



MAPS

Methodology for Assessing
Procurement Systems

Indicator Matrix – Professionalisation module

2022



Pillar I. Legal, Regulatory, and Policy Framework

Indicator 1. The legal framework includes appropriate regulations on public procurement professionalisation

Sub-indicator 1(a) Rules on professionalisation
The legal framework meets the following conditions:
Assessment criterion 1(a)(a): Professionalisation of the procurement function is established unambiguously as a strategic objective
Conclusion: No gap
Red flag: No
Qualitative analysis Law N° 9986 (General Law on Public Procurement), in Article 132, establishes professionalisation as a strategic objective, including certification and continuous training of the procurement workforce. Such Article explicitly sets out that the Public Procurement Authority (<i>Autoridad de Contratación Pública</i> , ACP) will design a strategy to promote the professionalisation, certification and continuous training of the procurement workforce, as well as the accreditation of institutional procurement units. It also mandates the Directorate for Public Procurement (<i>Dirección de Contratación Pública</i> , DCoP) of the Ministry of Finance to take measures to advance training of the procurement staff, exchange of good practices, and support staff to facilitate collaboration and sharing of technical knowledge. For that purpose, DCoP can enter into agreements with universities, think-tanks, or public international law institutions, aiming to upgrade the skills and competences of the procurement workforce. Decree N° 43808-H (Bylaws to the General Law on Public Procurement), in its Article 52, establishes that the professionalisation strategy should include public policy objectives, indicators, strategy and guidelines relative to strategic public procurement, and provide knowledge about the tools needed for implementation.
Gap analysis
Recommendation
Assessment criterion 1(a)(b): The roles, functions and responsibilities of public bodies with regard to professionalisation are clearly defined and assigned.
Conclusion: Minor gap
Red flag: No
Qualitative analysis Law N° 9986 establishes a deadline of 18 months to develop the procurement professionalisation strategy to be applied by public institutions, under the leadership of the ACP. The deadline is 31 May 2024. Even though Law N° 9986 only sets out the general mandate to develop a procurement professionalisation strategy, Decree N° 43808-H provides a more detailed explanation as to the roles and responsibilities of different stakeholders. For example, DCoP is defined as the execution arm for the ACP and in charge of developing guidelines for the professionalisation of the procurement units (<i>proveedurías</i>) of public

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institutions, promoting capacity-building and evaluation processes to train officials to carry out efficient, effective, and strategic public procurement to contract goods, services, and works to satisfy institutional needs and facilitate the achievement of objectives, maximising savings and allowing the correct use of public resources. DCoP is also tasked with defining horizontal capacity-building on topics to develop knowledge, skills, and attitudes for an adequate performance of procurement officials. Likewise, DCoP is in charge of implementing certifications to ensure procurement officials know their functions, duties, and responsibilities and execute efficient processes.

On their side, public institutions are allocated responsibility of ensuring that current procurement staff and individuals to be hired to work in *proveedurías* are adequate for their tasks. Such institutions should also carry out self-assessments to keep their *proveedurías* up to date.

Gap analysis

The level of detail of the roles, functions, and responsibilities established in Decree N° 43808-H could still go more in-depth. The stakeholder mapping exercise carried out during the OECD fact-finding mission suggests that a wider set of stakeholders' responsibilities could be described, so that the governance of the professionalisation mandate is clear. In this sense, it is very important to define the governance of the professionalisation strategy, where every stakeholder knows its responsibilities and how it should co-ordinate with other institutions. For example, it would be important to define the roles of line ministries, control and audit authorities, and knowledge centres. This will prevent a "blame game", in which public institutions and their *proveedurías* avoid assuming their responsibilities and blame DCoP for anything that goes wrong.

Likewise, there are stakeholders which can contribute to the success of the professionalisation strategy, but their roles are not envisioned in the Law or the Decree, for example, the Comptroller General of the Republic (*Contraloría General de la República*, CGR), the General Directorate of the Civil Service (*Dirección General del Servicio Civil*, DGCS), universities, think-tanks, business associations, and civil society organisations (CSO).

Recommendation

Future guidelines and secondary regulations should aim to provide more detail into the governance of the public procurement professionalisation strategy, including the roles of a wider set of stakeholders (e.g. CGR, DGCS, business chambers, universities, CSO, etc.).

Sub-indicator 1(b)

Rules on private sector participation

The legal framework meets the following conditions:

Assessment criterion 1(b)(a):

Ensures that there are no barriers to participation in the public procurement professionalisation market.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

There are no explicit legal limitations to the participation of the private sector in capacity-building activities. Indeed, Fidelitas University, for example, a private university, has a master's degree in business administration with a concentration on procurement. Likewise, the School of Public Administration of the University of Costa Rica used to offer a bachelor's degree in public procurement, and public officials are free to enroll in these programmes. In some cases, public institutions provide partial scholarships for their officials to enroll, as Costa Rica's Electricity Utility (*Instituto Costarricense de Electricidad*, ICE) used to do.

According to a survey applied by OECD to public entities, universities and business associations, this perception of lack of barriers is mostly shared. When asked if those institutions perceive that the

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professionalisation and capacity-building market for procurement officials is open and free from restrictions, the answers were the following:

Type of institution	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
Business associations	0	2	0	0	0
Universities	1	1	1	1	0
CSO	1	0	0	0	0
TOTAL	2	3	1	1	0

Notably, the Commission to promote competition (*Comisión para Promover la Competencia*, COPROCOM) answered “neutral” to the question on whether it considered the professionalisation and capacity-building market for procurement officials open and free from restrictions.

It is also notable that public officials from the six institutions with the highest procurement budgets (INA, CCSS, Municipality of San José, BNCr, ICE, and CONAVI) do not believe they are free to determine which professionalisation or training services to select, according to their institutions’ needs. From a sample of 881 procurement officials from those institutions, only 31.6% strongly agreed or agreed that they are free to do it, while 40.3% disagreed or strongly disagreed.

Gap analysis

Even though there are no legal or formal restrictions for the private sector to participate in the procurement professionalisation or capacity building market, the answers to our survey suggest there may be informal barriers. It is unclear at this point what those barriers are. This was a topic discussed during the validation workshop, where procurement practitioners explained that this might be due to the fact that some institutions have established rules and protocols to access professionalisation services (i.e. training) in order to advance consistency and alignment with organisational planning and objectives.

Recommendation

DCoP could work with stakeholders such as universities and business associations to understand better the practical barriers for the private sector to participate in the procurement professionalisation market and agree with them on shared solutions to remove such barriers.

Assessment criterion 1(b)(b):

Establishes rules for the participation in the public procurement professionalisation market of publicly funded entities and state-owned enterprises that promote fair competition.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The only guidance available is the statement of Art. 132 of Law N° 9986 providing that DCoP may enter into agreements with universities, think-tanks, or public international law institutions to upgrade the skills and competences of the procurement workforce. The robustness and quality of the services provided should be monitored to ensure a standard that really supports the professionalisation of the procurement function. As detailed guidelines and secondary regulations have not been developed yet, there are no explicit rules that promote fair competition for participation in the public procurement professionalisation market of publicly funded entities and state-owned enterprises.

Gap analysis

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Such lack of guidelines and secondary rules may be one of the factors breeding the perception of the private sector and public officials about practical limitations to participate in the procurement professionalisation market, as described in the previous criterion.

Recommendation

Future guidelines and secondary regulations should establish the rules for participation in the procurement professionalisation market, which should aim to balance free concurrence and ensuring the consistency and quality of the services provided. The latter objective may be achieved also through non-regulatory approaches, for example, by addressing information asymmetries providing a ranking of the quality of the professionalisation services offered by universities or private stakeholders.

Indicator 2. The legal framework includes appropriate regulations on public procurement professionalisation

Sub-indicator 2(a)

Recognition of public procurement as a professional function

The implementing rules, policy documents and other instruments recognise:

Assessment criterion 2(a)(a):

Public procurement as a profession

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

Law N° 9986 mandates the development of a professionalisation strategy. Likewise, Decree N° 43808-H mandates DCoP to promote professionalisation through capacity-building and certification activities. These are steps in the right direction, without a doubt. In order to complement these initiatives, the guidelines and secondary rules to be drafted by DCoP should also include a competency matrix to steer training activities and serve as the basis for the certification framework.

One of the conclusions from the OECD fact-finding mission is that, in practice, the degree of awareness about the strategic nature of public procurement varies significantly from one institution to the other. In turn, such awareness is often linked to strong leadership to reform and modernise procurement activities. These elements have led some institutions to elevate their procurement professionals. For example, Costa Rica's Social Security Fund (*Caja Costarricense de Seguro Social*, CCSS) recognises public procurement as a profession, probably because it is easy to realise the consequences that having poor procurement management will have in healthcare services. Whatever the reason, CCSS has now 137 procurement units and 780 procurement officials throughout Costa Rica's territory. Its Logistics Department developed 54 profiles for procurement professionals and has integrated a database of its procurement officials, including information about their professional profiles, function, and age, among others. It developed a professionalisation plan since 2016 and it is currently working on a certification scheme. Likewise, Costa Rica's National Bank (*Banco Nacional de Costa Rica*, BNCR) put together a registry of its procurement officials, including their professional profiles. In this case, the reason might be that BNCR has competitive pressures as it has to outcompete commercial banks to attract clients. Such good practices have not followed a standard as there is simply none at the moment. DCoP will have to close these gaps so that existing practices align to a standard and other contracting authorities follow such lead. Indeed, the spirit of the professionalisation mandate aims at coherent whole-of-government practices.

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Quantitative analysis

When answering the question on whether the procurement professionalisation objective is shared in the whole-of-government, out of the sample of 881 officials in the six institutions with the highest procurement budgets, 29.4% strongly agreed it is shared and 31.9% agreed (combined of 61.3%).

Gap analysis

Law N° 9986 and Decree N° 43808-H already envision some of the key elements that contribute to recognising public procurement as a profession. However, other elements that could be detailed in the strategy, guidelines and secondary rules to come include a job classification, a competency model, a certification framework, and incentive mechanisms such as a clear career path and professional networks. Only some public entities, such as CCSS, have more systematic plans to advance the professionalisation of their procurement workforces and this recognition needs to be extended to the whole-of-government. The professionalisation strategy provides a tool to achieve such extension. The risk level is considered moderate as there are experiences that illustrate that embracing public procurement as a profession is not only possible, but desirable, and actions can be taken to advance such recognition, particularly in light of the development of the professionalisation strategy.

Recommendation

ACP should lead the discussions with the different entities that regulate public employment so that public procurement is recognised as a stand-alone profession. The participation of MIDEPLAN, as leader of the public employment agenda, in the ACP should support this process.

