



## **MEXICO**

# **THE FEDERAL PROCUREMENT SYSTEM: CHALLENGES AND OPPORTUNITIES**

**November 2007**

## ABBREVIATIONS AND ACRONYMS

<b>ACRONYMS</b>	<b>English</b>	<b>Spanish</b>
ASF	Supreme Federal Audit Office	Auditoría Superior de la Federación
BOT	Build-Operate-Transfer	Construir, Operar y Transferir
CABMS	Catalog of Goods and Services	Catálogo de Adquisiciones de Bienes Muebles y Servicios
CFE	Federal Electric Power Commission	Comisión Federal de Electricidad
CI	Association of Mexican Consulting Engineers and Architects	Asociación Mexicana de Ingenieros y Arquitectos Consultores
COMPRANET	Government Procurement Electronic System	Sistema de Compras Electrónicas Gubernamentales
CPAR	Country Procurement Assessment Report	Diagnóstico de los Procedimientos de Adquisiciones del País
FIDIC	International Federation of Consulting Engineers	Federación Internacional de Ingenieros Consultores
GDP	Gross Domestic Product	Producto Interno Bruto
GoM	Government of Mexico	Gobierno de México
IBRD	International Bank for Reconstruction and Development	Banco Internacional para la Reconstrucción y el Desarrollo
ICB	Internal Control Body	Órgano de Control Interno
IDB	Inter-American Development Bank	Banco Interamericano de Desarrollo
INCBG	National Index of Corruption and Good Governance	Índice Nacional de Corrupción y Buen Gobierno
IPB	International Public Bidding	Licitación Pública Internacional
IPC	Perception of Corruption Index	Índice de Percepciones de Corrupción
LAASSP	Procurement Law for Goods and Services	Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público

LCS	Least Cost Selection	Selección Basada en el Menor Costo
LOPRSM	Procurement Law for Civil Works	Ley de Obras Públicas y Servicios Relacionados
OECD	Organization for Economic Cooperation and Development	Organización para la Cooperación y el Desarrollo Económico
PA	Public Administration	Administración Pública
PEMEX	National Oil Company	Petróleos Mexicanos
RFP	Request for Proposals	Pedido de Propuestas
SFP	Secretariat of Public Administration	Secretaría de la Función Pública
SSS	Sole Source Selection	Selección basada en una sola fuente
ToR	Terms of Reference	Términos de Referencia
UNSPSC	United Nations Standard Products and Services Code	Código Estándar de Productos y Servicios de las Naciones Unidas

Currency unit = Mexican peso  
US \$1 = MX \$11.1057  
(as of September 13, 2007)

## Contents

PREFACE .....	v
MEXICO AT A GLANCE .....	vi
EXECUTIVE SUMMARY.....	vii
Conclusions and Recommendations .....	ix
1. Legal and Regulatory Framework.....	ix
2. Institutional Framework.....	x
3. Professional Expertise .....	xi
4. Coordination and Information Systems .....	xi
5. System Integrity and Controls.....	xii
The Action Matrix and Next Steps .....	xiii
BACKGROUND AND RESULTS OF THE CPAR.....	1
Opportunity Presented by This Review .....	3
Objectives of the Review.....	5
Methodology .....	5
II. OVERVIEW OF THE EXISTING SYSTEM.....	8
Institutional Setup .....	8
Supervision and Control.....	8
Legal Framework .....	10
III. MAIN FINDINGS AND RECOMMENDATIONS.....	14
Interagency Alignment and Coordination with the Government's Objectives .....	14
Legal Framework .....	17
Concessions Framework.....	20
Consulting Services .....	21
Human Resources .....	22
Proliferation of Procurement Processes and Practices .....	24
Strategic Use of Information: COMPRANET .....	24
Supervision and Control.....	27
Integration of Government Systems.....	31
Participation by Civil Society .....	31
Aggregation and Standardization of Purchases .....	33
The Political Economy of a Reform.....	36
Priorities for Reform.....	37
V. NEXT STEPS AND FOLLOW-UP .....	40
APPENDIX: SUMMARY OF SUGGESTED IMPROVEMENTS TO MEXICO'S FEDERAL PROCUREMENT SYSTEM.....	41

## PREFACE

This report presents the findings and recommendations of a review of Mexico's federal public procurement system. A team of government officials and staff from the World Bank and the Inter-American Development Bank (the banks) carried out the review from October 2006 through September 2007. The Secretariat of Public Administration agreed to carry out this review with the banks to carry out this review to ascertain the extent to which the current federal procurement system effectively supports achievement of the administration's current strategy and objectives and to identify ways to address any serious weakness. Other major objectives of the review were to seek ways to improve the system's overall efficiency and transparency and to reduce transaction costs consistent with the overall improvements in the management of public expenditures and fiscal discipline that the government is pursuing.

The Secretariat of Public Administration led the review in close coordination with the Secretariat of the Economy. The key officials involved were Roberto Gil and Paulina Grobet of the Secretariat of Public Administration and Alejandro Bonilla, Susana Gómez, and Eduardo Moncada of the Secretariat of the Economy. The banks prepared this report for consideration by the Mexican authorities as part of their nonlending services to Mexico. The banks' review team would like to acknowledge the extraordinary cooperation extended by staff from these two agencies and from other government units directly involved. The team also recognizes with appreciation the contributions of private sector representatives who participated in the assessment and offered constructive contributions or comments, in particular, Edgar Ubbelohde of the Confederation of Industrial Chambers of the United Mexican States.

The team members from the World Bank were as follows: Felix Prieto, senior procurement specialist and co-task team leader; Joao Veiga Malta, senior procurement specialist; Silvia Moran-Porche, procurement assistant; Victor Manuel Ordoñez, senior financial management specialist; Manuel Vargas, senior financial management specialist; Patricia H. de Baquero, senior procurement specialist; Gian Casartelli, lead procurement specialist; José Luis Guash, senior adviser; and Paul Schapper, Lionel Lopez, and Jorge Vargas, procurement specialists. The team members from the Inter-American Development Bank were Juan Carlos de la Hoz, co-task team leader; Fernando Fernandez, principal adviser risk management; Raúl Lozano, procurement specialist; Luis Suarez, senior procurement specialist; and Alfonso Sanchez, Ramon Aguirre, Lea Braslavsky, Sergio Huacuja, and Xavier Mangino procurement specialists.

## MEXICO AT A GLANCE

<i>Economic Indicator</i>	1986	1996	2005	2006
<b>PRICES and GOVERNMENT FINANCES</b>				
<i>Domestic prices (percentage change)</i>				
Consumer prices	86.2	34.4	4.0	3.6
Implicit GDP deflator	73.6	30.7	5.5	4.5
<i>Government finances (percentage of GDP)<sup>a</sup></i>				
Current revenue	31.6	23.0	23.3	24.7
Current budget balance	-8.6	3.5	3.1	3.6
Overall surplus or deficit	-13.5	-0.1	-0.1	0.1
<b>TRADE (US\$ millions)</b>				
Total exports (free on board)	21,804	96,000	214,233	269,132
Oil	6,307	11,654	31,891	39,124
Agriculture	2,098	3,592	6,008	6,986
Manufacturing	12,888	80,305	175,166	202,865
Total imports (cost, insurance, and freight)	16,784	89,469	221,820	256,131
Food	..	..	..	..
Fuel and energy	..	..	..	..
Capital goods	2,954	10,922	26,216	30,525
Export price index (2000 = 100)	75	96	127	136
Import price index (2000 = 100)	76	98	114	117
Terms of trade (2000 = 100)	99	98	112	116
<b>BALANCE of PAYMENTS (US\$ millions)</b>				
Exports of goods and services	26,376	106,601	230,299	266,329
Imports of goods and services	21,805	99,700	242,599	278,490
Resource balance	4,571	6,902	-12,300	-12,161
Net income	-7,520	-13,940	-13,093	-13,161
Net current transfers	1,575	4,531	20,484	23,468
Current account balance	-1,374	-2,508	-4,908	-1,853
Financing items (net)	1,256	6,369	12,081	864
Changes in net reserves	117	-3,861	-7,173	989
<b>EXTERNAL DEBT and RESOURCE FLOWS (US\$ millions)</b>				
Total debt outstanding and disbursed	100,891	156,255	173,054	145,335
International Bank for Reconstruction and Development	5,566	12,568	9,184	4,211
International Development Association	0	0	0	0
Total debt service	12,944	40,418	32,274	43,563
International Bank for Reconstruction and Development	819	2,372	1,781	6,836
International Development Association	0	0	0	0
<i>Composition of net resource flows</i>				
Government grants	77	30	..	..
Government creditors	1,466	-7,596	561	-9,161
Private creditors	-911	12,230	4,375	3,967
Foreign direct investment (net inflows)	1,523	9,185	19,736	19,037
Equity portfolio (net inflows)	0	2,801	..	..
<i>World Bank program</i>				
Commitments	1,272	616	1,196	896
Disbursements	1,016	1,051	997	519
Principal repayments	424	1,409	1,390	6,410
Net flows	592	-359	-393	-5,891
Interest payments	395	962	390	426
Net transfers	197	-1,321	-784	-6,317

a. Includes current grants.

## EXECUTIVE SUMMARY

The Government of Mexico (GoM), the World Bank (WB), and the Inter-American Development Bank (IDB) have engaged over the past several years in a dialogue on ways to improve Mexico's public procurement and financial management systems in Mexico. The World Bank carried out the first Country Procurement Assessment Review (CPAR) jointly with the Government in 2001, focusing on the features and performance of the federal procurement system. Based on the action plan included in the 2001 CPAR, the government reformed federal procurement laws and regulations in 2005 and furthered the development of COMPRANET, the federal government's electronic procurement system.

The dialogue between the government and the banks intensified in early 2007 immediately after President Felipe Calderon took office. The key objectives of the new administration, included in the 2007–12 National Development Plan, are (a) State Security and Rights, (b) economic competitiveness and employment generation, (c) equity of opportunity, (d) environmental sustainability, and (e) effective democracy and responsible foreign policy.

The plan establishes 10 objectives to be attained, several of which are closely linked to the efficiency and transparency of the procurement system, namely, fostering a competitive economy, reducing poverty, promoting civil society participation, promoting environmental sustainability, and promoting democracy through the legal and ethical exercise of power.

The new administration gives high priority to improving public procurement to facilitate the implementation of its agenda and asked the banks to help in carrying out a new review of the system. The government's objectives with respect to public sector procurement are twofold. First, the government is interested in identifying ways in which the procurement system can be improved to better manage resources and create fiscal space through savings and increased efficiency of processes. Second, the government intends to assess whether the procurement system is aligned with the administration's strategic objectives and, if not, what changes are required.

The findings and recommended actions included in this report resulted from close collaboration with the main public sector stakeholders and incorporate the views of representatives from 22 Mexican private sector organizations, international development partners, representatives of civil society, and numerous government officials involved in public procurement.

There is consensus that Mexico's procurement system requires modernization, simplification and more flexibility to respond to rapidly changing market conditions. The system should be more open and competitive and less focused on compliance and control. The reforms proposed in this report would better align the procurement system with the government's objectives and generate substantial savings through reduced transaction

costs and lower market prices from suppliers. They would also enhance transparency, predictability, and public trust in the system.

The formulation of a procurement reform plan must keep in mind three important findings of this review, namely:

- A shared vision and a common understanding of the government's objectives must guide any reform. In Mexico, as in many other countries, several agencies can issue regulations that impinge on the procurement system; however, they are not necessarily working coherently toward the same objectives given the absence of any interagency coordination mechanism.
- A major transformation of the prevailing mindset on the nature of the procurement function is necessary. Decision makers have traditionally considered public procurement as an administrative and control function, but the modern concept is that procurement is a strategic function of the government used to promote better fiscal management and to support government development policies. As such, its key objective is not control, but the efficient and economical delivery of goods and services guided by a solid set of transparency, ethics, and accountability principles. Members of the Organization for Economic Cooperation and Development are increasingly recognizing that modern public procurement is more about information, coordination, analysis, and management than regulation. Without this conceptual transformation, any technical solutions are likely to fail. The Mexican system would benefit from a fresh and critical review if this modern conception of procurement was adopted. The old control approach resulted in rules and requirements that add processes, not commensurate value, integrity, or transparency.
- The reforms need to be comprehensive and include besides the regulatory matters, should include institutional reforms, human resources upgrading, risk prevention controls, technological and information management improvements, and cultural and behavioral changes. A critical part of the reform that would substantially enhance its fiscal and other benefits would be effective integration between the procurement and the financial management systems. Owing to the synergies involved, all aspects mentioned are complementary and necessary to capture the full benefits of any reform.

The basis for the diagnostic of the procurement system was the application of the Organization for Economic Co-operation and Development (OECD) Methodology for Assessment of National Procurement Systems to the Mexican system. The OECD/DAC - World Bank Round Table on Strengthening Capacities in Developing Countries developed this methodology as part of the agenda of the Paris Declaration on Aid Effectiveness. Mexico is a participating country of the Paris Declaration. Additionally there were meetings with representatives of more than 22 private sector organizations, international development partners and civil society and with key Government officials, to supplement and validate the findings of the initial diagnostic and to discuss possible solutions to outstanding issues.



## Conclusions and Recommendations

Findings and recommendations are grouped under the five key aspects of the procurement system. These are: the quality of the legal and regulatory framework; the institutional framework within which it operates; procurement expertise, coordination and information systems; and the integrity and transparency of the system.

### 1. Legal and Regulatory Framework.

There are critical aspects of the system that need revision to align it with the government's objectives and improve its efficiency and transparency. The current regulatory framework is too rigid for it to be able to adapt rapidly to changing government priorities and market conditions and the emergence of new procurement techniques. High-level regulations that are difficult to change contain much a good deal of detail that belongs in lower level instruments where there is more room for adaptation.

Multiple procedures exist at the federal level because each agency has its own bidding documents and because several institutions can regulate procurement, at times with divergent objectives. This proliferation of rules and procedures discourages competition, increases the costs of doing business with the government, adds to the system's total transaction costs, and might also result in higher prices. Moreover, the lack of standardization limits competition, because firms tend to specialize in bidding for one or a few agencies to limit the cost of mastering all the existing systems. Finally, there are provisions in the regulations that impede the use of the full potential of COMPRANET.

There are provisions in the regulations that introduce subjectivity, and hence opacity and risk of abuse in the evaluation of bids (e.g. award of contracts based on a combination of price and score points for civil works). Other provisions limit bidders' freedom to choose the most economic source of inputs and thereby discourage or impede competition (eg. mandatory minimum national content, short time for preparation of proposals and prohibition of participation of foreign firms in national bidding). It is understandable that the legislation that encourages the use of local resources and affords reasonable protection to domestic firms is understandable, but an alternative could be to provide incentives (i.e. via price preferences) to those bidders that incorporate substantial local inputs instead of mandating a fixed amount and granting reasonable protection to domestic firms instead of prohibiting participation by foreign firms.

Despite ample regulation of procurement, no specific regulation governs international competitive bidding. In practice, foreign firms participate in national competitive bidding, the regulation for which does not afford the customary risk mitigation provisions that would attract the lowest priced bids and promote competition (e.g. exchange risk protection, arbitration for dispute resolution, appropriate delivery terms, etc.). International competitive bids are exceptionally permitted when there are no domestic offers in a first round (less competition), when domestic prices are much higher than international ones (price differentials) or under free trade agreements, Mexico is likely to end up paying more than it would otherwise, as foreign bidders factor all the unmitigated risks into their offers or are discouraged to compete from competing.

Given the content of the government's National Development Plan and the already stretched technical capacity in government agencies, the government will probably have to supplement capacity with a large volume of private consulting contracts. One particular aspect of the present system is that it treats equally the selection and contracting of intellectual or professional services (consultants) and the contracting of other general services, such as security, office cleaning. Given the nature of intellectual services and the factors to consider in their selection (importance of quality of the consultant, impossibility of specifying precisely in advance the outputs, etc), best practice indicates that these services should have specific regulation to allow for these factors.

