurement programme of IMSS through magazines, e-newsletters, posters, intranet, flyers and videos. Evaluate the results and, if required, implement further actions.	2 January-15 June 2012	CSI
Provide the course "Introduction to the Institutional Mission" to IMSS staff.	6-17 February 2012	CGRH
Provide the course "Introduction to the Institutional Mission" to new IMSS staff.	20 February-31 December 2012	
Carry out a diagnosis, at the local entity level, of potential areas of opportunity in technical and staff skills.	16 January-31 May 2012	
Conduct mandatory awareness workshops at the local entity level on strategic planning, detected areas of opportunities, as well as the professionalisation system of IMSS' procurement area.	1-29 June 2012	
Follow up these awareness workshops through videoconferences.	2 July-31 December 2012	
Publicise the main guidelines of the strategic planning of the Administration Unit, including its objectives, projects and policies, as well as the professionalisation system of IMSS' procurement area. <ul style="list-style-type: none"> <li>• send notices;</li> <li>• diffuse the awareness workshops in local entities;</li> <li>• Publicise the achievements.</li> </ul>	16 March-21 December 2012	CSI

**Status "A" (Confianza)**

<b>Proposal for action:</b> Entrust the management of the recruitment and selection process, including the design of job profiles and competencies frameworks, to the Human Resource Management (HRM) Unit in order to improve credibility and sophistication.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Develop an internal communication campaign to improve understanding of the consultant status "A" ( <i>Confianza</i> ) and of its professionalisation system through magazines, e-newsletters, posters, intranet, flyers and videos. Evaluate the results and, if required, implement further actions.	15 November-30 December 2011	CSI
Design the operating rules of the professionalisation system taking into account SFP's proposals and recommendations based on its experience.	2 January-30 March 2012	CGRH, SFP
Disseminate these rules across the normative bodies ( <i>órganos normativos</i> ) and local entities through quarterly notices in magazines and e-newsletters and through quarterly emails.	2 April-21 December 2012	CSI

**Implementation of the professionalisation system for procurement officers:  
Selection and recruitment of personnel**

<b>Proposal for action:</b> Open vacant positions for competition in order to send the right message on equity and merit.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Design a recruitment system which considers job vacancies in the procurement areas of the Institute.	2 April-31 May 2012	CGRH
Implement a recruitment process based on competencies and skills and considering equal opportunities, equity and merit.		CGRH, SFP
Revise and update the job profiles in co-ordination with the procurement areas and with SFP's participation.		CGRH, SFP
Publish notices advertising job vacancies through IMSS website, intranet, emails, magazines, e-newsletters and pay slips.	1 June-31 December 2012.	CSI
Publish the results of the stages of the recruitment processes for open vacancies through internet, emails and intranet.		CSI
Ensure budget support to immediately fill vacancies.	2 January-31 December 2012	CGRH
Recruit consultants ( <i>honorarios</i> ) currently working for IMSS as official positions.	7 May-31 August 2012	CGRH

**Implementation of the professionalisation system for procurement officers:  
Dissemination of the importance and impact of the procurement function  
and of the staff recruitment and selection mechanism**

<b>Proposal for action:</b> Open vacant positions for competition in order to send the right message on equity and merit.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Develop a communication campaign to raise staff's awareness of the importance of their activities in achieving IMSS' objectives; to make job vacancies, job profiles and the recruitment process known.	18 June-31 December 2012	CSI
Communication of successful experiences through magazines, e-newsletters, posters, intranet, flyers and videos. Evaluate and, if required, implement further actions.		
Issue communications to increase awareness of the recruitment, selection and hiring mechanisms to increase the transparency of the processes.		

**Implementation of the professionalisation system for procurement officers:  
Enhancing technical skills and directives**

<b>Proposals for action:</b> 1. Provide systematic training to all members of the Institute's procurement team (distance learning could be used to provide advice and supervision to the local entities). 2. Certifying procurement officials will be a way to reduce workloads, create career opportunities for the staff and contribute to the professionalisation in the Institute.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Redefine the roles of personnel in the procurement areas at a local entity level.	2 April-15 June 2012	CGRH
Carry out a diagnosis at the local entity level of potential areas of opportunity in technical and staff skills.	16 January-31 May 2012	
Take into account proposals and recommendations from SFP, based on its experience on the professionalisation of the procurement areas of the public administration, to enrich the local entities' diagnosis.		
Implement the training programme for IMSS' procurement areas. <ul style="list-style-type: none"> <li>• Update the staff on substantive themes related to procurement.</li> <li>• Establish the programme for Integral Training on Management Competencies and Skills of the procurement area which considers actions to increase productivity.</li> <li>• Certify IMSS procurement agents in co-ordination with SFP to minimise risks and position procurement as a strategic function in the organisation.</li> </ul> <p>Note: The programme includes the design of training material as well as the execution, evaluation and follow-up of each training event; taking into consideration SFP's training platform.</p>	2 April 2012-30 August 2013	CGRH, SFP
Publicise the training programme, send notices and publish the training events.	7 May-20 December 2012	CSI