Likewise, ACP should elaborate, in the guidelines and secondary rules to come, on the different elements that contribute to recognising public procurement as a profession. It may also look at the good practices already existing in decentralised institutions such as CCSS and BNCR to document lessons learned and replicate the achievements throughout the government.

Assessment criterion 2(a)(b):

Procurement as a specific function with different professional levels, specialisation, and a high degree of multidisciplinary.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The current framework, consisting mainly of Law N° 9986 and Decree N° 43808-H, does not go into detail regarding functions, professional levels, and specialisation of procurement officials. That said, it is a fact that procurement units employ professionals of different fields such as law, engineering and accounting, and different professional titles (i.e. technicians, bachelor's, master's, etc.).

CCSS, for example, is working to specialise procurement officials according to different categories (i.e. cardiology, food supplies, etc.), but this is still an ongoing effort.

Gap analysis

Since the current framework does not go into detail regarding functions, professional levels, and specialisation of procurement officials, and the guiding documents still have to be developed, there is a significant gap.

Recommendation

The guiding documents for the professionalisation of the procurement workforce, including the strategy, guidelines and secondary rules, will need to go into detail regarding functions, professional levels, and specialisation of procurement officials. A competency matrix, defining the competencies according to

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different levels of specialisation (i.e. basic, intermediate, advanced, and expert), would be useful to close this gap. Furthermore, it would be important to look at and complement ongoing initiatives, such as that of CCSS.

Assessment criterion 2(a)(c):

The importance of professionalisation for the performance of the public procurement system.

Conclusion: No gap

Red flag: No

Qualitative analysis

Decree N° 43808-H, in its Article 321, establishes that DCoP will define horizontal training portfolios to develop knowledge, skills, and attitudes for an adequate performance in the management of procurement functions, advancing efficiency and effectiveness. Hence, there is an explicit recognition that professionalisation activities such as capacity building will lead to improved performance.

Gap analysis

Recommendation

Assessment criterion 2(a)(d):

The impact of professionalisation on public finances quality of expenditure (in regulations and policy documents governing public finance management and/or public governance systems).

Conclusion: No gap

Red flag: No

Qualitative analysis

Decree N° 43808-H, in its Article 320, establishes that DCoP will prepare guidelines to promote professionalisation, training, and evaluation mechanisms that contribute to building the capacities of procurement staff to carry out strategic, efficient, and effective procurement to contract the goods, services, and works necessary to fulfil institutional objectives, maximising savings and ensuring the correct use of public resources. Hence, there is a recognition that professionalisation will contribute to the quality of expenditures by maximising savings and ensuring the correct use of public resources.

Gap analysis

Recommendation

Sub-indicator 2(b)

Implementing regulations define the professionalisation policy

Assessment criterion 2(b)(a):

The implementing regulations complement and detail the legal provisions on professionalisation, in accordance with the principles established in the law.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Decree N° 43808-H provides greater detail on the provisions established in Law N° 9986. but it remains at a strategic level and does not include much guidance on operational processes. As mentioned before, for example, it does not consider all the relevant stakeholders and their respective roles, it is not specific as to how the certification of procurement officials will be implemented, or how competencies will be assessed.

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Gap analysis

Currently, the normative framework consists mainly of Law N° 9986 and Decree N° 43808-H, so implementing regulations and guidelines are still to be developed, including the professionalisation strategy itself. Given that governance and operational aspects still have to be agreed and implemented through the professionalisation strategy, such missing elements may become a substantive barrier to the achievement of the strategic objectives defined in the regulatory framework for the public procurement system, which is why this is considered a red flag.

Recommendation

DCoP should develop the implementing regulations of the professionalisation mandate, including the professionalisation strategy, which should follow the next steps:

- Assessment of the current level of professionalisation.
- Stakeholder engagement
- Drafting the professionalisation document
- Monitoring

The strategy should be a standalone document and include the following elements:

- Background / Context
- Key challenges and gaps identified
- Vision / objective
- Implementation period
- Leading entity and key stakeholders (roles and responsibilities)
- Alignment with other sectoral and national sustainable development strategies
- Financial resources

Assessment criterion 2(b)(b):

The regulations that develop the principles of professionalisation are clear and comprehensive (including at least a clear definition of prioritized objectives, anticipation of systematic evaluation of professionalisation activities and their impact on institutional capacity building, among others).

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

The existing regulations mandating the professionalisation of the procurement function are Law N° 9986 and Decree N° 43808-H. These regulations include some principles such as cooperation and sharing of good practices, as well as integrity, transparency, value for money, and free concurrence, among others. However, there is not a clear definition of prioritised objectives, evaluation of professionalisation activities and their impacts. All these are elements to develop in the implementing regulations.

Gap analysis

Law N° 9986 is basically a broad mandate to professionalise the procurement function and Decree N° 43808-H elaborates on this mandate at the strategic level, but neither regulation includes details on objectives and implementation elements, such as the evaluation of impacts. All these are elements to develop in the strategy and implementing regulations. Lacking guidelines for these elements may significantly impede the professionalisation of the procurement function as the efforts may lack consistency across the whole-of-government. However, it should be stressed that such consistency can only stem from a participatory process

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in which the different stakeholders commit to the objectives and processes proposed and, as such, risks cannot be immediately mitigated, which is why this is considered a red flag.

Recommendation

The implementing regulations should be explicit about the general and specific objectives to be achieved through the professionalisation of public procurement, how the achievement of such objectives will be measured, and their impact. For this purpose, DCoP could anticipate monitoring and evaluation activities (M&E) and key performance indicators (KPI).

M&E is a process undertaken to understand whether goals were fulfilled against targets, and how they can be improved. M&E allows for systematic learning from past and current activities. Data gathered through M&E allows good practices to be replicated and mistakes and poor outcomes to be prevented. M&E also allows to measure impact of strategies and activities to make better informed decisions. Progress shall be monitored on an ongoing basis with short intervals, while the evaluation of the strategy should be conducted at the end of (sometimes in the middle of) specific milestones and/or at the end of the strategy implementation.

KPI subject to M&E depend on specific activities defined in the strategy, but shall consist of qualitative and quantitative indicators. In the case of the activity to develop training courses, potential indicators could be, but are not limited to, the development of training courses (qualitative), the number of participants in training (quantitative), and course satisfaction / evaluation survey (quantitative). In the case of the certification framework, they could include the development of the certification framework (qualitative), the number of certified officials (quantitative), and the success rate (quantitative). (OECD, 2023)

Assessment criterion 2(b)(c):

The implementing regulations include a strategy for: (i) profiling the procurement jobs; (ii) defining a career path with appointment/promotion competitive and based on qualifications and competencies specified; (iii) reinforcing the continuity of the professionals in the career path; (iv) developing a systematic approach to learning and development to build and update practitioners' knowledge and skills; and (v) ensuring that procurement professionals achieve a threshold level of knowledge and practice requirements in order to obtain senior procurement positions and key procurement responsibilities.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As mentioned before, the current normative framework mandating the professionalisation of the procurement function does not provide specific details on elements such as profiles, career paths, learning and development, or specialisation, but all these operational elements may be developed in the professionalisation strategy or in DCoP guidelines to allow for greater flexibility. The most detailed element in the current framework is training, as Article 321 of Decree N° 43808-H establishes that procurement officials should participate in induction and continuous training in, at least, the following topics:

- Regulatory framework of public procurement and relevant international treaties
- Supply and distribution chains
- Financial analysis of contracts
- E-procurement platform
- Ethics and probity in the public service
- Strategic public procurement
- Economic analysis of markets
- Risk analysis for public procurement

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- Planning, drafting, and following up the Annual Procurement Plan
- Monitoring the procurement process and timely payments
- Data analysis on the efficiency of public procurement
- Management by results

Again, these operational details do not need to be elaborated in primary laws. On the contrary, it may be easier and more efficient, while allowing greater flexibility, to develop them in the professionalisation strategy and in guidelines issued by DCoP.

Gap analysis

While the current regulatory framework for the professionalisation of the procurement function enlists specific training topics for procurement officials, it does not establish profiles, career paths, learning and development, or specialisation. The fact that a competency matrix has not been prepared hinders the development of the previous elements. The leadership of the centre of government, fuelling DCoP actions, will be key to signal the high-level political support to develop the elements to operationalise the legal mandate for professionalisation. Lacking such political support would significantly impede a more comprehensive professionalisation strategy, which in turn would delay implementation, creating high risks for the process to be derailed. Weak buy-in from the whole-of-government would entail a severe impact in terms of fulfilling the professionalisation mandate. In consequence, this is considered a red flag.

Recommendation

DCoP should develop a competency matrix and a certification framework that could serve as the basis for profiles, career paths, learning and development strategies, and specialisation criteria.

France, for example, included public procurement profiles in its Inter-ministerial Directory of State Professions (*Répertoire Interministériel des Métiers de l'Etat*, RIME). The job family of public procurement consists of various job positions and profiles: buyer (*acheteur*), procurement manager (*responsable achat*), procurement expert adviser (*conseiller en ingénierie d'achat*), official in charge of drafting contract documents (*rédacteur de la commande publique*), and official in charge of supply and contract management (*approvisionneur*). Each job profile has the same format: definition of the position, key activities, competences (skills and knowledge), requirement in terms of management skills, and key targets in the medium term. Job profiles used for recruiting procurement officials need to be aligned with the ones defined in the RIME.

On its side, a certification framework certifies the level of skills and competences acquired. It is closely linked to a competency model. A certification framework allows public procurement officers to improve their knowledge and skills through targeted training on the competences required under the certification framework. Thus, it may greatly contribute to recognising public procurement as a professional task, which will lead to a career path and specialisation levels. For example, in Chile, the certification was based on job profiles because different access rights were required depending on job profiles. It started with two profiles (procurement operator and supervisor) in version 1 (2006), and then extended to four profiles (procurement operator, supervisor, lawyer, and auditor) in version 2 (2019) to grant different access rights to each job profile. The current version 3, launched in 2019, introduced a proficiency-based certification with four proficiency levels (basic, intermediate, advanced, and expert). (OECD, 2023)

Assessment criterion 2(b)(d):

The implementing regulations consider the need to gradually implement the requirements for professionals of the public procurement, so as to balance the needs of professionalisation with those of operations continuity.

Conclusion: Substantive gap

Red flag: No

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Qualitative analysis

There is no reference to an incremental or gradual approach to the implementation of the professionalisation of the procurement function in the current regulatory framework.

Gap analysis

Neither Law N° 9986 nor Decree N° 43808-H establish a principle of graduality or set out a timeframe for the incremental implementation of professionalisation of the procurement function. This is another element to consider in the implementing regulations and the strategy. Failing to adequately plan may lead to lack of sequential and sustained efforts, unstructured initiatives, and inconsistencies, so the consequences may severely jeopardise the professionalisation process, which is why the risk is considered high. As the development of the professionalisation strategy allows to incorporate the principle of graduality and is key for success, this is not considered a red flag.