The report recommends that the government should carry out a critical review of existing regulations and management practices to bring them in line with modern procurement practice and with the following specific objectives:

- a) incorporating a fresh approach guided by objectives of efficiency and better use of public resources rather than by control objectives;
- b) ensuring alignment of the system with the objectives of the government in relation to improving competitiveness and transparency;
- c) streamlining the system to provide for the necessary flexibility to adapt more easily to changing markets, procurement techniques, and needs;
- d) eliminating unnecessary processes that do not add substantial value or integrity to the system;
- e) promoting the standardization of processes and documentation throughout government agencies based on best practice;
- f) removing regulatory barriers to making use of the full potential of COMPRANET; and
- g) establishing appropriate regulation for intellectual and professional services of intellectual nature.

It should also be recognized that progress towards these objectives will be slow if this is regarded as purely a regulatory matter. Improvements in the following areas of institutional coordination, expertise and information capacity will be critical to success.

## **2. Institutional Framework**

The present institutional structure for public procurement in Mexico permits various agencies to issue procurement regulations independently. This greatly increases the risk of inconsistencies, overlaps, or gaps, and no mechanism is available to coordinate the development of procurement regulations issued by GoM agencies so that all can be reconciled and better aligned with government policy.

There is no integration between the budgetary and financial management systems and the procurement system. Interfaces are missing that would allow both to share information needed for the procurement process and the budget and treasury management functions to operate smoothly. Currently, these processes do not interact adequately to support the effective management of fiscal resources.

The report recommends that the government should consider the creation of a coordinating body under the figure of a “Public Procurement Coordination Council” at the cabinet level. This Body would be the forum for agencies responsible for key issues affecting the procurement system and its effectiveness. The Council would coordinate their actions to keep them properly aligned with GoM objectives. The council would require resource support and could oversee the reform efforts, harmonize possible harmonization of the various procurement systems, set specific performance goals for the procurement system, and provide guidance for its overall improvement. The council would need formal terms of reference with a timeframe if it were to achieve its objectives and provide some leadership in this area. The report also recommends that the government should establish a clear and detailed action plan and timetable with clear assignment of responsibilities to accelerate the integration of the budgetary and financial management systems and the procurement system.

### **3. Professional Expertise**

The shortage of skilled procurement professionals at the managerial and operational levels and the lack of a career stream within the civil service may become an impediment to better procurement operations. As noted above, procurement has evolved from an administrative task to a complex, knowledge-based function that covers the entire cycle comprising of needs assessment, administration of selection and contracting, contract implementation management, and asset disposal. The traditional empirical procurement officer has become a well-trained and professional manager of procurement operations working in a very complex and sophisticated business environment. Upgrading the present procurement professionals’ skills and creating a steady stream of qualified procurement and logistics specialists should be high on the government’s agenda. The report recommends that the government should develop and implement a professional education and certification program for procurement specialists together with an appropriate civil service career path that enables competitive selection and merit-based promotion of skilled personnel. The program should include upgrading and continuing education of the incumbents and the identification and promotion of public or private provision of professional training and education.

### **4. Coordination and Information Systems**

The government has issued an austerity decree that, among other actions, promotes the consolidation of common purpose goods required in large quantities by many institutions. This review included a high-level study of the current purchasing strategy. The study suggests that a cost-reduction program could help the government achieve considerable savings. The implementation of the program which is considered a high priority requires detailed planning and logistics still to be worked out in detail. The report recommends that the government should launch a pilot cost-reduction program covering three simple items that are routinely procured throughout the public administration (office supplies, computer hardware and software, and general services). High impact institutions such as the Federal Electricity Commission and PEMEX should be invited to join the pilot. Building on the success and lessons learned from the pilot, the government should

progressively include additional items and institutions, as appropriate, and proceed to full-scale implementation. The report discusses different options that take into account the high degree of decentralization of public procurement in Mexico.

Technology is critical to the ultimate success of much of this reform program. COMPRANET has developed powerful capabilities, but its potential for gathering comprehensive information about ongoing government-wide procurement trends for central analysis or for being used as the platform for more modern e-procurement applications has not been fully realized. Extensive international experience indicates that without more intensive use of information technology to monitor and manage the processes of procurement processes and to drive transparency, many of the regulatory reforms will be difficult to achieve. Governments have found that regulatory complexity designed for control and audit purposes can be more easily relaxed and simplified a technological environment which often provides a simpler path to control and transparency. Many in the public sector consider COMPRANET only as a tool that supports existing reporting procedures. Consequently, some agencies have developed their own systems for their procurement systems that bypass COMPRANET. The resulting lack of consolidated information is a barrier to proper government and civil society oversight and makes the establishment of sound public procurement strategies and supply management policies virtually impossible. The report recommends that the government should carry out an in-depth review of the role that COMPRANET should play as a strategic tool, including the necessary action and incentives to encourage all agencies to use the system's full potential. A key goal is to make COMPRANET the government's sole Internet-based procurement instrument used to gather and analyze all the information needed for proper oversight, preparation of reports to higher levels of GoM and the general public about performance and control issues of concern to all stakeholders.

## **5. System Integrity and Controls**

The control system in Mexico includes the appropriate formal controls and civil society oversight for accountability and results. Overall, the internal control system is adequate and the audit function performed by the Internal Control Bodies (ICB) is strict and appears to ensure overall compliance with the law. From 2002, the directives issued by the Secretariat of Public Administration through the General Guidelines for the Planning, Preparation and Presentation of the Annual Working Programs have directed the supervision strategies towards the improvement of public management, and the promotion and establishment of mechanisms for the prevention, accountability and inhibition of corruption practices. However, although there are good legal mechanisms and organizations for Mexico's civil society oversight, there are still certain issues relating to controls and the role of civil society that may be improved by the Government of Mexico. Internal controls are still more directed on complying with legal requirements and formalities than on analyzing the information in order to establish trends and detect inefficiencies and areas of potential weakness. The GoM and internal auditing standards and techniques do not yet fully reflect new developments in how to carry out analytical reviews or performance and risk-based auditing techniques. The coordination among the bodies responsible for internal and external audits must be strengthened. In addition,

there is no common internal control framework for public expenditures at the sub-national level, which represents 40% of the federal procurement. The report recommends several actions, including (a) updating government and internal auditing standards and work programs, (b) intensifying the use of analytical review and risk-based auditing techniques to gradually migrate from a process focused on formal compliance to one focused on preventive and real-time controls, and (c) launching a process at the national and subnational levels that intensifies promotion of the adoption of a common internal control framework and standardization of budgetary guidelines to allow multiyear budgeting. Clearly more effective application and development of COMPRANET would assist in all these areas.

Mexican legislation grants civil society organizations the right to oversee procurement operations. Such organizations are active in this field in major cities, but their participation dissolves at the subnational level, where procurement literacy and organization are lacking. There are three areas where the GoM could help improve participation by civil society and better demonstrate its commitment to put into effect this participation: (a) promoting a countrywide organization whereby civil society can more effectively monitor procurement performance and hold public officials accountable for results, (b) preparing simple and regular reports on procurement matters that civil society and the public can understand and use for oversight purposes, and (c) promoting training of relevant civil society organizations on the basics of monitoring public procurement and the use of public funds.

The report recommends that the government should develop a comprehensive strategy to promote effective social oversight of procurement at all levels. Such a strategy should include (a) an outreach campaign on procurement-related and control issues to spur interest by respected civic organizations, (b) a network support system to promote the education and organization of and participation by civil society organizations, (c) the use of this process of effective social oversight of procurement to reach better agreement on the role and objectives of involving civil society in procurement monitoring and how civil society might organize itself to address procurement issues, (d) an agreement on the nature and scope of regularly published reports about procurement that the media and citizens can readily understand, with content agreed in consultation with civil society and (e) the development of user-friendly electronic access to procurement information systems by the public with the possibility of producing tailor-made reports.

### **The Action Matrix and Next Steps**

The appendix to this report is a matrix of possible actions that will be further discussed with technical counterparts and policy makers and submitted for their consideration. The matrix includes an assessment of the associated implementation complexity, cost, and likely impact of each recommendation. The matrix is intended to provide a tool to help the government develop a specific action plan based on its own strategic priorities. Successful reform experiences in other countries demonstrate that sustainable implementation requires strong leadership and commitment from the highest levels of government, a long-term effort, flexible adherence to a comprehensive plan, and a

collaborative approach that incorporates all key stakeholders' views and contributions. Once the government has agreed on a more detailed plan for reform, it should establish a high-level consultative committee that includes key public sector representatives as well as representatives of civil society and the business community to monitor progress and work together to address issues that may arise during implementation of the reform.

Finally, the intent of this report is not present a detailed reform plan, but rather to identify the main strategic and managerial issues facing the procurement system, the opportunities for improvement, and the options for action. The report is intended as an instrument to provide focus to the continued dialogue inside the government and with the banks to help start a reform process. There is a need for the government's to prepare the detailed action plan that may include further and more detailed analyses of several issues mentioned here; however, this report identifies actions that could be taken in a relatively short time to begin capturing the benefits of an improved system that is more closely aligned with the government's strategies and plans and with best practice.

## **BACKGROUND AND RESULTS OF THE CPAR**

### **I BACKGROUND, OBJECTIVES AND METHODOLOGY**

1. In December 2006, Felipe Calderon took office as president of Mexico. In May 2007, the government issued its 2007–12 National Development Plan, which centers on the following five strategic goals:

- State's security and rights,
- economic competitiveness and employment generation,
- equity of opportunity,
- environmental sustainability,
- effective democracy and responsible foreign policy.

The plan also established 10 objectives to be attained, 5 of which will have an impact on and need support from the procurement system. These are fostering a competitive economy, reducing poverty, promoting civil society participation, promoting environmental sustainability, and promoting democracy through the legal and ethical exercise of power.

2. Based on this plan, the Secretariat of Public Administration (Secretaría de la Función Pública or SFP), the agency responsible for regulating and overseeing public procurement, has prepared its own blueprint for supporting the government's objectives. It established the following key operational principles:

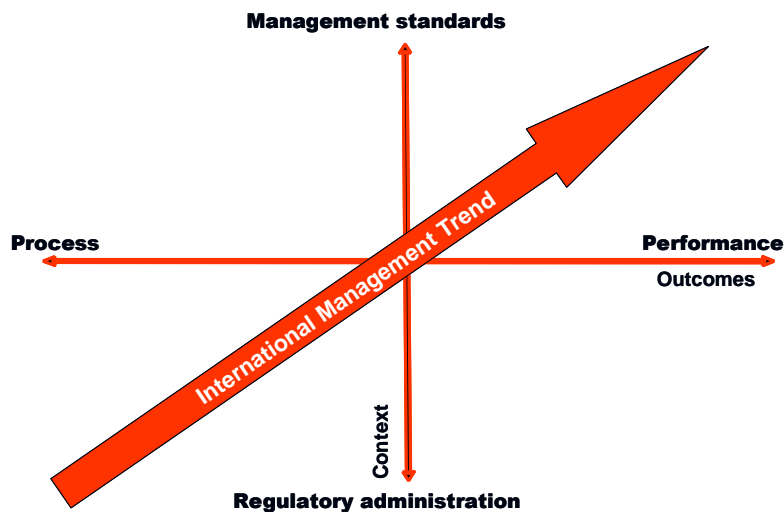
- promoting unrestricted participation in public procurement,
- ensuring efficient use of public resources,
- maximizing the provision of information on public procurement opportunities and outcomes,
- ensuring equal treatment for all participants in public procurement.

These principles are clearly aimed at promoting the universal core principles of public procurement, namely, competition, efficiency, value for money, transparency, and fair dealing.

3. The government is aware that high-quality procurement and financial management systems are critical for the efficient administration of fiscal resources and to support its objectives and strategy. The SFP has already taken the lead in this regard by (a) promoting competition, efficiency, and transparency in public procurement; (b) intensifying anticorruption efforts in relation to public procurement; (c) promoting the system's objectivity and predictability; and (d) bolstering preventative control of procurement operations. The SFP has already started implementing its strategy and this report is aimed at reinforcing and supporting the government's and the SFP's agendas.

4. Even though the existing federal procurement system has served the country's needs reasonably well thus far, the review found ample room for improvements in a number of areas. These improvements are needed to modernize the system; to align it with the government's objectives; and to make it more open, efficient, predictable, and transparent, thereby enhancing public trust in the system. The proposed reforms would also generate significant savings to the government by reducing the system's transaction and operational costs and, more important, by lowering the market prices quoted for government purchases. In addition, making the system more efficient would contribute significantly to reducing Mexico's fiscal dependence on oil revenues. Moreover, most of the reforms proposed are designed to enhance transparency, predictability and public trust in the system. These reforms reflect an international trend in public procurement illustrated in figure 1, whereby greater emphasis is placed on performance than on conformance and compliance. This performance focus is especially evident in Western Europe, Canada, and New Zealand.

**Figure 1 Performance-Conformance Procurement Trends**



5. The difficulty for governments in the past has been that extracting improved performance from procurement systems has sometimes been at the expense of the controls and oversight that are designed to ensure probity and good governance standards. However, the reconciliation between conformance and performance is now possible through the application of e-procurement information systems. This makes the effective application of COMPRANET, the federal government's electronic procurement system, particularly important.
6. This review proposes a number of possible actions the government should consider, along with an indicative estimate of the degree of implementation difficulty and the cost and time associated with each action (see the appendix). The purpose is to



provide the government with a tool to help it decide how to formulate a successful action plan for the next phase of reform.

### **Opportunity Presented by This Review**

7. The relationship between Mexico and the World Bank and the Inter-American Development Bank (IDB) (the banks) has evolved in recent years and has become characterized by more intense dialogue on institutional and capacity strengthening and by an increased demand on the part of the government for nonlending services. This report is an example of such collaboration. This evolution has also led to an interest on the part of the banks to move toward greater reliance on the use of Mexican federal processes and control systems to verify compliance with the banks' safeguard and fiduciary policies. This is part of a gradual process of devolving fiduciary responsibility to Mexico while at the same time supporting the government in its efforts to strengthen capacity and reduce transaction costs.
8. The World Bank carried out a Country Procurement Assessment Report (CPAR) in 2001 and published it in June 2002. Since then, the government and the banks have been working to improve the federal financial management and procurement system. As part of this effort, in 2003–5, the government and the banks also assessed various financial management and procurement issues in different states, which culminated in a report about proposed revisions published in December 2006.
9. This work prompted the government to propose amendments to federal procurement laws that the Mexican Congress passed on April 14, 2005, and that were implemented in July 2005. Five of the 15 recommendations in the 2002 CPAR have been fully implemented so far (table 1). Two of the recommendations implemented were critical and represented a major step forward, namely, the reforms of the procurement laws and the further development of COMPRANET. The 10 recommendations that have not been implemented are of a technical nature, and several of them have been partially implemented. The government was clearly not fully convinced of the need to implement the rest of the recommendations at that time, and thus they were omitted from the initial reforms. As concerns its anticorruption agenda, the government has implemented a number of actions to reduce the influence of practices that have an adverse affect on good governance. It has improved the legal framework to include clear definitions of fraud and corrupt practices and to delineate the responsibilities of agencies, civil servants, and private participants. There is strong evidence that anticorruption laws are being enforced and that the government has put anticorruption at the top of its agenda. Several initiatives to give the public and civil society access to information have been implemented, for example, the creation of Web sites such as <http://www.gob.mx> and <http://www.tramitanet>. Furthermore, the government has reached agreement with civil society on the use of tools such as “cartas de compromiso ciudadano”, “centros integrales de servicios”, and “el lenguaje ciudadano”, and promulgated the Law on Transparency and Access to Information. Yet despite all these efforts, the perception of corruption within the government remains high among the general public. In 2007, according to Transparency

International, Mexico's corruption perception index was 3.5, a minimal decrease from the level of 3.6 in 2002.