**Implementation of the professionalisation system for procurement officers:  
Raising staff awareness on job security provided by the Institute  
to avoid high turnover levels**

<b>Proposal for action:</b> Open vacant positions for competition in order to send the right message on equity and merit.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Publish monthly employees' success stories, acknowledging their career experience and commitment.	2 April-31 December 2012	CSI
Develop a communication campaign on job security.		

**Implementation of the professionalisation system for procurement officers:  
Implementing a performance evaluation national system**

<b>Proposal for action:</b> Develop a performance management system by which IMSS systematically involves its employees in improving organisational effectiveness in the accomplishment of agency mission and goals.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Define the competencies performance model.	1-29 June 2012	CGRH
Develop an automated measurement system.	6 July-30 November 2012	
Define goals and performance indicators.		
Apply the performance evaluation.	2 January-28 February 2013	
Analyse and communicate the results.	1- 29 March 2013	CSI
Provide information on the performance evaluation mechanisms. In relation to the results further actions will be announced.	3 September 2012-28 February 2012	

### Implementation of the professionalisation system for procurement officers: Incentives and development

<b>Proposal for action:</b> Promotion should be based on personnel management skills, providing managers with fixed-term contracts with the possibility for renewal based on performance and capture skill sets that normally do not exist in the Institute.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Develop career planning for IMSS procurement agents, identify the knowledge and competencies to be developed or strengthened allowing access to positions with a higher level of responsibility and obtain the associated professional experience, while taking into account the proposals and recommendation of SFP based on its experience.	1 June-31 December 2012	CGRH, SFP
Publicise career planning through magazines, e-newsletters, emails, intranet, mural journal "compras", posters and flyers.	2 January-31 December 2013	CSI

### Implementation of best practices in procurement units

<b>Proposal for action:</b> Building capacity in procurement areas by sharing procurement best practices and management and training of staff.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Establish national meetings and workshops, potentially virtual, to exchange best practices based on the experience and talent of IMSS staff; revise and add elements of good practices to the SFP portal.	19 June-31 December 2012	CGRH, SFP
Hold seminars to exchange best practices with procurement agents of other federal entities as well as with national and international experts.		CGRH
Publicise specific cases of national and international best practices through magazines, e-newsletters and emails.		CSI

### Enhancing co-operation between the Personnel and Administration units

<b>Proposal for action:</b> There is no co-operation between the Personnel Unit and the Administration Unit.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Define the contact point and individual responsible for the helpdesk of the concerned units.	16 December 2011	UP, UA
Establish work strategies that allow taking immediate joint action. • Conduct monthly meetings to address challenges in acquisitions.	16 December 2011- 31 December 2012	
• Propose plans and programmes of continuous improvement for staff development and increase productivity through semi-annual (February and August) workshops.	1 January-31 December 2012	

## Comprehensive Improvement of IMSS' Procurement: Development of information systems and procurement data

### BUO

<b>Proposal for action:</b> Establish regional reference prices.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
A roundtable with SFP was created in order to: • Validate the methodology to carry out regional and local market research. • Train the staff of the local entities/UMAEs on the elaboration of market research.	Start: 24 November 2011 Duration: (120 days)	CABCS, CCA, SFP

- The regional reference prices will be used in the new version of the BUO system and in the development of framework contracts. This will create more transparency in procurement and the issuance of contracts associated with non-compliance and urgent requirements.
- Market research procedures were refined under the last revision to the LAASSP.
- Actions are strengthened to reduce as much as possible the use of urgent contracting

<b>Proposal for action:</b> Improve the functionality of the system in order to allow local entities to consult suppliers' quotes for each drug		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Implementation of the new version of the BUO system that allows this query.	Currently in pilot in five local entities and two UMAEs Nation-wide deployment in January 2012	CCA, DIDT
Validation of the BUO system by SFP.	Start: 24 November 2011 (ten days)	CCA, DIDT, SFP
<b>Proposal for action:</b> Train at the local entity level to increase the efficient use of the BUO system.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Distance training staff at a national level for the implementation of the new BUO system.	Start: Nation-wide deployment in the first half of January 2012	CCA, DIDT, UP
Train suppliers by local entities and UMAEs.	Start: Nation-wide deployment in January 2012	Local entities, UMAEs, CCA

### Integration of information

<b>Proposal for action:</b> Integrate the information of IMSS portal with other information management systems that are not integrated with each other, i.e. the integration of Compranet and other IMSS platforms.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
A working group composed of SFP and IMSS was established to integrate the new BUO platform.	Starting 24 November 2011 From August 2012: integration of Compranet and the new platform	DAED, DIDT, SFP

- The integration of the various information systems (Compranet-BUO-SAI-PREI) will reduce the current information inconsistency, the information varying depending on the system and the date it was extracted. With an integrated database, it will be possible to generate precise reports for taking decisions regarding the procurement and supply areas.