Recommendation

As mentioned previously, one of the elements that the professionalisation strategy should consider is an implementation period. As this represents a structural reform of the procurement system, its implementation should be incrementally organised in stages. In fact, a good practice is to complement the strategy with an annex containing an action plan table to summarise key initiatives to be taken, responsible parties, KPI, and timeframe. The Ministry of Economy and Innovation of Lithuania, for example, prepared an action plan for the professionalisation of the public procurement workforce (2019-2022) in close collaboration with the Public Procurement Office. The action plan aimed at developing training programmes for the public procurement workforce, methodological tools, and solutions to motivate contracting authorities and procurement specialists to conduct procurement more efficiently. This action plan was prepared in table format, enlisting measures/activities, responsible institutions, implementation deadlines, and results (progress) for five key areas. (OECD, 2023)

Assessment criterion 2(b)(e):

The implementing regulations include a clear strategy of involvement, participation, and empowerment of stakeholders in the definition, implementation, and evaluation of the professionalisation policy.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Law N° 9986 and Decree N° 43808-H were subject of several consultation rounds, as it is mandatory to consult on draft laws. During the fact-finding mission, the OECD team got confirmation from institutions, such as CCSS and BNCR, that participated in consultation workshops organised by CGR and fora organised by the Legislative Assembly. However, it also heard opinions claiming that inputs provided during consultation periods were not considered as the Law was approved in a rush. Other stakeholders claimed that they were not proactively consulted, even when they had the opportunity to contribute during the mandatory public consultation period.

However, neither Law N° 9986 nor Decree N° 43808-H anticipate stakeholder engagement mechanisms for the development and implementation of the professionalisation strategy. Stakeholder mapping should consider the contributions by each entity, as well as the potential for conflicts of interest in their participation.

Gap analysis

Even though Law N° 9986 and Decree N° 43808-H were subject of several consultation rounds, organised by CGR and the Legislative Assembly, they do not require stakeholder participation or set out engagement mechanisms for the development of the professionalisation strategy. Stakeholder engagement is key to

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develop buy-in by public officials and other stakeholders whose support would be precious to facilitate implementation. Furthermore, poor socialisation of the professionalisation process may lead to false expectations, misunderstandings, or wrong assumptions. As the faith of the process can be significantly impacted by poor stakeholder engagement, the risk is considered high. Even worse, lack of buy-in may create significant obstacles to the professionalisation process, turning it into a red flag.

Recommendation

It is critical to identify the stakeholders and consider their engagement during the process of developing and implementing a professionalisation strategy, as they might have different views and conflicting interests. Indeed, this MAPS exercise and the corresponding fact-finding mission were useful to map the stakeholders of procurement professionalisation.

Stakeholder engagement shall be carried out internally within the leading entity (DCoP, in this case) and externally through a mapping exercise. In the case of developing a professionalisation strategy of the public procurement workforce, key external stakeholders include, but are not limited to, the following entities:

- Public entities (e.g., ministries or public procurement authority) in charge of the overall public procurement policy/system
- Public entities in charge of the civil service system (in this case, DGSC)
- Public entities in charge of providing public procurement officials with training (for example, CECADES)
- Public entities related to thematic issues of procurement (ministries related to environment, SME development, labour, social affairs, innovation, digitalisation, and sustainable development policy)
- Anti-corruption authorities (Ethics Attorney, CGR, etc.)
- Competition authority (in this case, COPROCOM)
- Contracting authorities (providing their feedback on the current professionalisation initiatives and/or participating in individual capability assessment exercises)
- Private sector (suppliers, business chambers, etc.)
- Civil society, universities, and knowledge centers

DCoP could consider setting up a multi-stakeholder taskforce as part of the process to formalise the professionalisation strategy. This would contribute to setting up a shared vision and goals, clarifying roles of each stakeholder, and ensuring political and financial commitment.

Assessment criterion 2(b)(f):

The implementing regulations define a strategy to promote the participation of the productive sector, academia, and civil society in the professionalisation policy.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As mentioned previously, neither Law N° 9986 nor Decree N° 43808-H anticipate stakeholder engagement mechanisms for the development and implementation of the professionalisation strategy. The only mechanism considered to work together with universities and knowledge centers are cooperation agreements.

Gap analysis

Even though Law N° 9986 and Decree N° 43808-H were subject of several consultation rounds, organised by CGR and the Legislative Assembly, they do not require stakeholder participation or set out engagement mechanisms for the development of the professionalisation strategy. As mentioned previously, poor

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socialisation of the professionalisation process and passive stakeholder involvement may lead to false expectations and misunderstandings. As the faith of the process can be significantly impacted by poor stakeholder participation, the risk is considered high. Even worse, lack of buy-in may create significant obstacles to the professionalisation process, turning it into a red flag.

Recommendation

It is critical to identify the stakeholders, including the productive sector, academia, and civil society, and consider their engagement during the process of developing and implementing a professionalisation strategy, as they might have different views and conflicting interests.

Sub-indicator 2(c)

Strategic and specialised procurement, horizontal policy objectives and international obligations

Assessment criterion 2(c)(a):

The professionalisation policy considers the needs of strategic and specialty areas of public procurement as an integral part of the professionalisation effort and not as an exception to it.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

Law N° 9986, in Article 20, establishes that public procurement should serve for the achievement of national and local social development, the economic empowerment of vulnerable groups, environmental protection, and innovation. Then, Decree N° 43808-H, in its Article 52, explicitly states that professionalisation should facilitate the fulfilment of strategic public procurement objectives. Indeed, it states that the professionalisation strategy should incorporate public policy objectives, indicators, strategy, and guidelines relative to strategic public procurement, as well as promote the knowledge of the tools necessary to implement it.

Gap analysis

The normative framework mandates to link professionalisation efforts with strategic public procurement objectives. That is a first step in the right direction. However, there is still the need to develop the professionalisation strategy with the elements mentioned above: Objectives, indicators, guidelines, etc.

Recommendation

The development of the professionalisation strategy should incorporate the mandate to advance strategic public procurement, as dictated in Law N° 9986 and Decree N° 43808-H. Evidently, the strategy should go deeper into implementation mechanisms, institutions responsible, and timeline.

Assessment criterion 2(c)(b):

The professionalisation policy considers the development and mastery of knowledge, skills and values that promote support for country's horizontal policy objectives, such as sustainable procurement, promoting economic development, social development and environmental protection and innovation.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

As mentioned previously, the regulatory framework for the professionalisation of the procurement function anticipates that public procurement can be leveraged to achieve strategic policy objectives such as sustainability, social inclusion, and innovation. Moreover, Article 321 of Decree N° 43808-H establishes that procurement officials should participate in induction and continuous training in topics such as strategic public procurement.

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Gap analysis

While the mandate of Decree N° 43808-H is a first step, the professionalisation strategy will need to go deeper to define complementary policy objectives to achieve by leveraging public procurement.

Recommendation

The professionalisation strategy should describe in detail how such an effort will contribute to the advancement of strategic public procurement, including, for example, sustainable procurement, promoting economic development, innovation, and environmental protection.

A useful tool to link professionalisation and strategic public procurement is the competency matrix. For example, competency #5 in ProcurCompEU, the European competency framework for public procurement officials, is sustainable procurement, which is described as “knowledge of the sustainability objectives of the organisation (environmental and social) and related national policies, as well as of the available tools, standards, and techniques for incorporating these into the procurement process”. Likewise, competency #6 is innovation procurement, which is described as “knowledge of the innovation objectives of the organization and related national policies, as well as the available tools and techniques for incorporating these into the procurement process”. ProcurCompEU then considers different levels of mastery: Basic, intermediate, advanced, and expert.

Assessment criterion 2(c)(c):

The professionalisation policy considers the impact in public procurement of due compliance of obligations derived from membership in international and/or regional associations or binding international/regional agreements.

Conclusion: No gap

Red flag: No

Qualitative analysis

Law N° 9986, in Article 9, establishes that DCoP, together with the Ministry of Foreign Trade, will co-ordinate training activities for procurement officials to implement procurement rules from international trade agreements in force, or about to enter into force, in Costa Rica. Likewise, Article 16 of Decree N° 43808-H reiterates this mandate. This might be particularly relevant for Costa Rica as it is an observer of the World Trade Organization’s Agreement on Government Procurement (GPA) since 3 June 2015 and applied for GPA accession on 27 September 2023.

Gap analysis

Recommendation

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Indicator 3. Professionalisation is a key component of the public procurement system

Sub-indicator 3(a)
The professionalisation policy is part of a broader public procurement capacity-building strategy
The legal and regulatory framework, financial procedures, and systems for the sector, provide for the following:
Assessment criterion 3(a)(a):
is defined in support of a broader public procurement capacity-building strategy.
Conclusion: Minor gap
Red flag: No
Qualitative analysis
<p>Law N° 9986 is a comprehensive reform for Costa Rica's public procurement policies and practices, and professionalisation is part of this reform. Notably, there are mandates for a broader capacity-building strategy throughout the text of the Law. For example, Article 131 establishes that the staff working for <i>proveedurías</i> should be adequate and follow a periodic training process to achieve professionalisation and certification according to their functions and profiles.</p> <p>Another indication of a wider capacity-building strategy is the Virtual Campus of the Ministry of Finance (<i>Campus Virtual Hacendario</i>), which is a platform for online training and a virtual community to share experiences and knowledge.</p> <p>During 2023, DCoP organised 35 webinars on topics such as regulatory framework, sustainable public procurement, professionalisation, framework agreements, value for money, open data in public procurement, ethics and probity, public procurement for innovation, challenges, and supporting SME through public procurement, among others.</p> <p>While a professionalisation strategy is still under development, it is anticipated that public procurement profiles will incorporate soft skills such as ethics, time management, and strategic planning.</p>
Gap analysis
Despite the fact that Law N° 9986 provides for broad capacity-building strategies and that there are already ongoing initiatives to build capacities in the procurement workforce (e.g. the Virtual Campus), the professionalisation strategy for the procurement workforce is still work in progress.
Recommendation
The professionalisation strategy should be structured in a way that supports wider capacity-building initiatives and leverages on them to extend professionalisation throughout the procurement workforce. Indeed, the initiatives already under way can provide useful inputs and experiences to build on and determine other necessary capacity-building activities.
Assessment criterion 3(a)(b):
Is based on an assessment of the public procurement system that guides the policy definition.
Conclusion: Minor gap
Red flag: No
Qualitative analysis
During 2023-24, DCoP will draft the professionalisation strategy based mainly on two assessments:

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- A report produced by a consultant and supported by the Inter-American Network on Government Procurement (INGP)
- The application of the MAPS Professionalisation module: This exercise focuses mainly on the existence of conditions (regulatory and policy framework, institutional and managerial, operational and market capacity, and the system of integrity) that favour and promote the development of the public procurement profession. In carrying out the MAPS assessment, the OECD will also provide the structure and good practices for the professionalisation strategy.