**Table 1 2002 CPAR Recommendations and Outcomes**

Recommendation	Carried out		Remarks
	Yes	No	
1. Review the procurement of goods and public works laws to update practices and procedures.	X		
2. Separate legislation pertaining to the selection of consultants from legislation pertaining to the procurement of goods and public works.		X	
3. Include provisions in the law that allow for the selection of consultants, including methods for short-listing.		X	
4. Mandate the use of standard competitive bidding documents at the federal level.		X	
5. Mandate the inclusion of provisions to prevent fraud and corruption in all procurement documents		X	
6. Compile public procurement regulations in a single code.		X	
7. Simplify adjustment formulas to include the effects of price variations. Price adjustments should be easy to monitor and control.	X		Formulas take price variations into account, but they are included directly in the regulation as a single option, the type of work notwithstanding.
8. Mandate that designs should be final at the time of competitive bidding to reduce contingencies and cost overruns.	X		There is a tendency to comply with this recommendation, but exceptions occur. The exact extent of compliance with this recommendation has not been determined.
9. Reinforce organizations and provide resources to advise states on how to develop their procurement systems and to train their employees who are responsible for procurement.	X		Initiatives to comply with this recommendation have been taken, but the positive effects have been minimal in the sense that harmonization with the states in relation to procurement procedures has not been achieved.
10. Include an obligation to insure to cover the possibility of catastrophes and risks connected to professional liability when procuring works.			Information on this recommendation is not available.
11. Incorporate arbitration clauses in public procurement contracts.		X	
12. Provide for enforcement of the laws against monopolies to ensure equal treatment of all participants.			Information on this recommendation is not available.
13. Eliminate the need to carry out market studies to allow participation by foreign bidders.		X	
14. Eliminate the need to provide performance bonds in the case of consulting contracts.			Information on this recommendation is not available.
15. Provide the government's electronic procurement system, COMPRANET with	X		COMPRANET has made headway toward approaching international

human and economic resources.

standards, but in not being used to its full potential. The emphasis was on improving the technological platform, which has recently been achieved.

*Source:* Government report on the 2002 CPAR.

10. The banks have accepted the use of COMPRANET for international competitive bidding (the World Bank in 2002 and the IDB in 2006). Unfortunately, in 2006, only 8,630 bids out of 19,883 bidding exercises were processed using COMPRANET. In an effort to improve the system and to encourage suppliers and contractors to use it, COMPRANET has moved toward a Web-based platform that will facilitate the transmission of bids.
11. Mexico's budgeted expenditures for fiscal 2006 were estimated at US\$200 billion, of which close to 28 percent (US\$56 billion) was set aside for purchases or third-party contracts. Given the size of the budget allocated for procurement activities, any actions that result in improving the system would generate significant savings. To that end, this review is an ideal instrument for providing focus, for developing proposals and priorities, and for facilitating continued engagement in substantive work within the government.
12. Following an in-depth policy dialogue between the government and the banks, it was agreed to undertake this review under the leadership of the SFP to identify further improvements to the procurement system. The government's intent is to undertake the reforms necessary to ensure that the system supports the attainment of its proposed goals. The government has spearheaded this effort, pointed out the areas on which it wants to focus, and asked the banks for their support in carrying out the assessment.

### **Objectives of the Review**

13. The main objectives of this review are to (a) ascertain how the federal procurement and financial management systems could make a greater contribution to the efficient use of fiscal resources; (b) determine the extent to which Mexico's public procurement system supports or hinders implementation of the government's policy and objectives; (c) identify opportunities to reduce operating costs; and (d) identify issues that are adversely affecting economy, transparency, and optimal outcomes.
14. From the banks' viewpoint, the review helps identify areas in which they can assist the government. It also helps the banks' ascertain the extent to which they can rely on Mexico's procurement and supervisory systems to discharge their fiduciary obligations.

### **Methodology**

15. This assessment is the result of a joint effort between the government, the World Bank, and the IDB, led by the SFP and the Secretariat of the Economy. In September 2006, the previous administration and the banks initiated discussions on a possible

review because they wanted to hand over an agenda to the new government to complete the reforms that they had been initiated in 2005. Since that time, several missions have visited Mexico to discuss the country's procurement assessment processes and obtain information. However, the previous administration considered it prudent to wait for the new government to take office before launching the review. This was essential to ensure the agreement of the new government to lead the exercise and set its key objectives. In early 2007, the SFP confirmed the government's willingness to move forward. As a first step the SFP, the Secretariat of the Economy, and the banks agreed on the objectives and scope of the CPAR. Two further preparatory missions took place and the main mission occurred in May 2007. During these visits, the team met with representatives of more than 22 private sector organizations, international development partners, and civil society and with key government officials (annex XI). The most representative business organizations helped administer a set of surveys among their members to assess their perceptions about how well the system is performing and the main issues that the review should address. The Mexican chapter of Transparency International was responsible for preparing a report about the participation of civil society in overseeing procurement in Mexico. The mission interviewed staff of the internal control offices of 10 representative government agencies and representatives of several line ministries and government agencies dealing with important procurement operations (power, telecommunications, health, roads, water supply). There was also a presentation and discussion of the findings and recommendations at the end of the main mission attended by all the stakeholders that had participated in the preparatory and information gathering activities.

16. Mexican consultants working with the banks' staff carried out an initial diagnostic of the procurement system by applying the Organization for Economic Co-operation and Development's and the Development Assistance Committee (OECD/DAC's Methodology for Assessment of National Procurement Systems (Version 4, July 17, 2006) to the Mexican system. The OECD/DAC World Bank Round Table on Strengthening Capacities in Developing Countries developed this methodology as part of the agenda of the Paris Declaration on Aid Effectiveness. Mexico is a participating country of the Paris Declaration. The preliminary results (annex X) were discussed with the SFP and the Secretariat of the Economy. The SFP is validating the results of the exercise to adopt it as a basis for monitoring future progress in improving the system and meeting the standards proposed in the OECD methodology. Most of the international development community has accepted these standards as a benchmark for public procurement.
17. The main sources of information used to prepare this CPAR were (a) laws, regulations, manuals, and reports provided by the SFP and the Secretariat of the Economy; and (b) internal and project documents and reports prepared by the World Bank and the IDB (particularly the previous CPAR and subsequent reports on the Mexican system) and country strategies. Additional data were collected by means of numerous interviews and surveys related to the quality of controls; civil society participation; specific government reform proposals and priorities; further

modernization of COMPRANET; capacity development needs among public procurement officers, including training; and implementation of recommendations still relevant but outstanding from the 2002 CPAR.

## II. OVERVIEW OF THE EXISTING SYSTEM

The following briefly describes the main features of the Mexican procurement system.

### Institutional Setup

18. The SFP is legally responsible for regulating procurement; however, other institutions can issue regulations or directives that affect procurement operations. These include the Secretariat of the Economy, the Secretariat of the Treasury, the Supreme Federal Audit Office (Auditoría Superior de la Federación or ASF), the Antitrust Commission, and the Federal Institute for Access to Public Information. Moreover, individual ministries and government agencies issue their own bidding documents and have their own internal procurement procedures.
19. Federal agencies, state governments, and municipalities are responsible for undertaking public procurement. Currently 350 federal agencies carry out procurement activities through 6,000 procurement units. Each state has its own procurement regulations. The legislative and judiciary powers are autonomous bodies and they carry out their procurements apart from the Federal system, so they are not taking into consideration in this CPAR.

### Supervision and Control

#### General Framework

20. The ASF and the SFP are responsible for control and oversight. The ASF reports to the legislative branch of the government and is responsible for auditing public accounts (that is, the federal budget). The SFP, which reports to the executive branch of the government, is responsible for establishing and overseeing the system of internal controls and public procurement.
21. In addition to auditing public accounts, the ASF also conducts performance audits, which encompass a thorough review of internal controls, procurement, and all relevant development aspects of government programs to ensure that they have attained their stated objectives. Since its inception in 2001, the ASF has carried out more than 300 performance audits.
22. The ASF's work is considered thorough and of good quality, but somewhat slow because of legal constraints that prevent it from starting field work until the corresponding ministry or entity has issued its financial statements. The ASF is currently pursuing a modification of the existing laws that would enable it to start preliminary audit work in February, following the end of each financial year, instead of in June, as it is currently the case. This would mean that audited statements would be available for public scrutiny approximately 12–15 months after the end of the financial year, instead of the current 18 months, which would be an improvement, but the process is still slow. Standard practice calls for audited financial statements to be

available any time from three to six months after the end of the previous financial year.

23. The SFP ensures the integrity of internal controls at all levels of the federal government, provides guidance for establishing and complying with internal controls, and oversees the federal procurement system. The internal audit function is accomplished through approximately 234 Internal Control Bodies (ICBs) in ministries, agencies, and autonomous entities. The ICBs report to the SFP. Each is headed by a team consisting of a comptroller and two senior auditors appointed directly by the SFP, hence ensuring their independence from the entities in which they are assigned to serve. Both the comptroller and the two senior auditors rotate every two to three years. While the salary of the comptroller and the comptroller's deputy are determined based on SFP guidelines, the operational budget for the functioning of the ICBs is set by the entities in which they are located.

#### **Current situation**

24. The process of planning and preparation of the Annual Working Program (AWP) of the Internal Control Bodies (ICB) on audit and control for the financial year 2004-2007 includes the following: the guidelines issued by the Secretariat of Public Administration (SFP) have directed the supervision strategies towards the promotion and establishment of mechanisms for the prevention, accountability, inhibition of corruption practices, and improvement of the government management.
25. As part of the measures adopted in order to strengthen this strategy and with the purpose of favoring the evolution and continuity of the AWP of the ICBs, in 2004 it was established that, taking into account the human, financial and material resources available in the ICBs, and given the necessity of having a greater and better presence in the institutions being served, it must be considered in the AWP the program of audits and control reviews with a prospect for the next three years, until verifying the whole of the areas and processes of the institutions.
26. Thus, the regulations on the matter lead to align the AWP with the objectives and goals of the SFP. The possibility was opened to program audits and control reviews based on the recorded results of the programs, having the ICBs the possibility of planning their AWP from a previous inquiry and from the application of the Risk Management Model (RMM).
27. As part of an effort to modernize Mexico's public administration by adopting a results management focus, the ICBs have recently developed a performance-based system that is currently being rolled-out. This system contains high-level indicators designed to measure the overall performance and effectiveness of ICBs.
28. The Secretariat of Treasury and Public Credit (SHCP) is responsible for producing each year's budgetary guidelines, which the states and subnational institutions need for procurement using federal funds. Budgetary guidelines are normally issued to the states in June, and the states are responsible for reporting to the federal government

on the use of those funds by the end of November, which leaves them only four or five months to complete the procurement cycle. On average, transfers from the federal government to the states and subnational institutions account for approximately 40 percent of the annual procurement budget.

29. In spite of the above, while a uniform system of internal controls for the federal government is in place, the system is regarded as not adding value because of its heavy focus on such formalities as obtaining signatures up the bureaucratic ladder and formal paper-based controls.
30. The SHCP has established and operates several systems through which it must capture and process the information relating to the federal budget resources transferred to the federal entities. In the Federal Official Gazette of January 31, 2007, it was published the Agreement through which the format to provide information related with the federal budget resources, known as Single or Basic Format, is made known to the states and municipalities and the territorial demarcations of the Federal District. This document was prepared by the Budget Policy and Control Unit of the SHCP, which included the contributions of several state and federal authorities, among them the General Office of Regional Operation and Social Comptrollership. The Agreement also established that the SHCP has the obligation of designing the electronic system for the capture and presentation of the appropriate information.
31. It is important to indicate that, with the establishment of the System, articles 48 and 49 of the Fiscal Coordination Act are fulfilled, establishing that the referred authorities must send to the Federal Executive, through the SHCP, reports on the exercise and purpose of the resources of the Federal Contribution Funds (Section 33), and that the SHCP will include this information on the quarterly reports which must be submitted to the Congress of the Union. Likewise, it abides with the stipulations on article 85, section II, of the Federal Budget and Fiscal Responsibility Act, which states the same obligation, but regarding all transferred resources.
32. Even though, as indicated, the states and subnational institutions have to comply with federal guidelines and requirements when using federal funds, there is no common precise control and the framework for the preparation of reports between the federal government and the states is not properly applied.

## **Legal Framework**

33. The foundations for public procurement are set out in Article 134 of Mexico's Constitution, which specifies that (a) the government's resources shall be administered with efficacy and probity for the purposes intended; (b) the procurement of goods, works, services of any nature, rentals, and asset disposal or liquidation shall be carried out by means of public bidding; (c) the bids shall be subject to public invitation for unrestricted submission of responsive sealed proposals; (d) the bids shall be opened publicly; (e) the objective is to ensure the best possible conditions for the state in terms of price, quality, financing terms, timeliness, and other relevant



factors; and (f) the use of other methods established by law is possible when a public bid is not the most appropriate method of procurement.

34. The Law on Procurement, Rents, and Associated Services and the Law on Public Works and Related Services regulate procurement when funding comes partially or entirely from federal sources or when the federal government guarantees the repayment of funds. Procurement made under free trade agreements represents about 5 percent of federal government procurement and is regulated by the provisions under each specific trade agreement. Similarly, procurement funded by international development agencies is regulated by the provisions of the respective financing agreements signed with those institutions for each operation. Procurement funded by the states is regulated under state-specific laws and directives. Finally, laws that affect procurement are incorporated by reference in the Law on Procurement, Rents, and Associated Services and the Law on Public Works and Related Services, such as the Federal Transparency and Access to Public Government Information Law, the Federal Law on Metrology and Official Standards, and the Fiscal Coordination Law. Concessions are regulated by sector, for example, for the communications, transport, water and sanitation, electricity, and mining sectors. Table 2 shows some of the statistics on bidding provided by COMPRANET. As not all bidding processes are registered in COMPRANET, this information is not complete. Each sector has its own particular regulations and harmonization among the different laws is not apparent.

**Table 2 Bidding Processes at the Federal Level, 2006**

Item	Number of bidding processes	Number of national competitive bidding	Number of international competitive bidding	Number of bidding processes under trade agreements	Number of bidding processes financed by MDBs
Goods	13,595	9,800	3,795	1,052	40
Civil Works	6,288	5,944	344	18	43
<b>TOTAL</b>	<b>19,883</b>	<b>15,744</b>	<b>4,139</b>	<b>1,070</b>	<b>83</b>

Source: SFP (COMPRANET).

35. The Law on Procurement, Rentals, and Associated Services and the Law on Public Works and Related Services were published in the *Federal Official Gazette* on January 4, 2000. As a consequence of the 2001 CPAR, they were amended in 2005 and the changes became effective on July 7, 2005. The government issued regulations for the laws on December 1, 2006, for goods and on November 29, 2006, for works. These regulations are closely linked to the Federal Code on Administrative Law Procedures, which was published in the *Federal Official Gazette* on August 4, 1994. This code supplements matters not foreseen in the two laws and establishes administrative law procedures. Consulting services are not treated separately, but are regulated as accessory services to the procurement of goods and works.

36. The North American Free Trade Agreement entered into force in January 1994, and since then Mexico has signed eight other free trade agreements. These agreements are listed in table 3.

**Table 3 Free Trade Agreements with Mexico Published in the *Federal Official Gazette***

<b>Agreement</b>	<b>Date</b>
1. Free Trade Agreement between the United Mexican States, the Republic of Colombia, and the Republic of Venezuela	January 9, 1995
2. Free Trade Agreement between the United Mexican States and the Republic of Costa Rica	January 10, 1995
3. Free Trade Agreement between the United Mexican States and the Republic of Bolivia	January 11, 1995
4. Free Trade Agreement between the United Mexican States and the Government of the Republic of Nicaragua	July 1, 1998
5. Free Trade Agreement between the United Mexican States and the State of Israel	June 28, 2000
6. Economic Association, Political Coordination, and Cooperation Agreement between the United Mexican States and the European Community and Its Member States	April 3, 2001
7. Free Trade Agreement between the United Mexican States and the States of the European Free Trade Association.	June 29, 2001
8. Agreement to Strengthen the Economic Partnership between the United Mexican States and Japan	March 31, 2005

37. Mexico's membership in these free trade agreements prompted the creation of a framework of rules and regulations for international competitive bidding, consisting of several resolutions (table 4).

