



Support for Improvement in Governance and Management

A joint initiative of the OECD and the EU, principally financed by the EU

Brief 20

August 2011

Public Procurement

Central Purchasing Bodies

CONTENTS

- The legal basis for CPB and framework agreements
- The rationale for establishing a CPB
- Typical product and service areas covered by a CPB
- Key operational issues for CPBs
- Important “lessons learnt”- risk and success factors



www.sigmaweb.org

This document has been produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union, and do not necessarily reflect the views of the OECD and its member countries or of beneficiary countries participating in the SIGMA programme.

This Brief provides an overview of the establishment and operation of a Central Purchasing Body (CPB) as defined by the EC Directives, and is based on SIGMA Paper 47 *Centralised Purchasing Systems in the European Union* (2010). This Brief focuses on CPBs that base their operations on the award and use of centralised framework agreements. The EC Directive provides a broader definition of the activities of CPBs.

The Legal basis for CPB and framework agreements

The Public Sector Directive 2004/18/EC includes specific provisions on central purchasing bodies which make it explicitly possible for member states to enact or maintain provisions in respect of central purchasing bodies in their national procurement legislation¹.

Definition: A Central Purchasing Body (CPB) is defined in the Public Sector Directive (“the Directive”) as a contracting authority that:

- acquires supplies or services intended for one or more contracting authorities; or
- awards public contracts for works, supplies or services intended for one or more contracting authorities; or
- concludes framework agreements for works, supplies or services intended for one or more contracting authorities.

EU member states may prescribe that contracting authorities purchase works, supplies or services from or through central purchasing bodies. It is therefore not mandatory to establish CPBs, but an option given to member states.

Deemed compliance: Article 11(2) of the Directive is of particular importance. It provides that contracting authorities that purchase works, supplies or services from or through a central purchasing body shall be deemed to have complied with the Directive insofar as the CPB has complied with it.

This means, for example, that when a framework agreement is awarded by a CPB in accordance with the provisions of the Directive, contracting authorities that purchase under the framework agreement will be deemed to have complied so far with the provi-

¹ The Utilities Directive 2004/17 EC contains similar provisions

sions of the Directive. Subsequent call-offs by the contracting authorities using the framework agreement awarded by the CPB will have to comply with the relevant provision in the Directive for the award of contracts subsequent to the framework agreement, but without going through the complete process of a standard procedure for the award of a public contract. Without this provision, all call-offs above the threshold values of the Directive might themselves be subject to award under the Directive.

Framework agreements

The Directive defines a framework agreement as:

"...an agreement or other arrangement between one or more contracting authorities and one or more economic operators the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular the terms as to price and, where appropriate, quantity envisaged."

The establishment and operation of a framework agreement takes place in two steps: firstly the award of the framework agreement to one or more economic operators, followed by the award of individual call-off contracts to one or more economic operators. This second step differs depending on whether the framework agreement concerns a single supplier or multiple suppliers. For further information on framework agreements please see *Procurement Brief 19 - Framework Agreements*, and SIGMA Paper 47.

It should be noted that the provisions on framework agreements apply equally to all procuring entities falling under the Directive, irrespective of their operational differences. A CPB, which by definition is a contracting authority, setting up a framework agreement for wide cross-public sector implementation, thereby enabling **other** contracting authorities to make call-offs, has to apply the same rules and procedures as an individual contracting authority, which only has the purpose of serving its internal users and clients.

The Rationale for establishing a CPB

The rationale for establishing and operating a centralised purchasing body (CPB) needs to be examined from various perspectives. The important stakeholders are:

- the **customers** of the CPB's services - the contracting authorities that either use the framework agreements operated by the CPB or purchase supplies or services acquired by the CPB. The customers are likely to be interested in effective and efficient procurement with value for money outcomes.
- the **suppliers** of the works, supplies and services either directly to the CPB or under the framework agreement – generally private sector economic operators. The suppliers are likely to be interested in the business opportunity and effective and efficient procurement.
- the **owners** of the CPBs – usually government ministries, associations of local authorities, and other public bodies representing taxpayers' interests. The owners may be interested in reduced public expenditure, increased value-for-money, and the realisation of certain important policy goals, such as those related to environmental or social issues, or to SMEs.

The main rationale for establishing a CPB is often described in the following terms:

“Large procurement volumes generate better prices.”