Given the contributions to be provided by these two reports, it can be concluded that the definition of the professionalisation policy will be based on the assessment of the public procurement system. DCoP will have the inputs needed to produce an evidence-based strategy.

Gap analysis

The commissioning of the INGP report and the MAPS Professionalisation module are certainly evidence that the professionalisation strategy will rely on the assessment of the current situation. The next step is to actually bear in mind the recommendations from these two reports when drafting the professionalisation strategy.

Recommendation

When drafting the professionalisation strategy, DCOP should consider the assessment and recommendations from the INGP report and the MAPS Professionalisation module. These two inputs could be the basis for a well-grounded strategy, based on robust evidence.

Assessment criterion 3(a)(c):

Allows the procurement professionals to have the required qualifications and competencies for different professional levels for an outstanding performance in the procurement system within which they operate.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

The current regulatory framework, composed by Law N° 9986 and Decree N° 43808-H, does not explicitly mandate the elaboration of a competency matrix, which would dictate the qualifications, skills, and competences for procurement officials at different professional levels to perform adequately. It does, however, establish the need to develop a certification framework and specific training portfolios, including topics such as strategic public procurement, risk analysis, e-procurement, and financial analysis, among others.

Gap analysis

The competency framework is an indispensable element to allow procurement professionals to identify and develop the skills and competences for an outstanding performance at different hierarchical and professional levels. It is also the guide to design training portfolios aligned with the skills and competences required in the public procurement system and to develop a certification scheme for procurement professionals to demonstrate they have mastered the skills required for different functions and managerial levels. Since the normative framework already anticipates training and certification activities, the main gap lies in the competency framework.

Indeed, in a survey applied by the OECD among 881 procurement officials in the six institutions with the highest procurement spending, 84% considered that the lack of a competency framework has hindered their ability to identify their training needs and the planning of their career paths.

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Recommendation

The professionalisation strategy should include the development of a competency framework for procurement officials at different professional levels (for example, junior, intermediate, advanced, and expert) and considering both hard and soft competencies. The competency matrix will then be the foundation for aligning training portfolios and a certification scheme.

Assessment criterion 3(a)(d):

Strives to deliver better results by adopting a more strategic approach focused on results rather than exclusively on process.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

Article 8 of Law N° 9986 establishes the general principles for public procurement in Costa Rica. The principle of value for money sets out that public procurement will aim to maximise the value of public resources and promote actions guided by a management by results approach, so that it takes place in a timely manner and ensuring the best conditions in terms of price and quality.

The Law, while regulating the procurement process in its different modalities, also provides for substantive and strategic results such as efficiency and effectiveness, social and environmental sustainability, innovation, SME participation, and technological update. The professionalisation strategy should align with this strategic approach and allow to develop the capacities to attain it.

Furthermore, the Government of Costa Rica adopted the model for management by development results, which has been gradually implemented in public institutions.

Gap analysis

Despite the fact that Law N° 9986 explicitly promotes better results and establishes principles such as value for money, the professionalisation strategy is still work in progress.

Recommendation

While drafting the professionalisation strategy, DCOP should align it with the strategic approach focused on results provided by the regulatory framework, as well as with principles such as value for money and sustainability, among others.

Indicator 4. Professionalisation takes place in an environment of planning, monitoring and evaluation

Sub-indicator 4(a)

Professionalisation planning

The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criterion 4(a)(a):

Annual or multi-annual professionalisation plans are prepared by the normative/regulatory function.

Conclusion: Substantive gap

Red flag: Yes

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Qualitative analysis

No element of the regulatory framework mandates DCoP or other public institutions to draft annual or multi-annual procurement professionalisation plans. So, currently this is not a practice undertaken by the public administration of Costa Rica.

Gap analysis

As it has been stated earlier, the current regulatory framework for public procurement only includes a general mandate for professionalisation, but does not describe the detailed procedures to implement it. As the drafting of a professionalisation strategy is an ongoing task, there is still no mandate to prepare annual or multi-annual professionalisation plans.

Recommendation

The professionalisation strategy should include details as to how the process will be implemented, including through annual or multi-annual plans at strategic level (normative function) and at the level of each contracting authority.

Assessment criterion 4(a)(b):

Professionalisation plans are based on the formal assessment of existing needs, capacities and gaps

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Since there is no competency matrix spelling out the skills and competences required for procurement officials at different professional levels, there is no benchmark for a formal assessment of existing needs and gaps. Furthermore, the regulatory framework does not explicitly mandate producing a competency matrix as one of the pillars of the professionalisation process.

Gap analysis

There is no mandate, benchmark, or methodology to carry out formal and periodic assessments of existing skills needs and gaps, so this is not explicitly anticipated to support the professionalisation process.

Recommendation

The professionalisation strategy should include details as to how the process will be implemented, including through the formal and systematic assessment of skill needs and gaps at the level of each contracting authority. This could be part of the accreditation of *proveedurías*, which is mandated in Article 326 of Decree N° 43808-H.

Assessing the current level of professionalisation of the public procurement workforce should always be the first step to advance the professionalisation. This assessment consists of two streams: (i) the system of professionalisation and (ii) the capability level of the public procurement workforce. The first dimension looks at framework conditions to see how well professionalisation enablers are in place in the national procurement system. The second approach makes a more bottom-up approach to analyse individual assessments of skills and competences. Both approaches help identify the strengths and weaknesses and serve as the basis to develop a strategy and/or action plan to promote professionalisation. The challenges and gaps identified in the assessment set the basis for developing a professionalisation strategy and specific initiatives to promote professionalisation such as developing a competency model and a certification framework, developing capacity-building systems, and setting up incentive mechanisms to increase the attractiveness of public procurement as a profession. (OECD, 2023)

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Assessment criterion 4(a)(c):

Professionalisation plans consider at least: (i) the preparation of a diagnostic in collaboration with the relevant stakeholders; (ii) a clear definition of the objectives; (iii) consensus building; (iv) shared goals; (v) detailed planning; and (v) monitoring.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As mentioned previously, there is no mandate or benchmark for public institutions to prepare procurement professionalisation plans. There are exceptional cases of institutions in which such plans have been developed. For example, the Municipality of San Jose prepared a consolidated professionalisation plan for public officials. Such efforts started in 2010, after a report by CGR indicating numerous weaknesses. The plan establishes the training that will be offered and defines priority topics, which are discussed by the procurement team. There are also narrower plans focused on capacity building, for example, in the National Learning Institute (*Instituto Nacional de Aprendizaje*, INA). But again, these plans have been prepared at the initiative of each institution and without a standardised format to be applied throughout the public administration.

Regarding shared goals, when answering the question on whether the procurement professionalisation objective is shared in the whole-of-government, out of a sample of 881 officials in the six institutions with the highest procurement budgets, 29.4% strongly agreed it is shared and 31.9% agreed (combined of 61.3%). 24.4% answered “neutral” and 14.3% either disagreed or strongly disagreed. Of the six institutions, the officials with the strongest sense of shared goals are in INA (78.2% agreed or strongly agreed) and the Municipality of San Jose (75%).

Gap analysis

In general, public institutions do not prepare professionalisation plans. The very few that do prepare them do it at their own initiative and without guidelines to follow a standardised format.

Amongst the six institutions with the highest procurement volumes, the officials with the weakest sense of shared professionalisation goals are in ICE (48.5% agreed or strongly agreed) and CONAVI (45.8%).

Recommendation

Review the experience of those few institutions that have prepared professionalisation plans, such as the Municipality of San Jose, to identify good practices that may serve as a model to develop guidelines and templates for other institutions. Such guidelines should include preparing an assessment, defining objectives, building consensus among stakeholders, planning, and monitoring.

Take advantage of the mandate of the new Law on Public Employment (*Ley de Empleo Público*, LEP) to draft employment plans for *proveedurías*, working jointly with the corresponding human resources units.

Consider *proveedurías* in the guidelines MIDEPLAN and DGSC will prepare to implement the new LEP and align the procurement professionalisation strategy accordingly.

Strengthen the sense of shared professionalisation goals and expectations amongst public officials by engaging them in the development of the professionalisation strategy and institutional plans.

Assessment criterion 4(a)(d):

The professionalisation plans are linked to those of institutional strengthening and there are mechanisms in place to ensure consistency.

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Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Even though the preparation of procurement professionalisation plans is not a current practice, the LEP requires public institutions to prepare public employment plans. This process is not particular to procurement units but could be leveraged as a first step to draft procurement professionalisation plans, in joint efforts with the corresponding human resources departments.

Gap analysis

Costa Rica has not developed tools or methodologies to prepare professionalisation plans.

Recommendation

Develop the tools to provide the foundations for professionalisation plans. These tools should be anticipated in the professionalisation strategy. Ideally, such tools would allow assessing the procurement maturity of public institutions, such as New Zealand's Procurement Capability Index (PCI), and evaluating individual skills and knowledge of procurement practitioners, just like ProcurCompEU.

Some OECD countries use strategies based on an evaluation of concrete skills and competences. Aggregated results of such an assessment could help form professionalisation plans that would best respond to the needs of procurement practice. For example, New Zealand considered the procurement function as a whole and evaluated procurement maturity of public organisations without looking into individual skills and knowledge. In this sense, New Zealand Government Procurement developed the Procurement Capability Index (PCI) to assess organisational capability of government agencies. Other countries have embarked into a self-assessment of individual skills and knowledge of procurement practitioners. Given the heterogeneity of the procurement function, this approach requires a structured and scalable assessment tool so that respondents could be identified according to their role in the public procurement cycle. For example, ProcurCompEU provides a self-assessment tool through a survey questionnaire that allows users to assess individual and/or organisational proficiency levels of competences and identify any gaps between the current level of each individual and the target level expected by their entities. (OECD, 2023)

Assessment criterion 4(a)(e):

The professionalisation plans are consistent with the other procurement system's strategic plans in place.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As the regulatory framework for public procurement in force is relatively recent, strategic plans are ongoing work. For example, DCoP is preparing the public procurement policy plan for the next four years. Likewise, the Ministry of Finance is preparing its strategic plan. On the other hand, there are some strategies already in place and professionalisation efforts should support their implementation. For example, some of the relevant strategies already in place are:

- National policy for sustainable production and consumption 2018-2030
- Guide for sustainable public procurement 2022
- National strategy for the substitution of plastics for renewable alternatives 2017-2021
- Guide of social criteria for public procurement in Costa Rica (2014).

