

Mexico City, July 6, 2020

## **NEW LAW ON PUBLIC PROCUREMENT IS PROPOSED TO PROMOTE BETTER PUBLIC EXPENDITURE AND TO REVIVIFY THE MEXICAN ECONOMY**

- **Civil society organizations and public institutions specialized on public procurement join efforts to propose a General Law on Procurement that leads to full and timely public procurement processes for the provision of better goods and public services to the Mexican population.**
- **The proposal incorporates mechanisms to generate greater competition and reduce corruption risks in public procurement to maximize the value of public expenditure.**
- **The proposal was submitted for consideration of the Congress in the context of the Open Parliament convened by the Transparency and Anti-Corruption Commission of the Chamber of Deputies.**

The Mexican Federal Economic Competition Commission (COFECE), as a part of its competition advocacy work, the Executive Secretariat of the National Anti-Corruption System (SESNA), *Transparencia Mexicana* (TM), the Mexican Institute for Competitiveness (IMCO) and *México Evalúa* presented a proposal for the General Law on Acquisitions, Leases and Services of the Public Sector (Procurement Law) aimed to strengthen, plan, promote and increase economic competition and incorporate mechanisms to curb corruption with the purpose of achieving public contracting under the best conditions for the benefit of citizens. This proposal arises from a collaborative work between these institutions, each contributing from their own areas of expertise.

The Procurement *Law* proposal was submitted for discussion to the Transparency and Anti-Corruption Commission of the Chamber of Deputies in the context of the Open Parliament initiative that will take place during the month of July. This discussion is especially salient considering that during 2020, federal and state governments could spend more than 2 billion pesos in the procurement of goods and services which can contribute to economic recovery and allow the reactivation of companies and businesses who offer the best purchase conditions to the State. Today, more than ever, public expenditure could benefit micro, small and medium enterprises that generate more than 68% of employment in Mexico, thus erecting a more inclusive economy.

For public procurement to genuinely act as a drive for economic recovery, renewing its legal framework is of the utmost importance. Thus, the *Procurement Law* proposal presents six central points:

- 1. Development and creation of the National Platform for Public Procurement and of the National Institute for Public Procurement.** Establishes a fully transactional digital platform and an institutional structure that allows ordering and consolidating a Public Procurement System at the national level to burst the complexities of multiple local systems.
- 2. Establish mechanisms for the assessment of corruption risks in procurement processes, as well as for the identification and prevention of potential conflicts of interest.** Through the implementation of structured information systems, the identification of corruption risks and potential conflicts of interest or other types of conducts that affect the integrity of public procurement is facilitated.
- 3. Strengthen the rules for planning public procurement.** It is mandated that planning processes are conducted based on budgetary availability and complete market researches; and for contracting processes to be carried out in a timely and feasible manner.
- 4. Introduce mechanisms to increase competition for contracts.** Causes for the direct granting of contracts are limited, and companies that collude in public tenders are sanctioned with debarment, for up to five years. Additionally, the declaration of independent offer, belonging to an Economic Interest Group and the intention of subcontracting are mandatory as requirements of participation in a contracting process.
- 5. Have controls for "large-scale contracts" and grant more time for market research and the submission of bids.** The proposal includes specific processes for planning, executing, and monitoring these procedures. Also, COFECE is bestowed with powers to issue a prior binding opinion on the proposals, in addition to requiring participants to prove their policies of corporate integrity.
- 6. Improve mechanisms for the surveillance in the implementation of contracts.** The obligation is established for public entities to record in real time the monitoring of the application of contracts; the implementation of external and internal audits based on risks, as well as expanding the scope of the participation of social witnesses and citizens to monitor compliance with the conditions agreed in the contracts.

The joint proposal, developed by civil society organizations and public institutions arises from the manifestation of citizens, legislators and authorities in favour of solving historical problems and opportunities in the public procurement system, so that they fully comply with the principles of efficacy, efficiency, economy, transparency and honesty in the three levels of government. Public spending is a fundamental instrument to boost economic growth after the pandemic, provided that it is exercised under strict conditions of free competition, impartiality, integrity and transparency.

The institutions and organizations promoter of this proposal, based on learnings in each of our areas of specialty; propose **to the federal and state legislators** to carry out the adjustments of the procurement regulatory framework, in such a way that these guarantee economic reactivation and improve access to public goods and services; **and to the**



**Mexican society** to participate in discussions at the federal and local levels to improve the rules that govern government contracting and procurement .

Read the proposal in Spanish at the URL: <https://www.cofece.mx/proyecto-de-ley-general-de-adquisiciones-arrendamientos-y-servicios-del-sector-publico/>