<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Determine the information required by the different internal and external areas and obtain a user-friendly design facilitating the exploitation of the large databases as well as the creation and the query of reports. <ul style="list-style-type: none"> <li>• Meetings with ORACLE's consultants to accurately identify the content to be integrated in each system acknowledge exactly the content of each system to be integrated</li> <li>• Define with exactitude the information to be captured by the systems</li> <li>• Harmonise with the additional institutional requirements</li> </ul>	Six months after the integration ne BUO-Compranet From August 2012: integration of Compranet and the new platform	DAED, DIDT, SFP

One of the objectives of the integration of the information system is to facilitate the consultation, generation of reports and exploitation of the databases, an essential output for decision making.

<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Modification, with the advice of SFP, of the internal processes to allow Compranet to be part of IMSS process flow.	Six months after the integration ne BUO-Compranet From August 2012: integration of Compranet and the new platform	DAED, DIDT, SFP

### Compranet

<b>Proposal for action:</b> Modernise the site to make access to information more user friendly and satisfy user's search needs.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
IMSS will identify the specific Compranet improvements required.	Start: 24 November 2011 Duration: 30 days for analysis and improvements)	CABCS, DIDT, SFP
Adapt IMSS' internal process to the new version of Compranet.	Start: 9 January 2012 Duration: six months	CABCS, DIDT, SFP
Test to ensure that Compranet is integrated with IMSS' processes.	Start: 9 July 2012 Duration: six months	SFP, DIDT, DAED
<b>Proposal for action:</b> Encourage the use of the different systems through awareness raising and training campaigns, including the use of advanced digital signatures (FIEL), so that procurement can be conducted electronically.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Periodic training of personnel to improve the use of Compranet through experts and the development of internal trainers to support local entities and UMAEs.	Ongoing, particularly when any change or improvement to the tool	SFP, CABCS, DIDT, UP
User training through videoconferences and tutorials. Incentivise suppliers to increase their use of Compranet.	Ongoing, particularly when any change or improvement to the tool	SFP, CABCS, DIDT, UP
Promote the necessary legal changes to allow the electronic signature of contracts through the advanced digital signatures (FIEL).	Start: 24 November 2011 Duration: six months	SFP, CCA, CABCS, DIDT
A working group was created to support the development of framework contracts as a clear, transparent and integrated mechanism to address shortages.	Start: 24 November 2011 Duration: six months	SFP, CCA, CABCS

### SAI

<b>Proposal for action:</b> Develop a comprehensive communication strategy to prepare and reassure the users of SAI at all levels of the information transfer to the new platform (PREI).		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Implementation of the project "Supply Chain IMSS v9.1 PeopleSoft" to operate the procurement processes in PREI-ABASTOS. This tool, which is recognised worldwide, has already been purchased by IMSS and the "AS IS" and "TO BE" identification process was completed in 2011. The stage of adaptation has started and implementation will start with the first local entity/UMAE in the 3 <sup>rd</sup> quarter of 2012 and will be completed throughout the organisation in the last quarter of 2012.	November 2011-December 2012	DIDT, DAED, Autonomous University of Coahuila (External consultant)
<b>Proposal for action:</b> Strengthen and enhance the capacity of the existing ERP platform to support the efficient running of the new functionalities once SAI modules are transferred to the platform.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
In parallel to the development and implementation of the Oracle Software, the communication systems (bandwidth, institutional network) will be strengthened to prepare the environment of the new system. Similarly, new computer equipment (PCs, printers, scanners) will be acquired for UMAEs and local entities in order have the strong systems required to support the powerful software in place.	During 2012 and in parallel with the establishment and deployment of the system.	DIDT, DAED, Autonomous University of Coahuila (External consultant)