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Gap analysis

As strategic plans for the implementation of the mandates of Law N° 9986 are developed, the professionalisation strategy is still work in progress. However, parallel processes open the opportunity to align these two streams.

Recommendation

As the regulatory framework for public procurement includes a mandate to implement strategic public procurement (e.g. green, sustainability, innovation, SME), professionalisation plans should consider how they will contribute to its implementation and develop the relevant skills and competences.

Sub-indicator 4(b)

Public procurement information systems include data suitable for the efficient support of professionalisation

The country public procurement system meets the following requirements:

Assessment criterion 4(b)(a):

The public procurement integrated information system (centralised online portal) and/or other systems are easily accessible to all interested parties at no cost and provides up-to-date information relevant to the creation of evidence-based educational contents, targeted according to the performance of individual functions in the procurement system

Conclusion: No gap

Red flag: No

Qualitative analysis

According to the regulatory framework, the Consolidated Digital System (*Sistema Digital Unificado*, SDU) is the platform to carry out all procurement procedures. It centralises all public procurement procedures and is managed by DCoP. Even though the training for the use of the system is free, its actual use is not free, and users have to pay a regulated fee, just like it happens with the e-procurement system currently in use (SICOP).

The regulatory framework mandates SDU to make available information for all types of users in a friendly, intuitive, and non-discriminatory manner. In fact, all the information, including reports and statistics, should be published following open data standards.

In addition to SDU, the Ministry of Finance set up an Observatory of Public Procurement (www.observatoriocomprapublica.go.cr). The Observatory is a digital tool that facilitates access to public procurement information. Access is free for anyone interested in obtaining historic, open, and reusable data about what and when is procured by public institutions. The specific objectives of the Observatory are:

- Allowing access to data about public procurement processes ran in SICOP.
- Facilitating analytics of public procurement data through indicators and visualisation tools.
- Allowing knowledge transfer and the exchange of experiences between public institutions, academia, and social stakeholders, through business intelligence.
- Facilitating monitoring and access to information about procurement for citizens and audit institutions.
- Supporting decision making to develop policies on public procurement.

Finally, the Virtual Campus of the Ministry of Finance (*Campus Virtual Hacendario*) is a platform for online training and a virtual community to share experiences and knowledge.

Gap analysis

Recommendation

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Assessment criterion 4(b)(b):

The public information system(s) provides public access, at least, to the following information (anonymized if needed):

- Detailed and disaggregated information on procurement processes;
- Results of monitoring actions and audits;
- Decisions on complaints and appeals in procurement processes;
- Existing needs, capacities and gaps;
- Relevant professionalisation plans and priorities defined by the normative/regulatory function and other authorities.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

SDU and the Observatory of Public Procurement provide public access to detailed and disaggregated information on procurement processes. Such information is also available in the Integrated System of Procurement Activity (*Sistema Integrado de Actividad Contractual*, SIAC), managed by CGR. Information on complaints and appeals (*recursos de objeción*) can be found in the Observatory platform.

As a general rule, the CGR audit and monitoring reports on public procurement activities are public (100%). Likewise, CGR makes public challenges and resolutions (100%). On an exceptional basis, some documents can be deemed confidential in the files, if their publication entails risks for the relevant parties. CGR reports carrying out four audits to public procurement in 2020, two in 2021, and 16 in 2022. Notably, in a survey applied by OECD, BNCR, CONAVI, ICE, and INA agreed or strongly agreed that monitoring and evaluation reports can be useful to advance professionalisation.

Now, in a survey applied by OECD, not all stakeholders were aware that audit and monitoring reports, as well as challenges are public. The survey included two business chambers and one CSO. The two business chambers acknowledged that decisions on challenges are public 75% of the time (frequently), while the CSO recognised they are public 100% of the time (always).

Gap analysis

Information about existing professionalisation needs and capacity gaps is not available as a full assessment has not been completed. The same is true for professionalisation plans. Regarding public procurement priorities, the two surveyed business chambers considered that they are public 50% of the time (sometimes), while the CSO perceived they are public 100% of the time.

Recommendation

The existing digital platforms (SDU and Observatory) provide detailed information about the public procurement system. Information on professionalisation plans and skills assessments should be incorporated once they are ready. On its side, SIAC information could be integrated with other systems to produce KPI on professionalisation.

Assessment criterion 4(b)(c):

The aforementioned information is available in open and structured machine-readable format, using identifiers and classifications (open data format).

Conclusion: Minor gap

Red flag: No

Qualitative analysis

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Information in SDU and the Observatory of Public Procurement is available in open data format (machine-readable). However, this information does not include professionalisation plans or skills gaps assessments, as these are not yet completed.

Gap analysis

The OECD applied a survey to four educational institutions (National University, UTN, UNED, and UCR). When asked if they considered ideal the information available on public procurement professionalisation for data mining and analytics, one (25%) agreed, two (50%) were neutral, and one (25%) strongly disagreed.

Recommendation

The professionalisation strategy should include a requirement to publish professionalisation plans and assessments following open data standards, so that they are useful for data mining and analytics.

Sub-indicator 4(c)

Monitoring and evaluation of the professionalisation policy

Assessment criterion 4(c)(a):

The professionalisation policy includes mechanisms for monitoring and evaluation.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The existing regulations mandating the professionalisation of the procurement function are Law N° 9986 and Decree N° 43808-H. These regulations are not explicit about monitoring and evaluation (M&E) of professionalisation policies and their impacts. While these are elements to develop in the implementing regulations, a broad mandate at the level of primary laws would then open the door for providing detailed procedures in the professionalisation strategy or supporting guidelines.

Gap analysis

Since a professionalisation strategy is work in progress, there is still no methodology or KPI for monitoring and evaluation.

Recommendation

It is essential to design monitoring and evaluation (M&E) mechanisms, including KPI, during the drafting of the professionalisation strategy. M&E of professionalisation plans is commonplace in OECD countries. In Italy, for example, the Control Room of Public Contracts (*Cabina di regia dei contratti pubblici*) set up a working group in November 2021 to prepare a professionalisation strategy and training plan of public procurement. The Working Group is required to monitor regularly (at least quarterly) the progress on the achievement of the milestones, and the Control Room of Public Contracts can suggest that the central and territorial public bodies take further corrective measures. In Lithuania, although the professionalisation action plan required evaluation at the end of the strategy implementation period (December 2022), the implementation progress of each activity was monitored and regularly updated. (OECD, 2023)

KPI should have the “SMART” features:

- Specific and narrow for more effective planning.
- Measurable and objective: Expressed on pre-determined measures and formulas, and based on simple data that can be gathered objectively and in a cost-effective manner.
- Achievable: Realistic and within control, but ambitious.
- Relevant: Linked to key objectives of the organisation (critical outcomes or risks to be avoided), rather than on process.

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- Timed: Include specific timeframes for completion.
- Clear: Spelled-out and as simple as possible to ensure shared understanding.

Assessment criterion 4(c)(b):

The monitoring and evaluation of the professionalisation policy is integrated in the performance measurement system referred to in Sub Indicator 8 (c) of the core assessment methodology.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The professionalisation strategy is work in progress and therefore its evaluation is not considered in any performance measurement system.

Gap analysis

No methodology or indicators have been developed for the evaluation of the professionalisation strategy, as this has not been completed yet.

Recommendation

When designed, M&E mechanisms for the professionalisation strategy should be included in the performance measurement guidelines of the general public procurement system.

Assessment criterion 4(c)(c):

The responsibilities of monitoring and evaluation are clearly assigned

Conclusion: No gap

Red flag: No

Qualitative analysis

Law N° 9986 establishes that ACP is in charge of developing the procurement professionalisation strategy. In turn, Decree N° 43808-H defines DCoP as the executing agency of ACP. It determines that DCoP will prepare guidelines to promote professionalisation, including evaluation mechanisms

Gap analysis

Recommendation

Assessment criterion 4(c)(d):

Monitoring comprises mechanisms for evaluating the impact of professionalisation on the performance of procurement operations.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

No M&E mechanism has been developed as the professionalisation strategy is work in progress. This includes measurement of the impacts of professionalisation on procurement activities.

Gap analysis

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Since the professionalisation strategy is still to be developed, there is no measurement framework for the impact of professionalisation on procurement activities. Measurement frameworks are essential to assess progress and achievements periodically and consistently and identify any gaps in progress against objectives and targets. They enable governments, contracting authorities and other stakeholders to use the data to take action and/or to tailor specific strategies.

Recommendation

The pressure on public spending, as well as the need for more accountability, for monitoring the achievement of public policies, and for better managing public procurement risks, all make the need for impact measurement more urgent. Using OECD performance measurement framework (OECD, 2023ii), the professionalisation strategy should include mechanisms and indicators to assess the impact of professionalisation on the performance of public procurement at three levels, focusing on procurement procedures (tender level, contracting authority level and national level), depending on the existence of data and possibility to aggregate it. The measurement framework should:

- Identify three categories of indicators, related to compliance, efficiency, and achievement of strategic objectives.
- Cover the whole procurement cycle (from planning to contract management).
- Be used by different stakeholders (DCOP, *proveedurías*, CGR, etc.).

Assessment criterion 4(c)(e):

Results of monitoring and evaluation are used as a feedback mechanism to improve the professionalisation policy and its implementation plans.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

As there is no professionalisation strategy yet, no M&E mechanism has been devised and implemented. However, in a survey applied by OECD; BNCR, CONAVI, ICE, and INA agreed or strongly agreed that monitoring and evaluation reports on the public procurement system can be useful to advance professionalisation.

Gap analysis

M&E will have to be considered for design and implementation of the professionalisation strategy, so that DCOP becomes aware of any opportunities for improvement.

Recommendation

The professionalisation strategy should include M&E protocols, procedures, and indicators, including how the results of such activities will be used as feedback to improve the process. Actually, DCOP could use the monitoring and evaluation reports of the public procurement system currently available to get insights on opportunities and challenges for implementation.

Indicator 5. Professionalisation is based on sound principles and standards

Sub-indicator 5(a)

Professionalisation policy is based on sound principles and standards

The professionalisation policy:

Assessment criterion 5(a)(a):

Is based in principles that include competence, interdisciplinarity, accountability and professional judgement.

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Conclusion: Minor gap

Red flag: No

Qualitative analysis

Even though there is no professionalisation strategy yet, Decree N° 43808-H establishes the principles to follow in its design. For example, it highlights in Article 320 that, in order to strengthen the skills in the public sector to carry out procurement processes, ethics should be promoted, and training, updating, and evaluation should be facilitated. It also promotes competence and interdisciplinarity by stating that procurement officials should participate in continuous training on topics such as ethics and probity, economics, data analysis, and finance, among others (Art. 321). In this sense, certification will aim to ensure professional competence and judgement.