**Table 4 Resolutions Published in the *Federal Official Gazette***

<b>Resolution</b>	<b>Date</b>
1. Resolution to establish the rules for determining and certifying the degree of domestic content in the case of procurement procedures of a national nature.	March 23, 2000
2. Resolution to establish the rules to apply to the reservation mechanism contained in the public sector procurement chapters of the free trade agreements signed by Mexico.	February 28, 2003
3. Resolution to establish the rules for entering into international public competitive bidding in accordance with the free trade agreements.	February 28, 2003
4. Resolution to establish the rules to apply preferential margins to the prices of domestic goods with respect to the prices of imported goods in international procurement procedures carried out by agencies and bodies of the federal government.	July 12, 2004
5. Resolution to establish the rules to apply preferential margins to the prices of domestic goods with respect to the prices of imported goods in national procurement procedures carried out by agencies and bodies of the federal government.	July 12, 2004

38. The laws, executive orders, regulations, directives, and procedures governing public procurement are hierarchically registered, as established by Mexico's legal framework. The laws have been published and are available to the public free of charge. All national legislation can be found at no cost on the Web sites of the House of Representatives (<http://www.diputados.gob.mx>) and the Senate (<http://www.senado.gob.mx>). Given the extensive availability of Internet services and adequate access nationwide, the public readily has free access to this information. All codes, bulletins, regulatory guidelines, and the like can be found on the SFP's Web site (<http://www.funcionpublica.gob.mx>), which has a federal rules and regulations library portal where one can obtain this information for free (<http://www.normateca.gob.mx>).
39. This report could not include information on market behavior or how public procurement is shared among the main suppliers to the government at the federal level. According to interviews held with different organizations, the competitiveness of the private sector is sufficient to compete for public procurement contracts, even though the private sector has limited access to financial resources. The government should be aware of its main providers and buyers and what goods, works, and services it procures and at what prices. COMPRANET statistics are limited, as it does not cover the whole system. Information is not currently available to determine the system's performance in relation to these key parameters.

### **III. MAIN FINDINGS AND RECOMMENDATIONS**

40. The main findings and recommendations presented here seek to ensure that the system promotes better fiscal management and supports the government's objectives. This review does not present a traditional action plan, but instead includes a matrix of proposed areas for improvement and possible actions that the government is encouraged to consider (see the appendix). The matrix is intended to serve as a tool for the government to use in deciding on the actions to be taken, its priorities, and the timing of implementation, thereby leading to the formulation of an action plan for improvements.
41. As in other countries in Latin America and the Caribbean, decision makers in Mexico have traditionally considered public procurement as an administrative, almost clerical, function, where given the large amounts of money involved, the focus has been on finding ways to oversee procurement officers and managers. However, procurement is now viewed internationally as a strategic government function that should be used to promote better fiscal management and to support the government's development policies. As such, its key objective is not control, but the system's ability to deliver goods and services efficiently and economically within a solid framework of transparency, ethics, and accountability principles. Without a system-wide conceptual transformation along these lines, any narrow technical solutions aimed at specific perceived problems are likely to fail. The Mexican system would benefit from a fresh and critical review with this modern view of procurement in mind. The old control approach resulted in rules and requirements that added processes but not value, integrity, or transparency.
42. As procurement is a specialized activity, it must secure its own institutional space so that it can strengthen its management capacity and tools in close collaboration with other areas of public administration in a way that is technically sound. The broader objectives of the procurement system should include achieving greater efficiency in relation to state-provided services, fostering productivity and competitiveness, and improving governance through increased citizen confidence and transparency. The recommendations in this section seek to sharpen the specialized skills of public procurement leadership and management, help the system develop needed capacity that is currently missing, and strengthen coordination within the government.

#### **Interagency Alignment and Coordination with the Government's Objectives**

43. Even though the SFP is the main regulatory agency for public procurement, Mexican law requires and empowers other government agencies to issue regulations relating to specific economic activities that have a direct bearing on procurement. The activities of these individual agencies that affect procurement must be reconciled to ensure that all are aligned with the government's strategic objectives and to avoid possible regulatory inconsistencies. For example, one particular agency may be mandated to promote a national industry by granting preferences or excluding foreign

competitors from certain kinds of procurement. At the same time, another agency may be working to promote a more competitive market by advocating its opening to external suppliers or contractors. Currently Mexico does not have a mechanism to coordinate and reconcile the objectives of all the agencies with a capacity to regulate procurement. This lack of internal and system-wide coordination has the potential to thwart the achievement of the government’s proposed objectives.

44. Countries with well-performing procurement systems have usually established an effective, government-wide, centralized leadership function for procurement. In some countries, the central body establishes policies, develops guidelines, monitors the system, handles complaints, manages the e-procurement framework, and even arranges and manages government-wide aggregated contracts. The SFP already handles many of these tasks. Table 5 illustrates the separation of central and decentralized functions in several economies. The potential for conflicts of interest between some of these functions is often managed through the governance of the function and transparency.

**Table 5 Central Coordination and Control Versus Management**

Jurisdiction	Core Policies	Legislation	Control	Management
Australia (national)	Value for Money Competition Accountability, and Transparency Efficiency, effectiveness Ethics Industry Development	Financial Management & Accountability Act 1997. Give force to Procurement Guidelines and chief executive officers’ Instructions. Do not address detailed process.	Central Core Policies Central Audit and Monitoring Central Legislation and regulations Central Leadership and Planning Central e- Procurement Platform	Decentralized / Devolved Contract Management  Decentralized Contract Development  Decentralized Accountability
Canada	Best value over whole of life cycle Efficiency Access, Fairness Competition Transparency Industry development	Regulations under the Financial Administration Act. Focus is contracting policy, not operational processes. Treasury Board issues Contracting Policy and Guidelines.	Central Core Policies Central Audit and Monitoring Central Leadership and Planning Central e- Procurement Platform	Decentralized Contract Management Some centralized contracts Decentralized Contract Development Decentralized Accountability
Hong Kong, China	Value for money Openness Competition	Central Tender Board	Central Core Policies Central Audit and Monitoring Central Leadership and Planning; Regulations Central e- Procurement Platform	Centralized contract development and management
Singapore	Value for Money Fairness Openness Competitiveness	Ministry of Finance issues guidelines and rules.	Central Core Policies Central Audit and Monitoring Central Leadership and Planning Central e- Procurement	Devolved contract development and management
United Kingdom	Value for Money Competition Consistency	Office of Government Commerce (office of the Treasury) issues	Central Core Policies Central Audit and Monitoring	Decentralized Contract Management and

	Efficiency Effectiveness	best practice guidelines and rules	Central Leadership and Planning Central e- Procurement Platform	Development Some centralized contracts Decentralized Accountability
United States (federal agencies)	Most advantageous goods and services Competition Fair and transparent Industry Development	Federal Acquisitions Regulations are process driven.	Central Core Policies Central Audit and Monitoring Central Leadership and Planning Centralized e- Procurement	Some centralized contracts Centralized e- catalogue  Substantial devolution

45. Interagency coordination and coordination with other stakeholders is required (a) to build common understanding by all relevant agencies of the government’s objectives in relation to how policies affecting procurement should be formulated and to reconcile the policy objectives of individual agencies when they diverge; (b) to coordinate the drafting of legal and regulatory provisions issued by each entity to ensure they reflect the government’s policies; (c) to coordinate the regulations issued by each institution to minimize the risk of gaps or overlaps and to ensure the overall coherence of procurement rules and regulations; and (d) to oversee and advise on the implementation of the reform program, set performance goals for the system as a whole, and monitor its compliance with these goals.
46. In addition to interagency coordination, consolidation of the new more accurate view of procurement as a strategic government function is critical. Public procurement is a specialized task that requires knowledge of the country’s development needs, development and analysis, correct interpretation of market trends, and civil society involvement. Thus ideas about how to change public procurement must be developed in a context that goes beyond merely technical, process, or control considerations. Reforms that are designed in a compartmentalized fashion have proven to be less successful in attaining their objectives and less sustainable.
47. **Recommendation:** *Create a coordination mechanism.* One way to coordinate policies, rules, regulations, and institutional performance could be to create a coordinating council for public procurement whose main duties would be those mentioned above. The establishment of such a council would not affect institutions’ current responsibilities, but the council could serve as a forum to coordinate public procurement policies and capacity development and to ensure that the system properly reinforces the government’s objectives. The SFP would provide the secretariat. Eventually the council could oversee the reform process, set performance goals for the entire system and monitor their achievement, and establish an agenda for harmonizing procurement systems and practices across the country. To be effective, the council’s chair should be at the ministerial level and the council should report directly to the cabinet.

## Legal Framework

48. The legal framework contains provisions and regulations that affect the efficiency, economy, and transparency of the system; that no longer respond to the country's needs; or that discourage competition. Some of the adjustments required could be achieved by amending regulatory decrees, while others would need amendments to the procurement laws, which may be more difficult and time-consuming. Addressing the following aspects of the procurement system are the most important activities that can be taken in relation to supporting the government's objectives.
- Complex regulation obfuscates and weakens transparency leading some jurisdictions such as the European Union to depend increasingly on policy instruments rather than on regulations.*
49. **Competition.** Competition in national competitive bidding is restricted to Mexican firms. Foreign firms are permitted to compete only when the procurement is carried out under a free trade agreement, when it is financed by international development institutions, or when the law otherwise permits international competitive bidding (ICB). Understandably, the government wants to promote the use of local capacity, but the same result could probably be achieved by granting reasonable protection to domestic offers over nondomestic offers and still allowing all those who want to participate to do so. This approach would better fit the government's objective of fostering competition.
50. The government has issued regulations for ICB carried out under the free trade agreements, but no regulations are in place for ICB carried out outside those treaties. Thus ICB is regulated by the same regulations that apply to national competitive bidding, the only difference being that foreign bidders can participate. This situation does not afford the customary risk mitigation offered to foreign bidders to encourage their participation, such as protection against exchange rate risks, protection against legal risks (by allowing them access to alternative dispute resolution methods and arbitration), and terms of delivery on international commercial terms (INCOTERMS). Foreign bidders may be reluctant to participate or may do so only when they can charge higher prices to cover their increased risks, leaving the market for government contracts to only a few national firms when the intent was to open it to all bidders. Two major modifications should be considered to improve this situation: (a) develop a regulation governing open international competition to mitigate the impact of these risks and encourage stronger competition that includes foreign firms; and (b) allow foreigners to participate in all national bids (under the rules that regulate national competitive bidding), with an appropriate price preference being given for domestic bids. Otherwise, those large Mexican firms that already compete successfully abroad with no preferences could take advantage of the protection they are granted in Mexico and be tempted to increase the prices they charge for government contracts because of insufficient competition.

51. **Domestic Content.** To promote the use of local inputs, Mexican law currently requires a minimum domestic content of 50 percent for a bid to be accepted. However, international procurement experience has proven that bidders are able to submit their best low-cost and responsive offers when they are free to choose the sources of their inputs. Therefore in an open market economy like Mexico, encouraging the use of local resources through appropriate positive incentives rather than through mandatory limits would be more appropriate. One way of dealing with this issue might be to eliminate the mandatory domestic content requirement and instead establish a reasonable price preference (say 10 to 15 percent) for those bids that incorporate a certain pre-established domestic content (say at least 50 percent), which would be treated as domestic bids. Bids offering less than the required content would not get the preference, but would not be rejected for that reason, thereby enhancing competition.
52. **Time for Submission of Bids.** The law establishes the minimum time allowed for the submission of proposals following the date of publication of invitations to bid. The minimum is 20 calendar days, which can be reduced to 10 days if the need is urgent. These minimums may be inadequate for large and complex procurement or for international bidding. In practice, bids are often issued hastily, late in the budget cycle, to enable contracting before the ongoing fiscal year lapses. This affects the quality of bids and discourages competition by the better professional, responsible firms, who can always sell their goods or services elsewhere. One obvious way to encourage firms to compete more often is to increase the minimum time permitted to submit a bid in line with the complexity of the contract or to the need to attract wider competition from abroad.
53. **Rejection of Bids during Bid Opening Procedures.** The regulations permit the rejection of bids at the time of opening if a requirement is missing. This practice can result in the unnecessary rejection of good offers even before the detailed review process has taken place. According to interviews with internal control officers in the power sector, 30 percent of bids are rejected during bid opening and approximately 20 percent are rejected during the evaluation process. In the case of the Social Security System, the most important requirements that allow a bid to be eliminated during the bid opening procedure are unclear. In the case of both Petróleos Mexicanos (PEMEX) and the Social Security System, little time is provided for bidders to submit their offers, which increases the possibility that offers will be rejected because of insignificant or insubstantial omissions or errors committed in the haste of meeting tight submission deadlines. A rejection at bid opening, often under heavy pressure from other bidders seeking to eliminate competitors, is nevertheless irreversible after that point, even if it is proven that the rejection was for deficiencies that could have been remedied without affecting the substance of the bid or the integrity of the process. Ending this practice altogether, or at least limiting this practice by clearly specifying the exceptional circumstances under which rejections at bid opening are permitted, should be possible.



54. **Standard Bidding Documents.** No standard bidding documents are currently being used in Mexico, and a change to standard documents would help make the system more predictable, and therefore more attractive to broader competition. The system has as many document models as Mexico has institutions. The lack of a standardized set of documents for use throughout the federal government is a strong incentive for segmentation of the market, as suppliers and contractors specialize in bidding for only those agencies that they find easier to deal with. Moreover, each institution has several models, which makes it harder for agency staff to prepare bidding documents and for potential bidders, who must incur unnecessary extra expense to carefully review the bidding documents and calculate the risks associated with each before preparing their bids. The damage done by this lack of standardization is, in turn, converted into inflated bid prices and in a lack of consistency in the interpretation of regulations, both of which affect the system's efficiency. Existing regulations grant each agency the authority to come up with its own bidding documents. An improvement within that framework would be for all agencies to willingly decide to use the set of standard documents already available from the SFP rather than developing their own documents, as is currently the case.
55. **Evaluation of Bids and Contract Award.** The Constitution states that the objective of procurement is to obtain the best outcome for the state taking all relevant factors into account. The Law on Public Works and Related Services interpreted this as awarding the contract to the bid that is economically most convenient to the state. The decree that regulates the law sets out that this means that a contract is awarded to the bidder with the highest score based on a combination of price and the bidder's qualifications (the firm's experience, financial strength, and so on), with a 50 percent weight given to each, provided that the price is no higher than 7 percent of the lowest-priced responsive bid. This rule introduces subjectivity and lack of transparency, and it may open the door to abuse and to collusion among groups of bidders. The system also discourages bidders from offering the best possible price, because price only counts for 50 percent in the evaluation and bidders have no sense of control over the other subjective factors that will be taken into account. This practice can also lead to manipulation of the point system by those carrying out the evaluation once prices are known. It also discriminates against otherwise competent new local firms because their relatively shorter experience would automatically count against them, thereby encouraging the creation of oligopolistic conditions in the construction market. A better rule would be one whereby bids are evaluated on the basis of objective and monetarily quantifiable factors and the award is made to the bidder with the lowest evaluated price (which is not necessarily the bidder with the lowest priced bid), provided that the bid is responsive and that the bidder meets the necessary capacity and experience requirements set out in the bidding documents. This reform is also likely to require changes in management methodology, such as greater focus on contract specification and less reliance on evaluation.
56. Given the speed of market changes, the appearance of new procurement techniques and tools, the regional and international integration of economies, and other factors that influence procurement performance, public procurement systems need to be

highly adaptable and flexible so as not to inadvertently hinder development. A good example relates to COMPRANET. Tapping into the full potential for modernization and increased efficiency and transparency offered by this tool is impossible without changes in existing laws and regulations. To attain the necessary flexibility, higher-ranking legal instruments (which are harder to change than lower-ranking ones) should establish the system's principles, while lower-ranking regulations should be used to define the procedural details. Mexico has a golden opportunity to adapt its system to current requirements without threatening its integrity by adjusting its rules and regulations to provide for greater adaptability to changing markets and needs.