Under the right conditions, centralised procurement based on an aggregation of the purchasing needs of all of the CPB's customers provides very interesting business opportunities for the private sector. With larger procurement volumes, an increasing competition in the market normally follows, affecting prices and other terms in ways that are favourable to the contracting authority purchaser. An individual contracting authority will seldom have a procurement volume large enough to generate prices that are comparable to those obtained in a situation where an aggregation of needs among many contracting authorities has been made. The potentially large sales volumes that can be expected under centralised procurement mean that ***economies of scale*** can be exploited by economic operators.

For a centralised purchasing system (CPS) based on the award and management of framework agreements, the aggregation factor and its effect on prices have to be evaluated with respect to the type and subject matter of the framework agreement to be awarded.

“Transaction costs are reduced.”

From the perspective of contracting authorities, a full competitive procurement process, when compared with a simple call-off exercise, is normally associated with substantial transaction costs, in terms of time and expenditure, of managing the procurement process, from the first stage of defining the needs to the final stage of closing the file. Economic operators also incur significant transaction costs for participating in a tender. With centralised framework agreements, both contracting authorities and suppliers can expect a significant reduction of these costs. Furthermore, with reduced transaction costs within contracting authorities and economic operators, resources in terms of staff and time are freed for other more important functions.

However, as in the case of the effect on prices, the effect of aggregation on transactions costs incurred by both contracting authorities and the private sector cannot be generalised but must be calculated with respect to the type of framework agreement used. A call-off under a single supplier framework agreement will not entail any tendering costs (only transaction costs for the placing of the orders) while a multi-supplier framework agreement involving a mini-competition will create tendering costs both for the contracting authority and for the economic operators.

“Other benefits of a significant nature occur.”

Centralised purchasing systems may also offer advantages that cannot be directly expressed in economic terms. Arguments in favour of centralised purchasing arrangements include:

Increased administrative efficiency: Centralised and coordinated solutions offered by CPBs may assist in delivering required standardisation or increased administrative efficiency within the public administration, for example in the area of IT systems and software applications.

Capacity: CPBs may provide the expertise and capacity that many contracting authorities may lack, for example the capacity to prepare and carry out complex tenders in areas requiring specific product or market expertise.

Certainty: Professional, centralised purchasing provides certainty to contracting authorities in many key aspects - legal, technical, economic and contractual - thereby reducing the risks that otherwise would have been borne by the contracting authority, such as the risk of complaints, poor or insufficient quality of products, failure of suppliers, and inadequate contract terms.

Simplicity: Call-off arrangements give the procuring entity and its user departments the possibility, even without any professional procurement background, to contract with the economic operators on the framework for the acquisition of works, supplies and services.

Delivery of policy goals: Governments may use the CPBs as instruments for the execution of **policy goals** in specific sectors, such as promoting green procurement, innovations and SME participation in public sector tenders.

Arguments against centralised purchasing arrangements include:

Market concentration: Activities of CPBs may create a risk of market concentration and the development of monopolistic structures. The large volumes often involved in centralised procurement tend to favour large economic operators rather than small, new economic operators.

Reduction in opportunities for SMEs: CPBs often run tenders for large contracts and it is often the case that an SME will not be able to participate in its own capacity, since it is probably unable to meet the qualification criteria or to compete with large economic operators. Instead, SMEs may act as subcontractors or participate in consortia or in a tender where the purchaser has arranged lots of such a nature and size that it would allow SMEs to participate as tenderers in their own capacity.

Unresponsive: Framework agreements, due to their long duration (normally 2-4 years), can be relatively unresponsive, unless designed correctly, to ongoing changes in the market, thereby potentially neglecting important developments in market prices and technology. It is therefore important that the duration of the framework agreement be realistically set and, when motivated, that competition be maintained by the organisation of mini-tenders.

Uniformity: The uniformity of many framework agreements and the degree of standardisation constitute another concern. Framework agreements sometimes tend to offer a too restrictive approach, in particular on technical grounds, which make it difficult for contracting authorities to fully satisfy their own procurement objectives.

Typical product and service areas covered by a CPB

Works, supplies and services covered by framework agreements awarded by the CPBs should generally be of common interest to, and frequently purchased across, the public administration. The range of items normally covered by the CPBs' operations includes the following supplies and services (works contracts are more rarely awarded by CPBs):

- ICT products and services (computers, photocopiers, printers, servers, software);
- Telecommunications (TCL) products (networks, mobile phones, landline phones, telephone exchanges);
- Office furniture;
- Travel services;
- Office equipment and supplies;
- Vehicle and transport services;
- Fuel (for heating and transport) and electricity;
- Food (foodstuffs, meal tickets);
- Organisational and human resources development services.