Gap analysis

The professionalisation strategy is still work in progress, so it cannot be assessed if it is based on sound principles.

Recommendation

While developing the professionalisation strategy, DCOP should include the principles provided by Decree N° 43808-H such as ethics, evaluation, and interdisciplinarity.

Assessment criterion 5(a)(b):

Includes the recognition and evaluation of a combination of theoretical and practical knowledge through training and specific education, as well as on-the-job experience. *

Conclusion: Minor gap

Red flag: No

Qualitative analysis

As mentioned before, Art. 321 of Decree N° 43808-H establishes that procurement officials should participate in induction and continuous training in, at least, the following topics:

- Regulatory framework of public procurement and relevant international treaties
- Supply and distribution chains
- Financial analysis of contracts
- E-procurement platform
- Ethics and probity in the public service
- Strategic public procurement
- Economic analysis of markets
- Risk analysis for public procurement
- Planning, drafting, and following up the Annual Procurement Plan
- Monitoring the procurement process and timely payments
- Data analysis on the efficiency of public procurement
- Management by results

However, there are no general references as to how soft skills and on-the-job experience will be incorporated. This is something for the strategy to elaborate so that the model remains flexible.

In the survey applied to 881 procurement officials in the six institutions with the highest procurement spending, when asked the question if the training provided recognises the need to combine technical and practical knowledge, 59.9% agreed or fully agreed. However, in some institutions such recognition is less prevalent. For example, only 49.8% agreed or fully agreed among ICE's procurement officials and only 37.5% in CONAVI.

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When asked the same question among four universities surveyed (National University, UTN, UNED, and UCR), two answers were neutral (50%), one in strong disagreement (25%), and one in agreement. During the fact-finding mission, the OECD heard opinions that the training provided is mostly theoretical.

Gap analysis

Although the normative framework mandates the continuous training of procurement officials in a set of technical/hard disciplines, it does not recognise the general role of practical knowledge, soft competences, and on-the-job experience. This is a gap to be addressed in the professionalisation strategy.

Recommendation

The professionalisation strategy should recognise the importance of practical and soft competences, how they will be incorporated in the competency matrix, developed and certified, and the value of on-the-job training, mentoring, and job swapping.

Indeed, public procurement is a dynamic and practical task which requires not only technical expertise and knowledge but also practical experience. The knowledge and skills acquired through training courses could be further reinforced with practical training systems such as on-the-job training, mentoring, and job swapping. The following table describes each of these forms of practical training: (OECD, 2023)

	On-the-job training	Mentoring	Job swapping
Description	One-on-one training where an experienced staff transfers his skills and knowledge to a less experienced worker by working for the same project	Mentors provide mentees with advice in their professional development and daily work	Inter-exchange programme of the staff who work for different units inside the same entity and/or for different agencies for a certain period of time
Main target	Newcomers	Newcomers	Every level of procurement staff
Purpose	An experienced staff transfers his skills and knowledge to a less experienced worker	An experienced person (mentor) provides support and guidance to a less experienced person (mentee) in an effort to help him develop and reach his potential.	Providing procurement experts with the opportunity to share their experiences and learn at different working areas
Remarks	Trainer and trainees work together for the same task at the same workplace, on a daily basis	Mentor and mentee do not necessarily work for the same organisation nor at the same workplace. This will be an alternative or supplemental option to on-the-job training, because the trainer of on-the-job training can act as a mentor	The inter-exchange of the staff among various entities such as the public procurement authority, control entities, contracting authorities (small and large) is an option as long as it is beneficial to the exchanged staff

Assessment criterion 5(a)(c):

Recognises the basic skills of professionals such as in the subject matter (technical skills) and of the markets (business skills) as well as negotiation, social and interpersonal skills.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

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Although Decree N° 43808-H lists a series of topics for the continuous training of procurement officials, it does not recognise specific skills and competences, technical and business, to develop and test in procurement officials. Perhaps the normative framework is not the right place to provide such a detailed recognition, but it should rather be done in the professionalisation strategy and, more specifically, in the competency matrix.

Gap analysis

The normative framework does not provide an indication of the skills to be developed and tested in procurement officials and the professionalisation strategy and competency matrix are still to be prepared.

Recommendation

The professionalisation strategy should anticipate the development of a competency matrix that includes both, hard/technical and soft/business skills.

DCoP may want to look at ProcurCompEU as the basis to tailor the competency matrix to the situation in Costa Rica. ProcurCompEU describes 30 competences (knowledge, skills and attitudes) that public procurement professionals should demonstrate in order to perform their job effectively and efficiently and carry out public procurement procedures that bring value for money. The competences are grouped in two main categories: procurement specific competences and soft competences. The categories are then divided into six clusters, three per category:

- Procurement-specific competences (19 competences):
 - Horizontal: Nine competences applicable to all stages of the public procurement lifecycle.
 - Pre-award: Six competences required to perform all the tasks and activities taking place before the award of a public contract.
 - Post-award: Four competences necessary for contract management after the award of a public contract.
- Soft competences (11 competences):
 - Personal: Four competences on behaviours, skills and attributes that public procurement professionals should possess, as well as the mind-set that they should display according to their job profile.
 - People: Three competences enabling public procurement professionals to interact and co-operate with other professionals, and to do so in the most professional manner.
 - Performance: Four competences public procurement professionals need to have in order to increase value for money in public procurement procedures.

Each competence is described along four proficiency levels based on the breadth of knowledge and skills: Basic, intermediate, advanced, and expert. (OECD, 2023)

Assessment criterion 5(a)(d):

Includes the evaluation of procurement professional's performance.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

Performance evaluation is another element of a professionalisation system that is not currently envisioned in the normative framework. However, there are some experiences in Costa Rica which are worth looking at, for example in ICE, the Municipality of San José, INA, and CCSS, even when these does not apply exclusively to procurement officials.

Pillar II. Institutional Framework and Management Capacity

In general, performance evaluation is no different for procurement officials as for the rest of the public service. Each public institution has its own practices, but the LEP aims to standardise the practice. It sets a system of performance evaluation based on the agreement of goals between the public official and his superior. Fulfilling the programme of work (i.e. achieving objectives) accounts for 80% of the evaluation and 20% lies on competences, but there are currently no specific competences for the procurement function, but they are rather administrative competences. MIDEPLAN is in the process of producing more detailed guidelines for performance evaluation, in line with the LEP.

ICE has its own regulations on performance evaluation. It is based on the goals defined by public officials early each year, according to their profiles. Progress against such goals is reviewed every three months. The Municipality of San José also carries out the performance evaluation of its officials on the basis of goals and the issue of purchase orders.

INA developed a new system for performance evaluation called the Institutional System for Human Talent (*Sistema Institucional de Talento Humano*), which is linked to institutional objectives. Officials sign a commitment for individual results, which will be the basis for performance assessment. The process takes place every year, with concrete follow up every three months.

The model of performance evaluation in CCSS was developed by its Human Resources Unit, but it is also rather generic. The template for the performance evaluation of professional posts includes sections to assess quality of work, interpersonal relations, decision making, organisation of duties, knowledge of the post, analytical capacity, problem resolution, initiative and creativity, workload, timeliness, and proposals to improve performance. Likewise, the template for the performance evaluation of non-professional posts includes sections to assess quality of work, co-operation, reliability, initiative, knowledge of the post, timeliness, order, interpersonal relationships, capacity to learn, and proposals to improve performance.

Gap analysis

Performance evaluation is an element of the professionalisation system that still has to be developed. The normative framework does not provide guidance on it.

Recommendation

The professionalisation strategy should devise the system and protocols for the evaluation of the performance of procurement officials, including KPI, linking individual goals with organisational objectives, and the measures to support adequate performance.

The performance evaluation system of procurement officials should support the professionalisation strategy by contributing to the identification of skills gaps and indicating the priorities for capacity-building activities.

In designing a standardised performance evaluation system for procurement officials, DCOP may look at the experience of institutions such as CCSS, ICE, INA, and the Municipality of San Jose, particularly at the lessons learned when assessing the performance of the procurement workforce.

Pillar II. Institutional Framework and Management Capacity

Pillar III. Public Procurement and Market Practices

Indicator 6. The public procurement system has adequate financial mechanisms to finance the cost of education, training and certification of public procurement professionals

Sub-indicator 6(a) Existence of adequate budgetary resources Adequate budgetary resources are provided to cover:
Assessment criterion 6(a)(a): The professionalisation-related expenditures of the normative/regulatory function.
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis Currently, there are no budgetary resources specifically anticipated for professionalisation in DCoP. Furthermore, DCoP's unit in charge of developing and implementing the strategy is composed by only two officials. Hence, resources are necessary not only for training and educational purposes, but to support the wider professionalisation policy for the procurement function and the implementation of the strategy. An alternative that is considered in the normative framework is establishing co-operation agreements with educational institutions. The new Law on Public Employment (<i>Ley de Empleo Público</i> , LEP) establishes that resources will be allocated for professionalisation and training, but this is not exclusive for procurement officials, but for all the public sector workforce. Furthermore, it is still unclear how this budget allocation will take place. Recognising the fiscal restrictions faced by the country, several alternatives could be considered in addition to public budgets, such as raising revenues for procurement-related services and building a network of existing support institutions (public and private).
Gap analysis No budgetary resources are earmarked for the implementation of the professionalisation mandate stemming from Law N° 9986. Furthermore, DCoP's unit in charge of developing and implementing the strategy is composed by only two officials. These are serious shortcomings as a significant reform cannot be implemented and sustained without resources. Recognising the fiscal restrictions faced by the country, several alternatives could be considered in addition to public budgets, such as raising revenues for procurement-related services. For example, a percentage of the contracts awarded by using the e-procurement platform could be raised as a fee and those resources could be specifically tagged for professionalisation activities. The fee could be afforded either by the procurement authority, the participating bidders, or both. In any case, it would be important that any fee established does not hinder supplier participation. In order to address the shortage of human resources, DCoP could build a network of institutions to support the professionalisation of the procurement function including, for example, INA and the Institute to Promote and Advise Municipalities (IFAM). This network could be useful to share knowledge and pool resources to advance professionalisation initiatives.
Recommendation The professionalisation strategy should estimate the budgetary and human resources needed to advance the process effectively and according to the objectives and timeline defined. Ideally, such resources would be earmarked to ensure they are used to support the professionalisation process. Additionally, the funding strategy

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for professionalisation activities could consider raising revenues for procurement-related services and building a network of institutions to support the professionalisation of the procurement function.