57. **Recommendation:** *Modify the regulations and management practices to introduce best practice guidelines and standard documentation to address the issues listed above.* These regulations and management practices adversely affect the level of competition and unnecessarily increase the costs bidders incur when they participate and the time and costs of processing by government agencies. The subjective evaluation criteria used for civil works should be eliminated to enhance transparency, credibility, and competition. These modifications could be made without amending the existing procurement laws.

### **Adaptability and Simplification of the Legal Framework**

58. Opportunities also exist to modernize and simplify the system to make it more cost-effective. A critical review of the system would help identify possible administrative cost reductions that could be achieved by eliminating provisions that add processes, but not necessarily value or integrity. A review such as this should also result in significant cuts in the government's operating expenses and in savings for participants.
59. **Recommendation:** *Launch an initiative to simplify, modernize, and increase the adaptability of the public procurement system.* A full-time task force should be set up to carry out such an initiative and should be given specific objectives and tasks, including to conduct a cost-effectiveness process review, and no more than six months to carry them out, including making specific recommendations. The government could then reform those sections of the regulatory framework that are within its competence and are politically realistic and achievable, outlining any changes that would need validation by eventual amendment of the procurement laws.

### **Concessions Framework**

60. The characteristics of the legal framework for concessions are similar to those of the framework for procurement, namely, the legislation is not consolidated into a single instrument; the entities involved in concessions lack coordination, which results in inconsistent or contradictory provisions; and the criteria for when concessions can be granted with or without the need for competitive bidding are not clear. Even in those cases when the regulations stipulate that competitive bidding is required, the regulatory frameworks are inconsistent concerning the process that is to be followed,

the competitive bidding requirements, the selection criteria, and the terms and conditions of final contracts. Finally, clarity is often insufficient as to who the granting authority is and the precedence of the authorities involved.

61. **Recommendation:** *The recommendation about how to resolve these problems are similar to those described in paragraphs 41, 50 and 53.*

### Consulting Services

62. The government’s economic growth goals and National Development Plan, which clearly emphasize investment in infrastructure, will require technical and professional services that might be beyond the scope of the skills available in federal and state agencies in terms of volume and complexity. A trend evident in almost all OECD countries for the past three decades has been a shift in government procurement away from simple goods acquisition and warehousing toward complex services, including consulting and outsourcing (figure 2). These services have increasingly involved complex service solutions as well as a demand for more specialized expertise in the form of consulting services. For example, Australian governments have experienced a 30 percent decline in goods acquisition and a 120 percent increase in service acquisitions since the early 1990s. The government should consider defining a specific development policy for consulting services that will help guarantee that the public administration will have continuing access to such services in the required quantity, independence, and quality. Such a policy should include a list of sectors in which the government wants to place substantial reliance on national consultants, firms, or individuals of the consulting industry in Mexico, and a description of what needs to be done to promote the growth.

**Figure 2 OECD Trends in Public Procurement**



63. A critical element of a strategy for developing the consulting industry is related to the methods of selection and mode of contracting for such services by the government. Because of their nature, the procurement of consulting services must be regulated differently than other forms of public procurement. Despite certain procedural similarities, the way in which consultants are selected differs from the procurement of

goods and civil works and contracting for nontechnical services, for example, building maintenance, given the crucial role that certain factors play. These factors include the need for confidence that the consultant will perform as needed, the negative downstream economic impact that a poor-quality service might have, and the inability to ensure the quality of the expected deliverables ahead of time, and thus the need to encourage participation by competent and committed firms. In 2002, only 6 percent of the public procurement budget was spent on consulting, and 68 percent of this amount was used by PEMEX. This shows that the public sector organization with the most capability for public procurement in Mexico has recognized the need for consulting services. The government should critically examine its needs for consulting services in the near future by determining whether the public administration has the necessary professional and expertise resources to undertake the specialized services it needs in-house, and if not, the extent to which it will need to outsource the provision of these services to professional consulting firms.

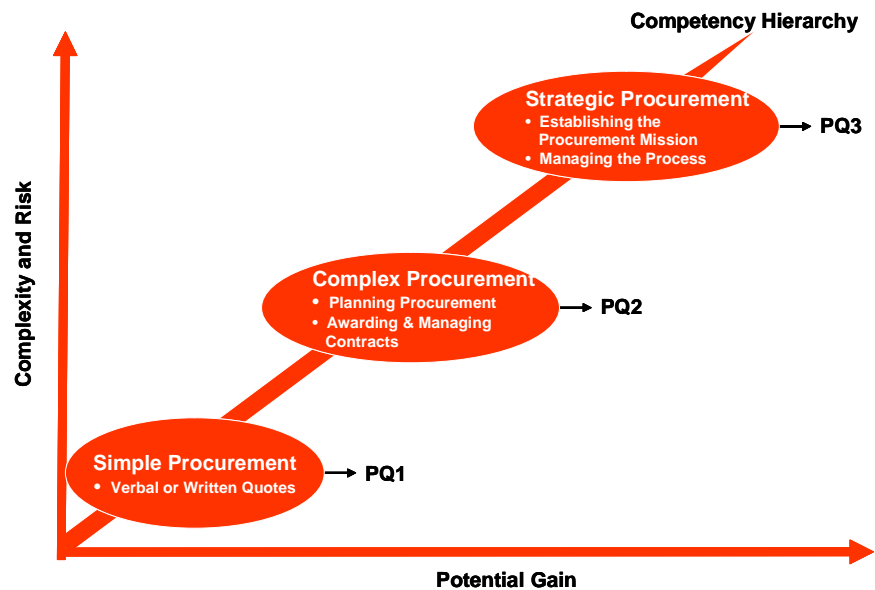
64. Consulting services are different from the provision of general services, as it is indicated above that are relatively easy to define. The procurement of consultants requires an approach that can assign the appropriate weight to quality, which requires experience and judgment. Two existing procurement laws regulate the selection of consultants; however, they are not fully consistent. Both laws require an evaluation that gives price and quality a fixed weight of 50 percent each, thereby placing excessive emphasis on price.
65. **Recommendation:** *Define a consulting services policy and regulate the selection and contracting of consultants appropriately to support it.* In light of the technological challenges the country faces and the need to support the National Development Plan with competent and innovative professional services, the government must define a policy that will promote the growth of a stronger consultant services industry. In addition, regulations need to be put in place that differentiate clearly between consultant services and other services and allow quality to be the main consideration in the selection process.

## Human Resources

66. The government has expressed an interest in giving public procurement officers professional standing, but does not currently have a count of the number of personnel already carrying out these duties at the federal level or an indication of their training needs. Public procurement officers are not required to demonstrate that they have sufficient knowledge to carry out this task that accounts for 28 percent of public expenditures. While they might have acquired experience in this field, for the most part they have been trained to comply with the law, but not to optimize public resources. Thus training is required to fill the educational gaps of current personnel, and professional training programs in procurement and logistics are also needed to supply the public sector with this type of specialist. A certification and promotion program generally accompanies this type of training as civil servants increase their knowledge and experience. Some organizations, such as the Federal Electricity

Commission, have already set up certification programs for procurement officers acting for the agency, and the benefits in relation to the quality of procurement are apparent. Training for procurement cannot be based on one-size-fits-all approach, but should distinguish between different levels of responsibility and complexity as illustrated in figure 3, which represents an Australian jurisdiction with the three levels of complexity and hierarchy for procurement qualifications (PQ1-PQ3) that range from a certificate course to postgraduate training. It is also imperative for the government to identify its various needs for procurement services of different kinds and levels, the supply of those services available from existing procurement staff, and any skills gaps that exist. With this information in hand, it should develop a plan to correct any gaps.

**Figure 3 Complexity and Expertise Hierarchy**



67. **Recommendation:** *Develop a training and development program for public procurement officers.* This is a priority in order to substantially strengthen the system’s capacity and, together with the introduction of civil service standards, to stabilize it. The government should designate an agency to develop the program with clear objectives and timelines for its establishment. This agency would have to determine the scope of the program and identify the resources required to develop it. Existing educational establishments should be invited to participate in the initial development of courses, the training of instructors, and the provision of scholarships and provided with financing to cover their contributions. Recognizing the existing experience within the government this training should be competency based.

## Proliferation of Procurement Processes and Practices

68. The lack of standardized processes and practices at the federal level (each agency develops its own) increases the government's and the private sector's costs and affects Mexico's competitiveness. Firms interested in submitting bids have to learn how to work with all the different agencies or specialize in working with just a few of them, meaning that fewer firms compete in a particular area than would otherwise ideally be the case. This situation is compounded by the federal political organization that results in having as many systems as states there are. This political reality cannot be changed; however, the government could consider encouraging federal agencies to harmonize their procedures, for example, by adopting the standardized documentation already developed by the SFP. An optimal solution would be to harmonize procurement strategy around a collection of good public procurement practices and use these as models toward which all public procurement systems should gradually converge. Encouraging the states and the legislative and judiciary power entities to migrate to a common platform may be more difficult and would require an elaborate logistical and political effort, though leverage to this end may be available, for example, States with common platforms may find that the authorization to deploy federal funds could be prioritized and approved more smoothly for states with common platforms. System harmonization would go a long way toward mitigating legal risks, fostering participation, and enhancing transparency and accountability while at the same time increasing competitiveness. This should be considered a high priority, albeit a difficult one, and the strategy for achieving it should recognize that the process will be gradual and achievable only in the long term.
- Complexity defeats transparency and discourages competition, with some firms in Australia and the United States reporting that doing business with government is too hard.*
69. **Recommendation:** *Develop a harmonization strategy and plan.* An advisable approach would be to develop a harmonization strategy with medium- and long-term goals and objectives. The strategy would propose clear tactics and incentives for fostering regulatory and procedural harmonization. With respect to the states, one possibility would be to begin work in those states that have achieved the most progress and monitor improvements in efficiency attributable to any changes so as to serve as an example for other states.

## Strategic Use of Information: COMPRANET

70. There is a risk that COMPRANET's potential to modernize public procurement will be wasted, and that it will remain a technical tool that simply supports existing procurement procedures, rather than being used as a strategic driver for public procurement reform.
71. The previous COMPRANET system, which was designed several years ago, was becoming obsolete. At the same time most procurement processes did not use the system. Most of the information collected by the old system has been scanned and put

into hard copy archives that are difficult to access and is not available in any database. In addition, free mass access requires technological facilities and training so that all COMPRANET users can use available data and statistics.

### ***E-Procurement Success Factors***

Governments in many countries have now embarked on e-procurement programs. Success factors for e-procurement are generally clear and include the following:

- A central lead agency is critical to ensure a common framework for departments.
- A single e-procurement platform is used rather than separate systems for each department.
- The system is developed and managed under the authority of procurement professionals rather than information technology or financial specialists.
- The system is used for goods, capital works, and services.
- The system integrates information systems pertaining to contract management, contract development, contract evaluation, monitoring, and reporting as well as financial data.
- The system is Web based at the front end.
- The system's use, initially for tendering, is mandatory for all departments.
- The system is backed by comprehensive legislation.
- The needs and expectations of suppliers are paramount. The system's value added for suppliers is critical.
- The provision of user training is essential.

Performance measures of system success are not readily available, but in the case of Australia, the system was considered a success when 70 percent of tender documentation was being distributed online and more than 50 percent of tenders were being submitted online by suppliers. Higher success rates within the first 12 months were experienced by Leeds in the UK. In Chile and Andhra Pradesh (India), document distribution and online bids run at 100 percent because their e-procurement systems have been accompanied by a mandatory discontinuance of paper.

72. In 2006, only 42 percent of total bids (8,630 out of 19,883 bids) were processed using COMPRANET. In an effort to improve the system and encourage suppliers and contractors to use it, COMPRANET has moved toward a Web-based platform that will facilitate the transmission of bids. However, some agencies use their own support systems for their procurement purposes and view COMPRANET simply as a system that collects information, but not one that they can actually use to carry out their public procurement activities. In addition, no interface exists that properly integrates the budgetary and procurement systems, with the result that some information does not go into COMPRANET through a direct transactional process, but is registered later, with the consequent risk of delays, inconsistencies, and errors along with the extra costs of duplication. International experience is that utilization of the central system should be mandatory. Table 6 presents some performance statistics from an international survey of e-procurement systems in Asia, Europe, and Latin America.

**Table 6 Responses to an International Survey of e-Procurement**

	<b>System Outcome Measures</b>	<b>Response</b>
	Percentage of government procurement opportunities advertised online	92
	Percentage of government bidding documents made available online	93
	Percentage of government bidding documents distributed online	92
	Percentage of government contract awards made public online	96
	Percentage of bids submitted on line	89
	Percentage of purchase orders submitted online	88
	Percentage reduction in supplier complaints regarding the transparency, integrity, and fairness of the government procurement process	90
	Percentage of suppliers satisfied with the system	90

**SOURCE:** MDB's egp-systems.

73. Despite the great progress made in developing COMPRANET's technological platform and its user-friendliness, it is not being used as a strategic instrument to spearhead the modernization of public procurement. If it were to be used as a vehicle for change and modernization, COMPRANET has the potential to transform the procurement culture by generating strategic information for procurement planning, fostering development and competitiveness, and increasing citizens' confidence in government procurement. COMPRANET is also key to the simplification of procurement legislation outlined in the foregoing sections. Reduced regulation needs to be offset by other safeguards that COMPRANET can provide. The strategic use of information via COMPRANET would be helpful for interpreting market trends, establishing effectiveness parameters for public expenditure, preparing procurement strategies, measuring and guiding the general performance of the procurement system, and gauging the effects of public procurement policies on promoting domestic industry. In addition, it would make permit identifying the level of participation in public procurement by different economic sectors and regions, thus the government would be able to analyze the effectiveness of its current approach to protecting domestic industries. The information that is potentially available through the use of COMPRANET is crucial for establishing the government's public procurement strategies and development policies. As a strategic tool, COMPRANET could also spur participation by more bidders in competitive bidding processes, thereby helping to reduce the costs of participation and improving the transparency of the procurement system. Suppliers and buyers need to receive value added benefits from using the system. Good systems assist with contract development by, for example, providing immediate access to standard contract templates and specifications, and even performance reports on previous contractors.



### ***Importance of a Single Platform for E-Procurement***

All e-government procurement systems that succeed in delivering the potential of the technology adopt a single-window approach rather than separate systems for each department and agency. The single-window approach has been adopted by numerous countries in Asia, a Europe, and Latin America. The reasons for this approach include the following:

- e-procurement means the development of an online marketplace;
- fragmentation of this marketplace among multiple sites rapidly dissipates its benefits and participation by businesses;
- e-procurement is an infrastructure that can service many users resulting in significant economies of scale;
- security, including the online tender box, is the most difficult and expensive part of the technology, and maintaining multiple sites compromises security as well as being more expensive;
- separate systems negate the opportunity to develop common templates and financial and other interfaces.

Departmental territorialism means that individual departments sometimes seek to develop their own systems, claiming that the central service does not meet their “special needs.” Nevertheless, there are numerous examples worldwide where the central site successfully services all departments.

74. **Recommendation:** *Strengthen and boost the role of COMPRANET.* COMPRANET currently has legal and institutional limitations that hinder it from playing its potential role as a strategic tool for change. The COMPRANET team at the SFP has identified the regulatory changes needed to achieve the proposed objectives and to include additional procurement methods, such as framework contracts and reverse auctions. To this end, it is essential to (a) improve interinstitutional coordination of the procurement system; (b) turn COMPRANET into the sole procurement instrument and mandate its use in order to integrate all the strategic information system stakeholders require; (c) include the states in the strategy for getting all federal and state agencies to use a common electronic procurement system; (d) integrate COMPRANET with other market, financial, and budget information management systems; (e) develop the institutional capability to analyze market behavior; (f) use the information provided by COMPRANET to routinely monitor the performance of and trends in government procurement; and (g) prepare a strategy for training human resources in the strategic use of information by public purchasing agencies and suppliers, contractors, and service providers.