## Comprehensive Improvement of IMSS' Procurement: Monitoring suppliers' performance

<b>Proposal for action:</b> Implement the performance evaluation system of suppliers with key performance indicators developed against the specificities of each risk and need.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Weekly meetings have been held with chambers of relevant industries to exchange opinions, seeking to improve the healthy business relationship.	In operation throughout the year, will develop specific agendas to advance by each subject	CABCS, CCA
Roundtable with SFP in order to use the methodology of supplier's performance evaluation as a starting point.	Starts: 24 November 2011 Duration: 15 days	CABCS, CCA, SFP
Modify internal processes to systematise the assessment of suppliers.	Starts: 5 January 2012 Duration: Three months	CABCS, CCA
Include quality performance criteria for suppliers who participate in procurement procedures under the "points and percentages" Model.	Starts: 8 December 2012 Duration: Three months	CABCS, CCA, COCTI
<b>Proposal for action:</b> Evaluate the appropriateness of implementing the use of the evaluation criteria for future recruitment.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Roundtable with SFP to determine the suitability of implementing mechanisms to establish "barriers to entry" to suppliers with a record of repeated non-compliance.	Starts: 24 November 2011 Duration: 30 days	CABCS, CCA, SFP, DJ
Modify internal processes to systematise the assessment of the supply.	Starts; 5 January 2012 Duration: 3 months	DAED
<b>Proposal for action:</b> In addition to ensuring not to breach the conditions of competition for existing contracts, the process could be slightly modified for the replacement of certain products in order to ensure that the ordered quantities are high enough to provide greater profitability by reducing the risks of non-delivery by suppliers.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Validation by each local entity and UMAE of their replenishment orders to ensure that the order volume will be appealing to the suppliers.	From 2011 was partially put in practice. In 2012 performance will be evaluated	Local entities, UMAEs, CCA
Authorisations to locally purchase all year goods with low volume of consumption and/or highly specialised. This action eliminates 25% of low amount replacement and subsequent processes, allowing focusing efforts on more important tasks.	From 2011 was partially put in practice. In 2012 will be extended	Local entities, UMAEs, CCA
Staff will be trained for purchases of low volume and amounts, with defined criteria.	Begins in December 2011	UP, CABCS, Local entities, UMAEs, CCA
<b>Proposal for action:</b> Establish a process where unexpected short-term shortages may be considered, in the first instance, the transfer of certain amounts to other units. Emergency procurement should only occur when such transfer is possible at the lowest cost or without risk that the unit will be unable to meet their operational needs		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
The new BUO platform will validate stocks in other units as well as local entity storage, before allowing the emergent procurement to activate. The PREI-ABASTOS will eliminate some of the problems to improve planning and decision-making.	Currently in the pilot phase in five local entities and two UMAEs. Nation-wide deployment in January 2012	CC in coordination with DIDT
Link the new BUO platform to Compranet to enhance transparency and to sort the procurement originated from non-compliance and emergency procurement.	Starts: 24 November 2011 Duration: Six months	CCA, DIDT, SFP
A mechanism that encompasses larger penalties to suppliers who do not comply, which may be compensation for expenses incurred, regardless of the penalties contended in the law.	Starts: December 2011 Duration: Three months	CABCS, CCA

## Monitoring and evaluation programme of the Comprehensive Improvement of IMSS' Procurement

<b>Observation:</b> To monitor the effectiveness of the actions taken to implement the MIC, particularly those related to raising awareness and training.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Design of the follow-up and evaluation model, taking into account the proposals and suggestions made by the Ministry of Public Administration.	1 October-30 November 2012	CGRH, SFP
Develop an automated follow-up and evaluation model.	3 December 2012-31 January 2013	CGRH
Identify follow-up and evaluation goals and indicators.	3 December 2012-31 January 2013	
Implement the follow-up and evaluation model	1 February-29 March 2013	
Present and inform findings.	1 April-30 April 2013	UP

## Normative Update Programme of the Comprehensive Improvement of IMSS' Procurement

<b>Observation:</b> Update the normative framework of the Integral Procurement Improvement Action Plan relating to human resources in order to put in place the right normative support to implement the actions.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Revise and analyse normative provisions.	2 July-28 September 2012	CGRH
Carry out necessary updates.	3 October-30 November 2012	
Register and publish the updated normative framework.	3 December-31 December 2012	UOC
Disseminate legal provisions.	2 January-28 February 2013	CSI

## Programme of Institutionalisation of Changes in Procurement Management

<b>Observation:</b> Ensure continuance of new modalities of management in acquisition areas.		
<b>Actions</b>	<b>Timeframe</b>	<b>Managing Unit</b>
Programme direction.	January-August 2012	UOC
Finalise reform to the structure of normative acquisition areas.	January-February 2012	CO
Amend the Organisation Manual of normative acquisition areas.	February-March 2012	
Modify structures and functions of acquisition areas in local entities (delegaciones) and UMAEs.	February-August 2012	
Modify the procedure manuals of the acquisition areas in local units and UMAEs.	March-August 2012	



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# Public Procurement Review of the Mexican Institute of Social Security

## ENHANCING EFFICIENCY AND INTEGRITY FOR BETTER HEALTH CARE

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