Assessment criterion 6(a)(b):

The education/training in procurement of their procurement staff.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Supporting a learning culture in the civil service will ensure that skills are reinforced and regularly updated. It allows public officials to keep up with the fast-changing nature of work. This implies making investments in learning opportunities for civil servants including the public procurement workforce. (OECD, 2023)

In Costa Rica, a report by the Association of Professionals in Administrative Procurement (*Asociación de Profesionales en Contratación Administrativa*, ASPROCA) and the Ibero-American Network for Public Procurement (REDICOP), published in 2022, found that 61% of the 1 113 surveyed officials declared that training in their institutions is carried out with internal resources.

Currently, each institution budgets the resources to train its procurement staff. This was confirmed during the fact-finding mission, when OECD found that the allocation of resources for the professionalisation and training of the procurement function varies significantly from one institution to the other and is heavily dependent on the recognition of procurement as a strategic activity by the senior leadership. For example, CCSS staff recognised that the senior leadership of the institution instructed the Chief Administrator to allocate resources for training and this is considered as an investment, not simple spending.

CONAVI officials also mentioned that its *proveeduría* has allocated resources to train procurement officials and that even though there is a reasonable amount, it has decreased. In contrast, BNCR staff claimed that resources are insufficient.

Quantitative analysis

In a survey applied by OECD to the six institutions with the highest procurement spending (BNCR, CCSS, CONAVI, ICE, INA, and the Municipality of San José), 100% of them declared that they have financed, at least partially, training for procurement officials during the last 12 months.

Gap analysis

Resources devoted to training the procurement staff vary from one institution to the other, as there is no benchmark or standard for the whole-of-government. It seems to depend more on institutional leadership and recognition of the strategic nature of the procurement function.

Recommendation

As part of the professionalisation strategy, DCOP could establish a benchmark or standard for training funding based, for example, on the size of the procurement workforce and the skills gaps found in each institution, among other factors.

Bearing in mind the corresponding legal and budgetary analyses, the professionalisation strategy could aim at establishing a training institute for procurement officials, which would provide services for *proveedurías* and could be funded either through a directly allocated budget or through fees charged to *proveedurías*, in which case funding would have to be allocated to them. In any case, this institute would have to compete in the professionalisation market and avoid hindering market entry to keep a balanced playing field. For example, the Austrian Federal Procurement Agency (BBG) established the in-house Public Procurement Academy to promote

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theoretical and practical knowledge specific to centralised public procurement. BBG staff are trained to ensure quality, value for money, and fairness throughout the procurement process from the preparation of calls for tender and needs assessments and the application of market knowledge, to contract management. Alternatively, the strategy could leverage on existing institutions such as INA and IFAM.

Indicator 7. Public procurement is recognised as a professional career line in the country's public service

Sub-indicator 7(a) Existence of a public procurement competency framework
Assessment criterion 7(a)(a): A public procurement competency framework that includes different professional levels and specialties has been developed and is in use.
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis As it has been stated before, a competency framework has not been developed for the procurement function in Costa Rica.
Gap analysis Costa Rica currently does not have a competency framework for its public procurement workforce, which is a key step that the professionalisation strategy should consider to steer training and certification activities.
Recommendation DCOP, with MIDEPLAN's support as leader of the public employment agenda, should develop a competency matrix for the procurement function that serves as a key stepping stone for the professionalisation strategy. The international experience provides good examples on how to develop a competency framework. Hansel, the national Central Purchasing Body in Finland, introduced a competency model of public procurement in 2013. It defines four different procurement roles: key account manager, procurement specialist, legal counsel (lawyer) and sourcing consultant. Likewise, The Directorate for Public Procurement of Slovenia developed a competency model by adapting the ProcurCompEU competency matrix to its local context. It consists of a three-level competency matrix for six job profiles: (i) procurement support officer, (ii) stand-alone public buyer for smaller value contracts, (iii) stand-alone public buyer for higher value contracts, (iv) category specialist, (v) contract manager, and (vi) department manager. In July 2022, Slovenia's Directorate for Public Procurement published a manual to assess competences in the field of public procurement, which provides detailed information on the competency. As previously mentioned, ProcurCompEU provides a competency matrix that includes 30 competences and their proficiency descriptions for each of four levels (basic, intermediate, advanced, and expert).
Assessment criterion 7(a)(b): The public procurement competency framework identifies the skills and competency levels required by all the key staff involved in the procurement process, for different professional levels
Conclusion: Substantive gap

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Red flag: Yes

Qualitative analysis

As mentioned previously, a competency framework for the procurement function has not been developed in Costa Rica, so there is no identification of the skills and competences required by procurement professionals. Notably, 84% of the 881 procurement officials surveyed by the OECD in the six institutions with the highest procurement spending consider that the lack of a competency framework has limited the identification of training needs and planning of career paths.

When asked which three initiatives would contribute to promoting professionalisation of public procurement in Costa Rica, a competency framework was selected as the first one by 219 of the 881 officials (24.9%), being the second option as the first initiative to take, slightly behind incentive mechanisms.

	First choice	
	Number of selections	%
Competency model	219	24.9
Certification framework	98	11.1
Capacity-building system	157	17.8
Incentive mechanisms	239	27.1
Collaboration with knowledge centers	72	8.2
National network of procurement professionals	96	10.9
TOTAL	881	100

The OECD also asked procurement officials which are the five main competences that should be strengthened. The competences that were signaled as number one to be strengthened were planning (305 officials, 34.6%), legislation (161 officials, 18.3%), e-procurement (61 officials, 6.9%), contract management (30 officials, 3.4%), and procurement strategies (28 officials, 3.2%).

Notably, there are some similarities with the competences that the report by ASPROCA/REDICOP found in need of strengthening after surveying 1 113 procurement officials. The five competences with the highest responses were application of the normative framework, strategic planning, time management, effective communication, and conflict resolution mechanisms.

Gap analysis

Despite the importance granted by procurement officials to the need to have a competency framework and the identification of specific competences to be strengthened, the framework has not been developed.

Recommendation

The competency framework to be developed could consider the competences identified by OECD and ASPROCA/REDICOP as in need of strengthening.

Assessment criterion 7(a)(c):

The public procurement competency framework is suitable for conducting skills assessments, identification of educational, training and development needs, and career planning.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

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As mentioned previously, a competency framework for the procurement function has not been developed in Costa Rica. The surveys applied by the OECD and ASPROCA/REDICOP are useful to identify skill gaps and training needs. However, in both cases, the scope of the participating institutions is limited.

Another review of Costa Rica carried out by the OECD in 2020 included a survey to 7 496 officials in 34 contracting authorities, of which 21% worked exclusively on public procurement. During that exercise, the surveyed officials identified five main challenges, which are also similar to the findings of the ASPROCA/REDICOP and the other OECD survey: Implementation of strategic procurement, contract management, understanding the legal framework, procurement planning, and market research.

Notably, BNCR reports they are already analysing institutional capacities for public procurement.

Gap analysis

While the two OECD surveys (the one supporting this MAPS report and the one from 2020) and the ASPROCA/REDICOP analysis are useful as initial skills assessments and to identify training needs, the competency framework still has to be developed.

Recommendation

The two OECD surveys (the one supporting this MAPS report and the one from 2020) and the ASPROCA/REDICOP analysis could be the basis for a first draft of a competency framework for the procurement function of Costa Rica. Likewise, BNCR analysis of institutional capacities could be useful for this purpose.

Sub-indicator 7(b)

Existence of a career path of public procurement within the civil service

Assessment criterion 7(b)(a):

Career path of public procurement within the civil service where positions of different professional levels and specialties are distinguished.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

There is not a career path or a salary classification for procurement officials, they are usually considered in rather general administrative profiles. Indeed, institutions such as CCSS stated during the fact-finding interviews that establishing a career path for procurement officials is one of the expectations from the professionalisation process.

Factors such as career progression and training programmes can significantly contribute to attracting and retaining motivated procurement officials to the public sector, which were highlighted as significant challenges during the validation workshop. Setting up a clear career path would increase financial incentives because it can facilitate a promotion system which would be accompanied by a salary increase. It can also contribute to promoting non-financial incentives through career development.

A career path is particularly important as procurement officials perceive their salary grade is below that of other public sector functions. This perception partially stems from the relationship between their responsibilities and net salaries, vis-à-vis those of other functions. In the OECD survey to 881 procurement officials from the six institutions with the highest procurement spending, 75.8% considered that salaries of procurement officials are below those of the budget or financial management functions.

Certainly, creating a specific salary classification for procurement officials would entail advantages, but also risks, like officials performing other functions demanding the same consideration in a tight fiscal situation of the country. This is something that ACP would have to assess thoroughly.

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Under the strict fiscal limitations in Costa Rica, where increasing salaries is not an easy option, introducing a promotion system through a clear career path could be an alternative to create financial and non-financial incentives, as done in several OECD countries, rather than just increasing salaries. Setting up a career path can contribute to promoting non-financial incentives through career development, for example.

Gap analysis

Currently, there is no career path for procurement professionals, they are rather classified as administrative officials.

Recommendation

The professionalisation strategy should strive to set public procurement as a stand-alone profession with clear career paths and a system of incentives, financial and non-financial, to attract and retain procurement officials, bearing in mind budgetary rules and limitations. Some countries like France and the United Kingdom have established a career path for public procurement officials. In France, for example, the addition of public procurement to its Inter-ministerial Directory of State Professions (RIME: *Répertoire Interministériel des Métiers de l'Etat*) contributed to establishing a clear career path for public procurement officials through dedicated training and certification schemes for each job profile. Job profiles prepared for recruiting procurement officials need to be aligned with the ones defined in the RIME. On its side, the United Kingdom developed the Commercial Career Framework for Commercial Professionals (CCF) to establish a clear career path and promotions for public procurement professionals.

Assessment criterion 7(b)(b):

Career path in public procurement within the civil service covering all aspects of public procurement (planning, management of selection procedures, administration of contracts, supervision and management, among others).

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As mentioned before, there is not a career path or a salary classification for procurement officials. Human resources management procedures are no different for procurement officials as for the rest of the public workforce. For example, regarding recruitment and selection, the practice is to seek for internal candidates to fill any vacancy. Usually, this process includes different kinds of tests. Only when no adequate internal candidates are found, the search moves on to look for external candidates.

There is no one-size-fits-all approach to the recruitment of procurement officials across institutions. In fact, decentralised institutions have their own rules for human resources management. For example, when CCSS wants to recruit a new procurement official, it runs an opposition process that ends up with the Human Resources Department suggesting three candidates for interview with the Logistics Unit. If one of the candidates is considered adequate, he is hired. If this is not the case, another opposition process is organised. Likewise, ICE developed profiles for procurement officials and uses them to identify adequate personnel through opposition processes. They are selected and referred to interview when vacancies open. If no internal candidate is adequate, then the search can continue externally. This year, ICE got authorisation to fill vacancies (since 2013 no such authorisation had been granted). There is also a possibility of filling vacancies through an interim (temporary) appointment (*ascenso interino*).