See SIGMA Paper 47 for more details on the typical subject matter of a framework agreement.

In terms of purchasing volumes, the largest product area is generally ICT products. An interesting observation is that although many of the products and services could be considered to be technically comparatively uncomplicated and standardised, there are also areas of high technical and commercial complexity (such as advanced IT systems) that may be under the responsibility of a CPB. A CPB may very well offer both standardised products and services of non-strategic importance and products and services of significant strategic importance. In the latter case, the centralised arrangement is often driven by the owner's objectives to improve administrative efficiency and effectiveness within the public sector as a whole by ensuring interoperability and standardisation of the administrative systems used by contracting authorities.

Framework agreements managed by some CPBs

Central Purchasing Body	Product and Services
SKI, Denmark	Information technology, furniture, office equipment, energy, automobiles, spectacles, foodstuffs, catering centre equipment, electrical equipment, building materials, tools, timber, work clothes, cleaning services, research and laboratory equipment, temporary staff, consulting engineers, and management consultancy.
Hansel, Finland	70 framework agreements covering ICT procurement contracts (ICT hardware, software and services), procurement of administrative services (financial administration, organisational and human resources development, travel and conference management), procurement of materials and technical services (material and facility services, vehicle and transport services, office and energy supply services).
UGAP, France	The products and services are split into six groups: IT equipment, medical equipment, furniture, vehicles, respiratory masks, and services.
KSzF, Hungary	Info-communication, telecommunication, office equipment, e-government services, office furniture, paper and office supplies, vehicles, fuel, medical supplies and travel services.
Consip, Italy	Health care (e.g. ambulances, diagnostic equipment, services for managing health care equipment); fuel (for heating and transport) and electricity; office goods/equipment (printers, photocopiers, PCs, servers, software); transportation (car purchase and rental); Facility management (for offices, hospitals); telecommunications (networks, mobile phones, landline phones, telephone exchanges); furniture (for offices, schools, universities); insurance and financial services (credit cards); food (foodstuffs, meal tickets).

Source: SIGMA Paper 47, *Central Purchasing Systems in EU*

Key operational issues for CPBs

Should the use of Central Purchasing Bodies' Services be compulsory for the contracting authorities? In some countries, governments have made it mandatory for contracting authorities to buy certain works, supplies or services through or from a CPB. In other countries, it is up to the contracting authorities to use whichever source delivers the best “value-for-money”.

Proponents of a system under which contracting authorities should be forced, in principle, to use the CPB's services argue that this ensures a cost-efficient public sourcing and increases standardisation among contracting authorities. Critics argue that such a requirement weakens the incentive of CPBs to be user-friendly and creates a risk of monopolistic behaviour.

It is argued that one of the benefits of having a voluntary system is that it provides an incentive for CPBs to offer their customers favourable framework agreements and other services on competitive terms. If CPBs fail to do so, there will be no demand for their services and their own existence may be at risk. The benefit of a voluntary system is that it exposes the CPB to a form of competition, which stimulates it to offer attractive products whereby it creates the most value-for-money.

What organisational forms does a CPB take? The most common organisational form for CPBs appears to be the non-profit limited company, although a government agency model is also used. See SIGMA Paper 47 for more information on the types of organisational form for CPBs in the countries surveyed.

How should the operations of a CPB be financed? Many CPBs are funded through service charges. Two different variants are used: either contracting authorities pay a fee when call-offs are made or the fees are paid by economic operators when they invoice through the framework agreements. An alternative funding model is when CPBs are financed directly from government funds.

What is the importance of good customer and supplier relationships? The main objective of a CPB is to provide attractive and workable framework agreements. This requires strong involvement of the customers in the whole procurement process: determining the appropriateness of a specific product or service area to framework purchasing; design of technical specifications, tender selection and evaluation criteria; choice of the type of framework agreement and call-off system; and award of the framework agreement.

The CPB's effective execution of its main functions is based on its capacity and ability to "understand and manage" the supply market efficiently, in terms of knowing who are the main suppliers of a specific product or service segment of the market, as well as their size and market presence. Pre-information and dialogue with the economic operators at an early stage of the procurement process, as long as this is carried out transparently and in accordance with applicable procurement rules, are valuable in order to

determine the various options for the best design of contracting and procurement strategies for the framework agreements and attached call-off systems.