### **Supervision and Control**

75. Overall, while the work of the ASF is of good quality, current legal requirements limit its ability to issue its various audits in a timely fashion, significantly reducing the effectiveness and usefulness of its work. Aware of its limitations, the ASF is

actively pursuing a modification to the existing laws that would permit it to start its audit work in February, following the close of the previous fiscal year. This would enable it to complete and issue its reports within 12 to 15 months from the end of the year, as opposed to the 18 months that it is currently taking. However, even if such an improvement is achieved, the ASF should consider starting its preliminary audit work at least four to six months prior to the end of the fiscal year being audited, which would allow it to finish its work within three to four months of the end of the year.

76. As discussed on section II, *Overview of the Existing System*, the ICBs report directly to the SFP, which appoints the comptroller and two senior officials, with a rotation of two to three years. The apprenticeship curve for comptrollers to know the operative complexities of the entities they are assigned to, which is inherent in this rotation, significantly limits the ability of the ICBs to add value to the institutions in which they serve.
77. Generally speaking, the federal government's internal control system is adequate and the internal audit function performed by the ICBs is strict and is effective in ensuring overall compliance with the law, emphasizing the government's commitment to fight corruption and inappropriate administrative practices. The existing regulations give the ICBs the chance to program their audits taking into account the results of preceding audits and, through a previous inquiry, apply the Risk Management Model (RMM) developed by the SFP and which has been applied since 2006. However, seemingly the ICBs' work is even more directed towards ensuring compliance with legal requirements and formal steps in the procurement process than on efficient attainment of the expected results and impacts. As is common in traditional ICBs, there is undue reliance on compliance demonstrated by superficial evidence, such as a chain of signatures and other supporting documentation showing that individual transactions have been reviewed, rather than on analysis of information to establish trends and detect inefficiencies and areas of potential weakness. This approach reduces the ability of the ICBs to focus more on playing an active and preventive role, as desired by the new administration.
78. The updating of government auditing and internal auditing standards falls under the purview of the SFP through the Government Audit Unit, which is also responsible for auditing the financial statements of the secretaries of the federal government. The SFP is also responsible for the external auditing of autonomous entities' financial statements through the External Audit Bureau. The latter audits are being outsourced directly to independent audit firms. The External Audit Bureau assigns the auditor's offices, oversees the contracting process for these audits by the audited entity, determines the scope of the work, and reviews its overall quality.
79. In the preparation of the Annual Working Program (AWP), the coordination and communication with other supervising bodies (external and government auditors, delegates and commissioners, independent professionals and experts in a certain field, as well as other ICBs) must be considered, in order to complement the work and prevent duplications, especially in those audits or control reviews to programs by

different institutions, where objectives are correlated, and it will be possible to present a comprehensive result.

80. Regarding the evaluation of the AWP, there are two authorities in the SFP that carry out this task: (i) according to the guidelines on the matter, the heads of the ICBs must submit their AWP project to the opinion of the Public Commissioners and/or Delegates of the appropriate sector, with the purpose of guaranteeing that the review of the critical areas and aspects of the institution is being considered; and (ii) that the AWP has been discussed with the Head of the institution in order to have his support and improve the value perception that the control and audit function of the ICB adds.
81. Finally, meetings of inter-institutional work with the ICBs are carried out in order to analyze their working program before it is registered within the System AWP-SIP, managed by the Public Management Control and Evaluation Unit of the SFP.
82. In spite of the above, from the interviews conducted with staff of the ICBs, the Government Audit Unit and the External Audit Bureau for this CPAR, it seems that auditing standards and work programs have not been totally updated yet to incorporate recent changes reflecting the consideration of risk and the use of new analytical review procedures in the audit process developed by the SFP. Likewise, it appears that the efforts to adequately incorporate the results of the work done by the ICBs into the scope of work to be performed by the Government Audit Unit and the independent audit firms working for the External Audit Bureau have been minor. This situation undermines the efficiency and effectiveness of the audit process, potentially resulting in additional audit costs for the GoM.
83. The interviews with ICB staff also indicate that a lack of guidelines in relation to how audits of public procurement should be carried out and how the work by government officials assigned to monitor procurement transactions should be performed. This is considered one of the main reasons why the ICBs focus their reviews on compliance with processes rather than on results and on the quality of procurement processes and their overall efficiency and effectiveness.
84. The SFP's duties include drafting laws, regulations, and criteria for the regulatory framework; carrying out audits; handling complaints about procurement processes; and providing regulatory assistance to suppliers and contractors. Even though different individuals ensure compliance with procurement laws and regulations than those who review complaints, the concentration of these functions within the SFP may foster the public perception that the SFP lacks independence, thereby undermining confidence in the complaints procedure.
85. The annual transfer of resources from the federal budget to the states accounts for approximately 40 percent of the budget. Use of those resources by the states cannot commence until the SFP issues the corresponding guidelines. A lack of standardization, of the guidelines coupled with lengthy delays in issuing the annual guidelines, significantly affects the overall efficiency, effectiveness, and transparency

of public procurement by the states. These guidelines are normally sent to the states in June each year and the states must use the budgeted resource by the end of November, when they have to report to the federal government on their use of the transfers received. This process forces the states to rush their procurement, which when combined with the lack of multiyear budgets, harms the effectiveness and efficiency of procurement.

86. This latter problem, coupled with the lack of a common control framework between the federal government and the states, hampers the government's ability to ensure that its strategic objectives are being met by programs implemented at the subnational level, which results in a high level of inefficiency and fosters an environment where fraud and corruption can flourish.
87. The federal government is working jointly with the states on a program supported by the World Bank, of developing and implementing a common financial accounting framework. This has created an opportunity to start building political consensus to support the adoption of a common control framework, which is essential to ensure the validity and reliability of financial accounting transactions on a system-wide, multilevel basis.
88. **Recommendations:** *Strengthen key components of the control process.* Such strengthening should:
  - (a) Consider the possibility of rotating comptrollers and senior audit officials every five or six years instead of every two or three years;
  - (b) Review and update current government auditing standards and audit programs in order guarantee that the Risk Management Model (RMM) is applied, and therefore the Annual Working Programs (AWP) appropriately taken into consideration the inherent risks and the use of analytical review techniques;
  - (c) Give priority to the use of analytical review techniques and process reviews, and gradually intensify the focus from processes to preventive and concurrent control, and reduce the orientation towards compliance with formal requirements;
  - (d) Formalize the coordination between the ICBs' internal audits and the external audits performed by the Government Audit Unit and autonomous entities, via the External Audit Bureau, ensuring that external auditors give adequate consideration to the work performed by the ICBs;
  - (e) Consider viable alternatives for strengthening the procurement complaint review process by shifting responsibility for this function to an independent body outside the SFP or vesting it with an interinstitutional committee;
  - (f) Standardize and systematize the budget sent to the states each year regarding procurement under federal programs and streamline the process so that it is more timely;
  - (g) Promote the adoption of a common control framework that is applicable to both the federal government and the states.

## Integration of Government Systems

89. The integration of procurement systems and budgetary and financial administration systems should be a priority task for the government. The possibility of having multiyear budgets and reliable annual procurement plans that the private sector could rely on when it responds to bidding opportunities is critical. The lack of predictability increases costs to the private sector, which are in turn passed on to the government through higher prices. Systems for preparing budgets and planning procurement have to be able to exchange information during the planning and implementation stages of procurement. Under integrated systems that exist elsewhere, budgetary reserves are automatically created when a new contract is registered and payments to suppliers and contractors are processed automatically. This minimizes the opportunity to report bribes for facilitation of procedures and reduces the human costs of managing the process. Integrating procurement systems with other relevant systems, such as the tax system and the social security system, would also facilitate gathering information about suppliers and contractors, simplify paperwork, and lower operating costs.
90. **Recommendation:** *Accelerate system integration.* This highly cost-effective undertaking would result in major cost and time reductions that would benefit all participants. However, unless a specific agency is appointed to take the lead and to be responsible for such integration, it will take many years to complete. The government should designate an agency to carry out this task and allocate adequate resources to it so that it can prepare a detailed plan of action and an implementation timetable. This reform will also create a common core for data definition, collection, and reporting and facilitate the monitoring of procurement performance.

## Participation by Civil Society

91. Civil society oversight is critical to generate demand for good procurement and to keep public officials accountable for upholding high ethical standards in managing public resources. Civil society organizations can perform other tasks beyond mere oversight, such as offering recommendations, participating in program design and planning, promoting good governance and transparency, and developing databases and risk maps. However, to accomplish these objectives effectively, the civil society organizations must have the rights, the tools, and the organization and skills to do so. Mexico has legal mechanisms in place that allow civil society participation, but whether civil society has the instruments and skills to make use of its rights or whether it is sufficiently organized to use these mechanisms is unclear. In any case, an appropriate way needs to be found for civil society to become more actively in those sectors and issues most relevant to the public. Even though many influential and well-organized civil society organizations are operating in Mexico City and in the larger state capitals, the situation is not the same in smaller municipalities and at the community level, where social control is critical given local governments' vulnerability to group or political capture and the relatively weaker control systems.

92. International experience also suggests that civil society is unlikely to be interested if the business sector is largely disinterested. Experience in the European Union suggests that the most vigilant oversight of public procurement can be by business itself. There is a need to ensure that procurement systems are user-friendly for both suppliers and buyers and that they add value and transparency and reduce costs for both sides of the market. Moreover, resource waste through incompetent management or abuse has a high opportunity cost given the paucity of resources and the impact on the poorest segments of the population. There is therefore a need for the government to show its commitment by focusing on supporting civil society oversight through specific and concrete actions that go beyond merely granting rights to information and oversight.
93. The more COMPRANET generates strategic information relating to procurement performance, permits full and user-friendly access to procurement information, and expedites the public's ability to look up relevant data of interest, the quicker civil society will become a permanent and active watchdog over procurement. When that happens, engaging in corruption will be more difficult because of this collective vigilance and society's interest in equity. The government's credibility, legitimacy, efficiency, and productivity are likely to increase given enhanced and effective civil society involvement in overseeing public administrative processes.
94. The business sector, as part of civil society and also as counterpart of the State in the procurement system, must commit itself to a delivery of goods and services that is efficient, economical and according to requirements, within a clear ethical framework of transparency and accountability. The responsibility for the existence of a culture of values in which everyone commits itself to strengthen the procurement system benefits everyone and must not only fall on the public sector.
95. **Recommendation:** *Facilitate participation by civil society.* The government could consider developing a comprehensive strategy to promote more extensive civil society involvement, particularly at the subnational level. Outreach campaigns to stimulate media and public interest in procurement are already being designed and sponsored by the World Bank in South Asia. The strategy could contemplate the establishment of support programs to facilitate the education and organization of responsible oversight groups. One way to foster transparency, a clear goal of the government, is to regularly publish reports that the media and citizens can readily understand. COMPRANET is one of the main vehicles through which such an objective could be achieved, but the content of the reports would have to be agreed on in consultation with representatives of civil society groups and the Internet may not be the most accessible or popular medium for the general public. One of the top priorities should be to set up reliable and comprehensive systems to collect, analyze, and disseminate relevant information to the public in user-friendly formats. A good starting point would be to design an outreach campaign to spur people's interest in these issues, using respected civic organizations to help educate them about the policies and objectives of the procurement system, how to use the oversight mechanisms the government has already put at their disposal, and what kind of

regular communications they might need to remain fully informed. This would require designing an effective outreach and communications plan and identifying and selecting credible and respected civil society partner organizations wishing to collaborate. Likewise, the business and guild associations, in partnership with the State, must keep promoting programs (in collaboration with the Linking Unit for Transparency of the SFP) in order to strengthen the atmosphere of integrity in any business with the State.

### **Aggregation and Standardization of Purchases**

96. As part of its austerity policies, the government is promoting the consolidation of the procurement of common items required by various agencies so it can benefit from volume discounts. Volume discounts arise from the aggregation of purchasing, but this is not the only way to achieve significant savings. Savings can also accrue from the standardization of specifications for products required by different departments. According to a high-level analysis, supported with specific examples and based on experience acquired from similar projects, the CPAR team estimated that this approach could save 11 to 18 percent of expenditures. The existing regulatory framework would allow consolidation without significant changes to regulations or laws.
97. To capitalize on potential savings, the government should launch a high-profile cost-reduction program involving the SFP, the Secretariat of the Treasury, and the main institutions that are high-volume procurers of goods and services. Implementation of the program should begin with recurring routine procurements that are relatively simple technically and for which determining standard specifications is easy. International experience indicates that contracts for each product or service that is to be purchased through an aggregated or standardized method must be developed through the participation of buyer stakeholders. Each contract to be developed becomes a stand-alone specialist exercise in contract development. Once the mechanisms for procuring these items are tested and made efficient, the items covered by the program should be expanded to include other important bulk items, such as vaccines and drugs.

### ***Aggregated Procurement of Information Technology in the United States***

The Procurement Services Group of the Office of General Services in New York State has established the Aggregated Information Technology Procurement Program to maximize cost savings from the annual \$5 billion on purchases of hardware, software, and services. The program is available to state and local government entities. State agency participation is mandatory.

Initial impediments to developing the program hinged on the absence of critical information; limited agency commitment; and no statutory, administrative, or operational authority to address these deficiencies. The central role and authority of the Office of General Services was a critical factor, including the formation of a CIO Council, required to implement a statewide centralized program that encompasses such large and diverse technology purchases. All state agencies must notify the OFT of any and all purchases of technology and technology-related materials and services. OFT approval is required before an agency is allowed to proceed with a purchase.

The total cost reduction potential has not yet been fully realized. However, the proven success of the purchases already conducted under the Aggregated information technology Procurement Program clearly demonstrates the program's cost savings potential both in terms of price reductions and overall cost savings.

- The pilot project purchase conducted in the fourth quarter of fiscal 2004–5 involved seven agencies that purchased a total of 2,375 personal computers. The average percentage discount from the state's contract price (which is 10 percent less than the list price) was 23 percent, representing an average savings of US\$125 per unit, for a total savings of US\$1 million . In addition, a comparison of savings against price quotations received by three of the agencies just prior to the aggregated purchase showed an average savings of 13 percent, representing a savings of US\$110 per unit.
- The aggregated personal computer purchase conducted in spring 2005 involved competitive quotations from four manufacturers. The purchase involved 100 state and municipal government agencies that purchased a total of 23,250 units during a 90-day period. The average discount from the state's contract price was 41.5 percent, representing an average savings of US\$625 per unit for a total savings of US\$14.5 million. In addition, a comparison of savings against price quotations received by four of the agencies just prior to the aggregated purchase showed an average savings ranging from 22 to 35 percent off the prices previously quoted.
- Enterprise license agreements yet to be reported on are projected to save US\$6 million to US\$8 million.

The program also results in a number of service improvements, including a reduction of staff resources required by individual agencies to conduct individual RFQ/negotiations/purchases; improved efficiencies resulting from an information feed to agency information technology asset inventory/management process via aggregated purchase/sales electronic reporting requirements; and an efficient and effective customer service-oriented program initiative with measurable cost reduction potential.

98. **Recommendation:** *Begin with a pilot covering three categories that meet the aforementioned requirements, say, (a) office supplies, (b) computer hardware and software, and (c) general services.* For the program to have a significant impact, institutions with the most market influence and leverage and/or with the most experience in consolidating the procurement of goods and services should be invited to join the pilot, for example, the Federal Electricity Commission, PEMEX, Light and Power of Central Mexico, the Institute of Social Security, the Ministry of Communications and Transportation, the Ministry of Education, and the Secretariat of the Treasury. Once the program has been established in these institutions for the selected categories, the system could be replicated in other institutions that have lower-volume procurements. Rollout of the program should be designed to build on



any early gains or successes that have been achieved by making the public aware of overall progress and results as various milestones are reached. Specific Task Forces will need to be created by the SFP to create each one of these opportunities.