What types of framework agreements should be used? The EC Directive allows CPBs considerable freedom regarding the type of agreement and procedures to use. CPBs take advantage of this freedom, and as a result both single-supplier and multi-supplier framework agreements are used, as well as various call-off procedures.

Single-supplier framework agreements have the advantage that the award of such a contract is likely to be very valuable for the economic operator chosen. This has to do with “the winner takes all” characteristics of these contracts.

Framework agreements with multiple suppliers have the advantage of providing a more reliable sourcing than single-supplier agreements. Another advantage is that the risk of a successive market concentration is smaller. A potential disadvantage of a multi-supplier arrangement is that, in most national laws, economic operators have no guarantees of selling anything under their framework agreements.

The option whereby contracting authorities make call-offs through a mini-competition has the advantage of introducing a kind of ongoing competition between the economic operators during the lifespan of the framework agreement. On the other hand, the mini-competition option may involve substantial transaction costs.

How should the performance of CPBs be measured? Generally speaking, it is difficult to estimate the savings that are generated through centralised procurement. The fundamental reason for this is that it is not possible to observe the counterfactual outcome of centralised procurement of supplies or services and the different prices and other terms generated by an alternative procurement method. This means that an alternative outcome needs in some way to be constructed.

In co-operation with universities, several CPBs have developed methods to measure performance. These evaluations provide valuable information regarding performance, especially if they are conducted on a regular basis so that trends and patterns may be observed over time. Also, these evaluations have the important function of putting a certain pressure on CPBs, which are aware that their performance is under review. For further information about performance measurement see *Procurement Brief 21 - Performance Measurement*.

Important “Lessons Learnt”- Risk and Success Factors

To successfully set up and implement a modern and value-creating centralised purchasing system, several challenges - risk and success factors - need to be understood and dealt with. If they are not addressed, the success of the CPB may be jeopardised.

Centralised purchasing systems can be organised and managed in several different ways – there is no single best model: Centralised purchasing is carried out in many different ways and differences may exist with respect to:

- the legal status of the CPBs and the sectors/levels of the public administration that they cover;
- the way in which the mandates of the CPBs have been given by the owner(s);
- the types of framework agreements and call-off systems used; and
- the organisation and financing of the CPBs.

Sensitivity to the needs of the key stakeholders: The success of a CPB will depend on the extent to which trust and confidence can be strengthened and maintained in its relations with major stakeholders – owners, contracting authorities and suppliers.

“Competitive” framework agreements with user-friendly and low-risk call-off systems: The success of a CPB is highly dependent on its ability to offer technically and commercially attractive framework agreements to a large proportion of the potential “customers” in the public sector served by the CPB. This ability is decisive for a CPB in a voluntary environment but is almost equally important for a CPB operating in a compulsory situation.

Appropriate identification of contract scope and value: CPBs have put in place mechanisms for the identification not only of the works, supplies and services to be purchased through centralised procurement but also of the value of those contracts, usually based on an in-depth supply and demand analysis or on feasibility studies. Identifying the scope and value of the contracts to be awarded under a framework agreement provides potential tenderers with the information they need to decide whether or not to participate. Similarly, the type of framework agreement (single-supplier or multi-supplier) will from the tenderers' perspective, alter the potential success rate of participation and, in effect, alter the scope and value of the agreement. The choice of call-off mechanisms is also a factor to be taken into account in terms of the attractiveness of the framework agreement.

An efficient organisation with competent staff: The design of the CPB's organisation is vital to its success and should reflect the specific characteristics according to which it works. Its main functions are usually centred around market and customer relations, product management, procurement, and contract management, together with key support functions, such as IT, legal services and administration, including accounting.

Failure to effectively manage the legal risk: Several CPBs have witnessed an increase in the number of complaints concerning not only the tenders for the award of framework agreements but also – which further complicates the position of the CPBs – the proceedings during the call-off stage. Complaints under multi-supplier agreements imply a transfer of risk from the CPB to the contracting authorities, which may create a situation of legal uncertainty.

Lack of focus: Another risk is that the CPB will start to lose focus and try to expand the boundaries of its operations into areas where it either lacks a competitive advantage or is not able to respond correctly to the needs of the contracting authorities, thereby offering services or framework agreements that are potentially unattractive to the contracting authorities.

Further reading:

- SIGMA (2011), *Centralised Purchasing Systems in the European Union*, SIGMA Paper 47
- SIGMA (2011), *Procurement Brief 21 - Performance Measurement*
- SIGMA (2011), *Procurement Brief 19 - Framework Agreement*