99. Given the high degree of decentralization of public procurement in Mexico, implementation of the pilot could occur under three possible scenarios depending on the government's expectations. The first scenario would adopt an aggressive approach under which the SFP would manage and "own" the consolidation process. The SFP has the power to involve other government institutions and easy access to the procurement information required to carry out consolidated purchases. A process managed by the SFP has the added advantage of being more likely to be sustainable in the long run if the pilot is successful. Under this scenario, the Secretariat of the Treasury should provide technical assistance to ensure that the consolidation or aggregation process is systematically designed, for example, that classification codes for goods and services are properly formulated and are suitable for system-wide application, that the basis for the development of electronic tools is well defined, and that suitable bidding documents are developed.

***Standardization and Aggregation in  
Australia and Canada***

Various forms of consolidation are possible, ranging from aggregated contracting for the entire government to standardization of specifications. For example, the Canadian government reviewed its specifications for printers and reduced the selection of models from 480 to 4, realizing savings of 43 percent. An Australian government centralized, aggregated, and standardized its telecommunications contracts to simplify purchases and generate savings of up to 15 percent for telephony and up to 40 percent for data services.

100. The second scenario would follow a more moderate approach. Under this scenario, the Secretariat of the Treasury would invite the main procuring institutions to participate in an interinstitutional process of procurement consolidation and use competitive bidding for the required volume of goods or services. The participating institutions would then sign individual agreements or work orders with the successful suppliers stipulating the volume of goods and services they require and the timetable for their delivery. The advantage of this process is that the price set for all the institutions is developed in competition for volumes that are significantly higher than the quantity of purchases for any individual institution. Specifications for the goods and services to be procured and a set of common payment conditions for each participating institution would have to be agreed in advance. This model would not have as large an impact as the first scenario, and getting full agreement on all the details required from all participants will be a complicated process, but it could nevertheless generate significant savings for the selected categories of purchases. The SFP would need to oversee the competitive bidding processes to ensure that they are fair and transparent.

### ***Aggregated Energy Procurement in the United Kingdom***

Following a review by a local government procurement agency, agreement was reached to use the central U.K. Office of Government Commerce framework contract for energy procurement covering both gas and electricity. This key decision forms part of the initial stages of the formation of a new energy forum that includes 15 authorities and covers more than 5,000 sites.

The basis of the framework is to pool the requirements with the office's much larger national procurement demands to aggregate spending and reduce costs. The office's energy framework operates at the wholesale level and allows its buying team the flexibility to (a) continuously follow and scrutinize the energy market to fix prices on behalf of the authorities when the market is considered to be favorable, and (b) use the energy company to execute wholesale transactions on behalf of the office and administer the metering and billing (this reduces administration and the cost of change because the metering and billing always stay constant with the same provider).

Based on analysis of the market and current process costs, estimates indicate that by aggregating spending, having more reliable data, and avoiding cost increases by continuously following and scrutinizing the market, the forum can expect to save 13.4 percent. Further work will look at savings linked to centralized invoice verification and energy efficiency measures.

101. The third scenario would adopt the most conservative and cautious approach. This scenario would have the least system-wide impact, but it would at least ensure that purchases were consolidated to some extent. It basically would follow what is already happening in public institutions trying to comply with the government decree calling for economic austerity. There, with the assistance and guidance of the SFP, purchasing units are working out ministry-specific ways to consolidate their own procurement requirements.

### **The Political Economy of a Reform**

102. Implementing the recommendations proposed in this report requires broad consensus and support from all participants and affected stakeholders. However, as with any other reform, there may be a natural resistance to changes on the part of some stakeholders, some of whom can be quite influential with regard to the direction and impact of the reform process. While society as a whole and the government would derive considerable benefits from the implementation of the changes, there are actors who may be (or would perceive themselves to be) adversely affected by the reforms. One of the critical aspects of developing and planning the reform is a thorough stakeholder analysis that includes the formulation of a plan to manage resistance to the changes and enlist support for them. Table 7 is an aggregate and indicative attempt at a likely stakeholder scenario for the reform process.

**Table 7 Aggregate Stakeholder Analysis for the Reform**

<b>Stakeholder</b>	<b>Stakeholder Interest in the Reform</b>	<b>Capacity to Influence the Outcomes</b>	<b>Likely Support for the Reforms</b>
<b>Federal Executive Government</b>			
<ul style="list-style-type: none"> <li>Secretariat of Public Administration</li> </ul>	H	H	There may be some natural hesitation to changing the status quo; strong support for boosting the relevance of COMPRANET is likely
<ul style="list-style-type: none"> <li>Secretariat of Finance</li> </ul>	H	H	Strong support because of the fiscal benefits
<ul style="list-style-type: none"> <li>Secretariat of the Economy</li> </ul>	H	H	Strong support with some concerns about how best to support industry development
<ul style="list-style-type: none"> <li>Line ministries</li> </ul>	H	M	Generally supportive, but some resistance to standardization and to universal use of COMPRANET
<ul style="list-style-type: none"> <li>Autonomous government enterprises</li> </ul>	M	M	Resistance to standardization and to universal use of COMPRANET is likely
<ul style="list-style-type: none"> <li>Procurement officers in the government</li> </ul>	H	L	Strong support
<b>Supreme Federal Audit Office</b>	H	M	Strong support likely
<b>Legislators</b>	M	M	Unknown as depends on political agreements with the executive
<b>Business Groups</b>			
<ul style="list-style-type: none"> <li>Suppliers of goods and services</li> </ul>	H	H	General support; would likely object to changing rules on local content and to allowing foreigners to compete in local bidding
<ul style="list-style-type: none"> <li>Civil works contractors</li> </ul>	H	H	General support, but likely to object to changing rules on local content, to allowing foreigners to compete in local bidding, and to eliminating bid evaluation on the basis of points
<ul style="list-style-type: none"> <li>Consulting firms</li> </ul>	H	M	Strong support
<ul style="list-style-type: none"> <li>International business community</li> </ul>	M	L	Strong support
<b>Civil Society Organizations</b>	H	L	Strong support
<b>Public Opinion and Media</b>	M	H	Strong support; some criticisms to letting foreigners compete

H = High; M = Medium; L = Low

### Priorities for Reform

103. The team considers that all the recommendations have the same priority. Most of the recommendations are linked and require implementation within a timeframe of 18 to 24 months. If, for strategic considerations, the government chooses to implement the reform in phases, priority should be given to recommendations related to (a) the creation of a coordination mechanism; (b) the development of a training and

development program for public procurement officers; (c) the creation of a task force to work on strengthening COMPRANET; and (d) the dialogue with civil society to set up an information tool that can provide reliable and comprehensive collection, analysis, and dissemination of relevant information to the public in user-friendly formats.

104. A second option to consider is to establish priorities based on the actions marked as AAA in the matrix. These actions can be implemented relatively quickly and easily, but have a significant impact. The matrix counts with such information based on an assessment of implementation complexity, cost and likely impact for each action. The reform requires strong leadership and long-term commitment from senior management in the government, flexible adherence to a comprehensive plan, and a collaborative approach that incorporates all key stakeholders' views and opinions. As soon as the government has agreed on a more detailed plan for reform, a high-level consultative committee that includes representatives from the public and private sectors and civil society should be established.

#### **IV. RISK ASSESSMENT**

105. Participants in the federal procurement system view it as generally reliable, but point to a number of specific practices that in their opinion must be improved to increase its transparency, efficiency, and predictability. Most of these problem areas are described elsewhere in this report. The practices that have been identified as posing the greatest risks for damaging the performance of the system are:

- the provision of insufficient time to prepare bids, which usually results in omissions or errors;
- the possibility of a bid, which is costly to prepare, being rejected at bid opening prior to detailed review;
- the use of price and points for quality and other subjective features in evaluations for works, which creates uncertainty and discourages competitive pricing;
- the limited options offered for resolution of contractual disagreements during contract implementation;
- the absence of appropriate regulations for international competitive bidding;
- the practice of giving a fixed weight to price and quality in the evaluation of consulting services proposals regardless of the complexity and quality requirements of the assignment.

106. In projects financed by the banks, risks are mitigated to the extent that the procurement process is governed by the banks' procurement guidelines and use of the banks' standard documents, which have been harmonized with the Secretariat of Public Administration, is mandatory. The skills of the officers from the executing agencies are supplemented by the participation of various financial agents<sup>1</sup> who have ample experience in working with the bank's rules and regulations.

107. In view of the above, the risks inherent in projects financed by the banks are considered to be low, whereas in other types of budget-funded operations it is considered to be medium.

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<sup>1</sup> NAFINSA, BANOBRAS, BANSEFI, SOCIEDAD HIPOTECARIA FEDERAL

## V. NEXT STEPS AND FOLLOW-UP

108. This report points out the main issues that affect Mexico's procurement system. The matrix contained in the appendix provides a list of possible actions with an assessment of the implementation difficulty and likely impact of each. The degree of difficulty considers the political effort and extent of consensus needed (for example, between the executive and legislative branches of the government), the cost, the amount of time, and the logistical complexity of the task. The likely impact is a proxy for the anticipated benefits in terms of cost or time savings, increased transparency, and general public confidence in the system. The matrix is presented to help the government develop a reform action plan that will address its most urgent concerns, be cost-effective, and be supported by a realistic timetable where responsibilities for implementation are properly allocated.
109. Should the government decide to implement a comprehensive reform plan incorporating some of the components suggested in this CPAR, it would be advisable to appoint a high-level oversight committee to monitor implementation. This committee should include respected members of the executive branch and of civil society to ensure its credibility, and its main objective should be to monitor progress, provide advice and suggestions for implementation, and ensure sustained effort to avoid completion delays. The SFP should be the secretariat for this committee.
110. Follow-up by the banks and sustained support for the government reform initiative are critical. The banks must be prepared to offer financial and technical assistance as needed in the form of a self-standing operation or through alternative means. The presence of both the IDB and the World Bank should be included in the country work programs for the coming planning period.

**APPENDIX: SUMMARY OF SUGGESTED IMPROVEMENTS TO MEXICO'S FEDERAL PROCUREMENT SYSTEM**

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
<b>SYSTEM COORDINATION</b>								
X		X	X	<p><b>Coordination of all institutions involved in federal procurement system.</b> Several entities can intervene in the system and do so from different perspectives and objectives, which can result in inconsistent or contradictory provisions.</p>	Establish an inter-institutional coordination system at three levels: a) to formulate procurement policies that interpret the objectives of the government in a unified manner for all entities; b) to coordinate legal and regulatory provisions issued by each entity to ensure they reflect policies; c) to coordinate the standards issued by each institution to minimize the risk of gaps or overlaps and guarantee regulatory consistency.	A	A	A
<b>LEGAL, REGULATORY AND PROCEDURAL FRAMEWORK</b>								
X	X	X		<p><b>Simplification and flexibility of legal framework.</b> The regulatory framework includes details in high-ranking instruments which are hard to modify but they could be shifted to lower – ranking instruments to make the system more flexible. The legislative hierarchical structure can be made more flexible to facilitate the adaptability of the system to changing needs.</p>	Critical review of the legal framework with the goal of hierarchically reorganizing general laws, basic regulations, detailed procedural guidelines and standard documents so as to be able to relocate sections of legislation to the ideal instruments.	B	C	A
		X		<p><b>Legal framework.</b> Participation is limited to domestic companies in the case of national competitive biddings.</p>	Permit participation of foreign firms but under national rules and regulations. If a company is awarded a contract, it could be asked to establish a branch in Mexico. Another option would be for laws to be changed so they facilitate competition incentives, thus developing expertise and competitiveness. Regulations could regulate by strategic sector in order to develop competitiveness.	C	C	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
		X		<b>Legal framework.</b> Requires a minimum amount of fixed domestic content and local manufacturing.	Establish a preference for reasonable prices for competitive biddings that comply with established local content but make it mandatory.	B	C	A
		X		<b>Legal framework</b> – International competitive biddings are allowed only as an exception.	Leave the decision to opt for an international competitive bidding up to the procuring agency (for contracts above and beyond a certain total and/or when prices in the first domestic round are not competitive) with a preference for reasonable prices for competitive biddings that offer a minimum amount of domestic content.	C	C	A
	X	X	X	<b>Legal framework.</b> Regulation of international competitive biddings.	Regulate international competitive biddings.	A	A	B
X		X		<b>Legal framework.</b> Weak alternative conflict resolution mechanisms. Arbitration is not a common practice.	Regulations and procedures – Include alternative conflict resolution mechanism in contracts.	A	B	A
					Law – Stipulate that the parties can negotiate conflict resolution mechanisms in procurement and they may include conciliation, mediation and arbitration.	C	B	A
	X	X		<b>Legal framework.</b> The amount of time between the invitation to participate in competitive biddings and the submission of offers does not bear in mind object being procured or type of procurement.	Establish the principles of minimum and adequate timelines in laws but stipulate the details in regulations.	C	C	B
					Regulations would set minimum timelines depending on the object being procured and the type of procurement (including by electronic means).	B	B	B
X	X	X		<b>Legal framework.</b> Criteria used to make awards on a point-based system introduce an element of subjectivity.	Regulations – Review the definition and scope of “the most economically convenient proposal for the State”. Revise assessment criteria for non – consulting services. Consider the possibility of pre- or post-qualification based on “pass or fail” criteria depending on the nature of the contract and the lowest price evaluated, considering all the proposal’s quantifiable aspects.	A	A	A
					Law – Define principles and leave rating details to regulations.	C	B	A
	X			<b>Legal framework.</b> Discretionary authority to reject proposals during opening of bids.	Regulations – Define specific grounds for rejection in opening acts.	A	A	B



Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
				opening of bids.	Law – Leave all grounds for rejection and detailed procedures of rejections to the regulations.	C	B	B
X	X	X	X	<b>Standard competitive bidding documents.</b> Some agencies have frame documents but standard documentation at the federal level is not widely used. This would make for greater juridical certainty, streamlined processes and lower transaction costs.	Establish a competitive bidding document standardization plan and uniform contract forms for the federal government initially. Provide incentives for the states to adopt and own common standard documents.	C	C	A
X				<b>Procurement guides or manuals.</b> Each agency has its own procurement manual.	Establish a master procurement manual which agencies subject to federal laws must follow. The online manual would provide guidelines for procurers, with all the necessary information, steps and procedures to be followed, procurement flowcharts, etc. Agencies could supplement the manual with their internal procedures. Standardize procedures, announce them and make them widely available. Make juridical framework queries more user-friendly by creating a single electronic portal with search engines and help desks for consultations by government employees and the general public.	B	A	B
<b>CONSULTING</b>								
		X		<b>National policy to develop the industry.</b> Government demand for professional services would quickly increase but there might not be sufficient supply of services.	Develop a policy with clear objectives for sectors and level of adequacy of professional services.	C	C	A
	X	X		<b>Legal framework.</b> Selection and procurement of consultants is legislated in two laws that do not distinguish the procurement of other services from consulting.	Eliminate redundancy by consolidating the issue. Define the specific nature of consultancy and the mechanisms for its procurement. Review selection and procurement processes in the field of consulting.	C	B	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
<b>INTEGRATION OF PROCUREMENT REGIMENS</b>								
X		X		<b>Convergence of state and federal systems.</b> A broad array of regulatory frameworks reduces competitiveness and makes the process more expensive because of the additional costs to the private sector.	Establish a strategy, start up a dialogue and provide incentives to foster a harmonized regulatory platform for the whole country.	C	C	A
<b>CONCESSION LAW</b>								
X		X		<b>Convergence of state and federal systems.</b> The subject of concessions is spread out amongst several regulatory frameworks, which reduces competitiveness and makes the process more expensive because of the additional costs to the private sector.	Establish a strategy, start up a dialogue and provide incentives to foster a harmonized regulatory platform for the whole country. The possibility of establishing a single law for granting infrastructure works and services concessions by means of competitive bidding could be considered. Sector laws could address concessions and permits to use or exploit that do not require competitive bidding.	C	C	A
X		X	X	<b>Coverage of regulatory frameworks.</b> Regulatory frameworks focus on the concession of natural resources but do not clearly broach the subject of the concession of existing or future infrastructure works to provide basic public services.	Establish a government strategy on private capital participation in the provision of basic public services through concessions and possibly other public - private partnerships. These partnerships could include including the electricity sector where concessions are currently banned by the Political Constitution.	C	C	A
X		X	X	<b>Coordination of all institutions involved in regulating, awarding and monitoring concessions.</b> Several bodies and authorities are empowered to intervene in the subject of concessions and do so from different perspectives and objectives, which can result in inconsistent or contradictory provisions. There is often insufficient clarity as to who the granting authority is and the precedence of the authorities involved.	Establish an inter-institutional coordination system at three levels: a) to formulate concession policies that interpret the objectives of the government in a unified manner for all entities; b) to coordinate legal or regulatory provisions issued by each entity to ensure they reflect policies; c) to coordinate the standards issued by each institution to minimize the risk of gaps or overlaps and guarantee regulatory consistency.	A	A	A
X	X	X	X	<b>Harmonization and standards.</b> The regulatory frameworks of the sectors that were	Establish clear criteria regarding the circumstances under which competitive bidding is required to grant a concession. Develop	C	C	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
				analyzed (i.e., telecommunications; general means of communication; roads, bridges and autotransportation; radio and television; national waters; mining) permit concessions to be granted with or without the need of competitive biddings but are not clear as to the criteria that identify the difference between one case and the other. Even in those cases in which regulations stipulate the need for competitive biddings there are inconsistencies among the regulatory frameworks in the description of the processes, the competitive bidding requirements, the selection criteria and the terms and conditions of the contracts.	standard processes and documents for those cases that do require competitive bidding with references to the qualifications of the candidates and the evidence they must provide for consideration. They must also include the selection criteria; possibly “type” contracts that cover the rights and obligations of the concessionaires and the agency granting the concession; the terms and conditions of the concession; the grounds for rescission or termination; arbitration mechanisms, etc. In the case of regulated sectors, concession contracts must include regulation corresponding to the sector in annexes.			
X		X	X	<b>Extent of opportunities.</b> The fact that the award of concessions is limited to Mexicans (either by birth or naturalized citizens) and corporations established according to Mexican law, particularly in the case of mining or waters, reduces competitiveness. This jeopardizes efficiency and economy and discourages the competitive development of local industries.	Permit participation of foreign firms but under national rules and regulations. If a company is awarded a contract, it could be asked to establish a branch in Mexico. Another option would be for laws to be changed so they facilitate competition incentives, thus developing expertise and competitiveness. Regulations could regulate by strategic sector in order to develop competitiveness.	C	C	A
<b>PLANNING AND INTEGRATION OF PROCUREMENT AND BUDGETING SYSTEMS</b>								
X	X	X		<b>Procurement plans.</b> Procurement plans are prepared but their usefulness, as well as compliance, is low (with a minimum impact on efficiency, competition and transparency).	Turn procurement plans into <b>reliable instruments that are strictly complied with</b> and that guide suppliers. They should also rationalize the way the budget is managed (this would imply the articulation of procurement plans and the budget and make plans subject to audits).	B	C	A
X	X			<b>Strategic limitations.</b> Integration of policies, resources and contracts; uncertainty in resource and contract management; loss	Establish coordinated efforts amongst stakeholders. Integrate procurement, budget and financial administration systems. Integrate	B	C	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
				of transparency.	procurement systems with other relevant systems such as the tax system, the social security system, etc., in order to facilitate information gathering on suppliers and contractors, simplify paperwork and lower the cost of processes.			
<b>DEVELOPMENT OF HUMAN RESOURCES</b>								
X				<b>Training</b> Professionalization of the public procurer career. Training to offset and correct educational gaps of current personnel and professional training programs in procurement and logistics to supply the public sector with this type of specialist. Insufficient supply of training and it basically has a legal focus.	General human resources strategy for public procurement that includes:  Definition of duties and profiles for procurer positions. Development of a training and certification plan for public procurers. Training of human resources at the director and manager level. Training of human resources in procurement management. Training of human resources in auditing.	C	B	A
				Suppliers are not familiarized with the system and procurement procedures.	Specialized training for heads of departments that make sales to the public sector, focusing on procedures and standards. Set - up online tutorials.	C	B	B
X				High turnover of employees in charge of procurement and procurement auditing.	Establish a stability policy according to merit and implement the civil service law.	B	B	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
<b>SUPERVISION AND CONTROL MECHANISMS</b>								
X	X			<b>Audit coordination and planning.</b> Inefficient coordination of ICB <sup>ii</sup> , the governmental audit division and the Supreme Federal Audit Office.	Reinforce the internal coordination mechanism of the SFP <sup>iii</sup> for governmental audit units, the ICBs <sup>iv</sup> and external audits. Also do so externally with the Supreme Federal Audit Office in order to ensure complete coverage of the audit universe through planning. Planning should incorporate the results of the work to be carried out by the ICBs on effectiveness of internal control at agencies and as regards the result of specific audits of procurement processes.	A	A	A
X	X		X	<b>Update audit standards and procedures.</b> Internal and external audit procedures are not updated. According to interviews, the last update of governmental audit standards was in 2000. It therefore does not include the latest developments that have been introduced internationally to international audit standards (SAS <sup>v</sup> and INTOSAI <sup>vi</sup> ), nor internal audits (IIA <sup>vii</sup> ).	Proceed to update applicable audit standards, including those pertaining to internal audits carried out by the ICBs. It should include planning, execution and quality control and incorporate the consideration of inherent risk at every audit stage.	A	A	A
X	X		X	<b>Audit focus.</b> Audits basically focus on compliance with formal issues included in laws and procedures. Risk focus, preventive audits, analytical review techniques and “intelligent control” mechanisms based on cross - referencing information are not uniformly developed.	Foster the exchange of knowledge among ICBs and external audits; focusing on risk analysis methodologies and their incorporation into audits.	B	A	A
					Formally establish a knowledge network among ICBs that covers all ICB personnel, not just employees directly designated by the SFP.	C	A	A
X	X			<b>ICB independence.</b> ICBs are financially dependent. ICBs’ operating budgets are set by each autarchic ministry and agency, which constitutes an inherent constraint on their operational capacity and could compromise their independence.	Strengthen the formal definition of the responsibilities of the head of the agency regarding the internal control system.	B	B	A
X	X				Definition of non-discretionary criteria to ensure allocation of the ICBs’ budget.	B	B	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
X	X		X	<b>Files on procurement processes.</b> Poor files (missing information, fragmentation, undigitized, etc.)	Develop and implement common criteria for the organization and content of procurement files among the federation and the states.	C	A	B
					Establish digital files.	C	A	B
X	X		X	<b>Classification of audit recommendations.</b> Absence of uniform classification criteria for audit recommendations.	Update audit standards, emphasizing drafting of reports and structure of recommendations, based on risk focus and incorporating the consideration of risks.	A	A	B
X	X			<b>Rotation of ICB comptrollers.</b> Comptrollers are rotated every two to three years, reducing their effectiveness and ability to add value to the organization to which they have been assigned.	Consider the possibility of extending the rotation period of ICB heads to five to six years in order to take advantage of their expertise and experience and contribute to improve the structure and operation of internal control in the organizations in which they perform their duties. By doing so, the learning curve associated with the process of familiarization with the operations of each agency would be absorbed.	A	B	A
X	X	X	X	<b>Control framework and instructions for budgetary execution for the states.</b> There is no common control framework between the federation and the states. Moreover, instructions that are applicable to the execution of the federal budget in programs to be executed in the field of the states are issued annually between May and June. This leads to inefficient and ineffective state behavior because they have to execute the annual budget and report to the federation before the end of the fiscal year.	Develop and implement a common internal control framework between the federation and the states.	C	C	A
					Standardize the instructions to be followed for the budgetary execution of federal programs by the states. This would eliminate the need to issue them annually and help to improve the quality, effectiveness and efficiency of procurement by the states, as well as lower transaction costs and ensure accountability and transparency.	B	B	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
<b>STRATEGIC USE OF INFORMATION AND TECHNOLOGY</b>								
X	X	X	X	<p><b>Procurement as a strategic, information- based function.</b> Procurement is viewed as an object of control but not as a development instrument. The economic and social consequences of procurement are not planned, evaluated or controlled. Strategic information is not used.</p>	Create the position of general director of public procurement. This position would produce strategic information and suitable interpretation of the market and correct or reinforce public procurement trends that benefit the development of the country.	A	B	A
X	X	X	X	<p><b>Production of information. Market knowledge and analysis.</b> Generation and use of information is poor because:</p> <ul style="list-style-type: none"> <li>○ Some information is in physical files.</li> <li>○ Most processes are not electronic. A lot of the information is inputted into COMPRANET<sup>viii</sup> after the fact and not directly, causing delays and possible quality risks.</li> <li>○ Access to information by procurers, suppliers, control bodies and citizens is laborious and does not allow for cross - referencing data the way desired.</li> <li>○ Audits and control focus on numerical and legal issues and are basically performed on physical documents.</li> <li>○ There is no analysis done of markets, the institutional management of procurement or the impact on development.</li> </ul>	Make all <b>competitive biddings</b> plan, publish, document, allocate, contract and manage execution via COMPRANET (even when proposals are submitted on paper), so the original information is the same as that provided in the system.	A	B	A
					Make all <b>minor procurement</b> planned, published, documented, allocated and manager the execution via COMPRANET.	B	B	A
					Have the COMPRANET portal offer <b>the possibility of cross - referencing data as the user sees fit.</b>	A	A	A
					Continue to provide, as has been the case to date, <b>free access to COMPRANET information</b> to support transparency, competition and quality in the oversight of the system.	A	A	A
					<b>Reorient procurement audits and control</b> so its primary source of support is digital information and so it also examines results and impact.	B	B	A
				Set up a team of experts to carry out <b>an analysis of markets, a general evaluation of processes and an analysis of the impacts of procurement.</b> They would also recommend adjustments to be made based on the analysis.	A	A	A	
X	X	X	X	<p><b>Harmonization and standards</b> Currently:</p>	<b>Standardization of procurement documents</b> , according to good or service commonly used and specialized sector.	B	C	A

Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
				<ul style="list-style-type: none"> <li>○ There are a wide variety of procurement documents, ways to submit proposals, grading criteria and contracts.</li> <li>○ Procurement steps and procedures vary from one agency to another (in the framework of the same law);</li> <li>○ CAMS posed problems as a classifying instrument. UNSPSC has been adapted for coding and has begun to be implemented;</li> <li>○ There are no definitions of goods and services purchased by the state;</li> <li>○ Suppliers are asked to provide detailed information on their background and solvency.</li> </ul>	<p><b>Standardization of procurement processes, steps and requirements.</b> Use of unified checklists established by COMPRANET.</p> <p><b>Implementation of the goods and services catalog to serve as a foundation to organize procurement information.</b> Set up the 5<sup>th</sup> UNSPSC level and specialized sub-catalogs.</p> <p><b>List and stipulate the features of the goods and services purchased by the state,</b> as support for standardization and simplification.</p> <p><b>Establish a supplier documentation system</b> which will allow information to be updated through the interoperability of public sector databases.</p>	A	A	A
X	X	X	X	<p><b>Procurement support systems.</b> The current dispersion of the procurement support system has lead to difficulties with management, the generation of strategic information and modernization. There are:</p> <ul style="list-style-type: none"> <li>○ 32 procurement systems in the same number of states.</li> <li>○ Different procurement systems in public federal agencies. Some use COMPRANET exclusively as a reporting system.</li> <li>○ Competitive bidding announcements are duplicated (in the <i>Federal Official Gazette</i> and COMPRANET).</li> </ul>	<p><b>Unify state procurement systems in COMPRANET</b> by offering incentives and establishing agreements (given the restriction on legal integration).</p> <p><b>Make COMPRANET the system through which all federal level bodies make their purchases</b> and abolish their own systems.</p> <p><b>Announce and publish procurement information exclusively on COMPRANET.</b> One possibility would be for COMPRANET to be recognized as the Official Federal Gazette in procurement matters.</p> <p>Electronic integration of <b>budget and procurement systems</b> regarding certification of budget availability and registration of contracts and payments.</p>	C	C	A
				<p><b>Small purchases.</b> Carried out by direct invitation to three or more suppliers. This limits competition and runs the risk of corruption.</p>	<p>Begin a gradual process in which COMPRANET is used for all <b>small purchases.</b></p>	B	B	A
X	X	X				A	B	A



Criteria in Government Policy				Areas for Improvement	Possible Actions	Assessment <sup>i</sup>		
Efficiency	Transparency	Competition	International Practices			Time required	Difficulty	Impact
X	X	X	X	<b>Management of execution.</b> COMPRANET only includes the execution of public works.	Begin the gradual implementation of a standardized electronic management system for execution of contracts.	A	B	A
X	X	X		<b>Consolidation of purchases and reverse auctions.</b> Progress is being made in the implementation of new procurement methods with electronic support, such as reverse auctions and consolidation of purchases.	Give priority to the <b>development of consolidated purchases</b> , more so than to reverse auctions because they generate information on reference prices for ordinary goods and because there are less risks involved than in reverse auctions (Refer to section on advanced development of public procurement).	A	A	A
<b>PARTICIPATION OF CITIZENS</b>								
	X			<b>Citizen organization and training.</b> Better organization, training and information to facilitate the participation of citizens.	Production and publication of relevant, periodical reports which can be easily read and interpreted by the media and common citizens. Establishment of citizen outreach campaigns to spur their interest in these issues and use respected civic organizations to help in informing and educating citizens so they use the oversight mechanisms which the State has put at their disposal.	B	C	A
<b>ADVANCED DEVELOPMENT OF PUBLIC PROCUREMENT</b>								
				<b>Consolidated purchases.</b>				
X	X		X	<b>Mexico is not using government procurement processes efficiently.</b> It is estimated that the government of Mexico could see a potential savings of 11.1 to 18.1 percent of the 2007 budgeted expenditure. The study detected indications of isolated searches for consolidation potential in each institution but no inter-institutional leadership or definition of criteria was perceived.	This program must be undertaken with a <b>great degree of visibility</b> , incorporating the Secretariat of Public Administration, the Secretariat of Treasury and the leading institutions that procure goods and services. It should begin with a sequence of “shock waves” to launch recurring, routine categories with little technical complexity for which it is easy to determine standard specifications. The recommendation is to begin with three categories that meet the aforementioned requirements: a) <b>office supplies</b> ; b) <b>hardware and software</b> and c) <b>general services</b> .	C	B	A

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<sup>i</sup> Scores are relative. Scale:

**Time required:** Refers to the approximate amount of time to complete the action. “A” requires less than six months for implementation, “B” requires from six months to a year, and “C” requires at least one year.

**Degree of difficulty:** An estimate of the degree of political, financial, or management difficulty involved in implementing the change. “A” means low, “B” means average, and “C” means elevated.

**Impact:** Estimated effect on the system’s quality, administrative expenses, and efficiency in general. “A” means significant, “B” means moderate. Low-impact measures are not proposed.

Actions rated “A” in all three categories can be implemented relatively quickly and easily and have significant impact.

<sup>ii</sup> Internal Control Body

<sup>iii</sup> Secretariat of Public Administration (Secretaría de la Función Pública)

<sup>iv</sup> Internal Control Bodies

<sup>v</sup> State Audit Systems (Systemas de Auditoría del Estado)

<sup>vi</sup> International Organization of Supreme Audit Institutions

<sup>vii</sup> The Institute of Internal Auditors

<sup>viii</sup> Government Procurement Electronic System (Sistema de Compras Electrónicas Gubernamentales)