Gap analysis

Since there is no career path or competency matrix for procurement officials, there are no tailored human resources management processes for them. The human resources practices for procurement officials, for

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example, recruitment and selection and performance evaluation, are the same that apply to the general public sector workforce.

Recommendation

Elevate the procurement profession by tailoring human resources management processes to the specific skills, duties, features, and needs of procurement officials.

Assessment criterion 7(b)(c):

Existence of attractive, competitive, and merit-based career paths which allow for merit-based advancements, based on qualifications and professional certification.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

As mentioned previously, there is no career path designed specifically for public procurement professionals. Skills and qualifications will have to be defined in a competency matrix. However, the normative framework does anticipate the certification of procurement officials. For example, Law N° 9986, in its Article 132, establishes that ACP will be responsible for a professionalisation strategy that includes the certification of adequacy of the procurement staff. Then, Decree N° 43808-H, in its Article 332, mandates DCOP to implement certification to ensure that procurement officials are aware of their functions and duties and execute efficient processes leading to value for money.

Gap analysis

A career path has not been established for procurement officials, however, there is a mandate in the normative framework for the professionalisation of the procurement workforce and for DCOP to develop a certification model.

Recommendation

Together with a competency framework, the certification model is a steppingstone to establish a merit-based career path for procurement professionals. Hence the professionalisation strategy should define the features and the timeline of such certification model, for example, how it will be structured (i.e. by level), mandatory/voluntary nature, tools (i.e. exams), and expiration, among others.

The professional certification framework to be developed should allow procurement officials to identify their skill gaps and can be used for human resource management purposes: recruitment, promotion, and training on specific skills and competences. For example, the ProcurCompEU Reference Training Curriculum lists all learning outcomes that public procurement professionals should know and be able to demonstrate after attending a training for a certain proficiency level of each competency. Recently, OECD countries have been increasingly introducing certification mechanisms for the public procurement workforce, but progress is still limited. As of 2020, 41% of OECD countries had introduced a competency model for the public procurement workforce, compared to 30% in 2018 (OECD, 2021[1]). It is worth mentioning that the majority of OECD countries have a standard competency framework for senior public servants in the central administration, according to the 2020 OECD Survey on Public Service Leadership and Capability. In 2020, 35% of OECD countries put in place a certification framework for the public procurement workforce in comparison with 20% in 2018, so there is an increasing trend.

Sub-indicator 7(c)

The career path of public procurement is competitive compared to the rest of the civil service

Assessment criterion 7(c)(a):

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Levels of remuneration of the public procurement career path are at least equivalent to the career path of technicians and professionals in critical areas of government (such as public budget or financial management).

Conclusion: Minor gap

Red flag: No

Qualitative analysis

There is no specific salary classification for procurement officials. Their salaries are not determined by being part of the procurement function, but by more general salary scales. That said, there is a perception among procurement officials that their salary grade is below that of other public sector functions. This perception partially stems from the relationship between their responsibilities and net salaries, vis-à-vis those of other functions. In the OECD survey to 881 procurement officials from the six institutions with the highest procurement spending, 75.8% considered that salaries of procurement officials are below those of the budget or financial management functions. In net terms, the salaries are equivalent and not determined by the execution of procurement activities.

For example, in BNCR there are salary ranges (*bandas salariales*), but they are not tailored for procurement officials and apply for all the workforce. During interviews, procurement officials suggested that reviewing their incentives would be a good idea.

Gap analysis

Even though there is no real gap, as the salaries of the procurement function are comparable to those of other functions in absolute terms, there is a perception among procurement officials that their salaries are less competitive. This could create issues such as low morale, hindered motivation, and lack of attractiveness for the procurement profession.

Recommendation

Clarifying how competitive the salaries of procurement officials are in order to avoid misperceptions potentially leading to low morale and motivation. This could be done during induction and performance evaluation sessions. At the same time, such competitiveness could be assessed vis-à-vis the responsibilities and risks of the procurement workforce.

Assessment criterion 7(c)(b):

Career stability of the public procurement career path is at least equivalent to that available for other career paths.

Conclusion: No gap

Red flag: No

Qualitative analysis

Just like in the case of salaries, career stability does not depend on the belonging to the procurement function. An OECD survey applied to 7 496 officials in 34 contracting authorities, of which 21% work exclusively on public procurement, found that the turnover rate was 2.53% in 2019, with large differences between procurement authorities. The fact that procurement is not considered a stand-alone profession may facilitate turnover, as procurement officials may move to perform other administrative functions under better conditions or benefiting from the same salary grade with less responsibility. (OECD, 2020)

According to a survey applied by OECD to 881 procurement officials in the six institutions with the highest procurement spending, such officials have stayed in their current procurement position for an average of 8.6 years and have been in positions related to public procurement for 11 years. CCSS, INA, and the Municipality of San José are the three institutions where procurement officials have more stability (see Table below).

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How many years have you worked in positions related to public procurement?		
<i>Institution</i>	<i>Number of surveyed officials</i>	<i>Average number of years</i>
INA	23	12.78
CCSS	377	12.37
Municipality of San José	12	16.58
BNCR	148	8.19
ICE	297	10.19
CONAVI	24	12.13
Total	881	10.99
How many years have you worked in in your current position related to public procurement?		
<i>Institution</i>	<i>Average number of years</i>	
INA	9.32	
CCSS	10.01	
Municipality of San José	9.81	
BNCR	6.48	
ICE	7.75	
CONAVI	7.29	
Total	8.56	
Gap analysis		
Recommendation		

Indicator 8. Market conditions favour the development of professionalisation

Sub-indicator 8(a) Competitive professionalisation market					
Assessment criterion 8(a)(a): Education, training and certification are developed in an environment of open and free competition.					
Conclusion: Minor gap					
Red flag: No					
Qualitative analysis					
A competitive and open environment is indeed promoted for the education and training of procurement officials.					
As mentioned in Pillar I, there are no explicit legal limitations to the participation of the private sector in capacity-building activities. Fidelitas University, for example, a private university, has a master's degree in business administration with a concentration on procurement. Likewise, the School of Public Administration of the University of Costa Rica used to offer a bachelor's degree in public procurement, and public officials are free to enroll in these programmes. In some cases, public institutions provide partial scholarships for their officials to enroll, as ICE used to do.					
According to a survey applied by OECD to public entities, universities and business associations, this perception of lack of barriers is mostly shared. However, COPROCOM answered "neutral" to the question on whether it considered the professionalisation and capacity-building market for procurement officials open and free from restrictions. The answers were the following:					
Type of institution	Strongly agree	Agree	Neutral	Disagree	Strongly disagree

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Business associations	0	2	0	0	0
Universities	1	1	1	1	0
CSO	1	0	0	0	0
TOTAL	2	3	1	1	0

It might be the case that barriers are rather informal or, as mentioned previously, that rules to access professionalisation services established at the organisation level create the perception of barriers. More coherent standards and rules for the whole-of-government could be useful to avoid perceiving them as a barrier to access professionalisation services.

Public officials from the six institutions with the highest procurement budgets do not believe they are free to determine which professionalisation or training services to select, according to their institutions' needs. From a sample of 881 procurement officials from those institutions, only 31.6% strongly agreed or agreed that they are free to do it, while 40.3% disagreed or strongly disagreed.

It is also the case that certification procedures are still not defined. Decree N° 43808-H establishes that certifications for procurement officials by public entities and training centers will be validated by ACP and such validations will expire within five years. This entails that there will be different institutions providing certifications and hints that there will be participation from the educational and private sectors, but this is still unclear. As long as the validation of certification services is based on clear requisites and procedures, as well as a consistent definition of the adequate skills of procurement officials (*estándar de idoneidad*), it will be a reasonable measure to ensure a quality standard while allowing free concurrence.

Gap analysis

Although there are no formal restrictions to the public procurement education and training markets, there is a perception among procurement officials that they are not free to choose professionalisation or training services. Likewise, since certification procedures have not been defined yet, it is unclear to what extent such market will be open to free concurrence.

Recommendation

As there is a perception among procurement officials that they are not completely free to choose training services, it would be important that DCoP finds out what lies behind such perception. More coherent standards and rules for the whole-of-government could be useful to avoid perceiving them as a barrier to access professionalisation services. In any case, the contracting of professionalisation services should favour competitive and open processes.

When designing the ACP validation process for certification services provided by public, educational, or private entities, it will be important to be transparent about the requisites and formalities to follow, so that the validation does not become a barrier to enter this market.

Assessment criterion 8(a)(b):

The professionalisation policy, strategic plans and projects designed by the normative/regulatory function do not introduce undue distortions in the market.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The normative framework for the professionalisation of the procurement function does not introduce undue distortions in the market. The ACP validation to certification services, as long as it establishes clear requisites and

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procedures, is reasonable to ensure a quality standard, while allowing free concurrence. Likewise, it will be important to ensure that the process is streamlined, based on better regulation principles and, ideally, to be completed electronically.

Gap analysis

The professionalisation strategy is still work in progress, but it should follow the same principles provided by the normative framework so that competition and free concurrence are respected.

Recommendation

When designing the ACP validation process for certification services provided by public, educational, or private entities, it will be important to be transparent about the requisites and formalities to follow, so that the validation does not become a barrier to enter this market.

Assessment criterion 8(a)(c):

The provision of training by the normative/regulatory function and government funded providers of education and training should not have characteristics that inhibit or hinder the development of a private market for education and training.

Conclusion: No gap

Red flag: No

Qualitative analysis

Currently, the provision of training by DCOP and other contracting authorities do not hinder the development of a private market for education services. As described before, significant training is provided online and through webinars in the Virtual Campus.

The market is still underdeveloped, probably because there is still not a professionalisation strategy or a competency matrix to identify skill gaps and signal the kind of training that is required. During the fact-finding mission, several stakeholders mentioned that the training currently provided by public and educational institutions is mostly theoretical and focused on the regulatory framework, and not so much on practice. It is to be expected that the market will emerge once the strategy is issued and as it is implemented over time. The practical skills that need to be strengthened will be more evident, opening opportunities for educational and private entities. So, as the market grows, DCoP will have the opportunity to keep it open and avoid restrictions that unnecessarily limit competition and the variety of training needed. Fair competition and public-private co-operation could be advanced by addressing information asymmetries and encouraging suppliers of professionalisation services to inform about their methodologies, programmes, prices, instructors, and assessments by previously trained officials.

Gap analysis

Recommendation

Sub-indicator 8(b)

Access to professionalisation assets

Assessment criterion 8(b)(a):

Professionalisation assets such as academic degrees, national accreditations and national/international certifications are available in the different degrees required for certain professional levels as specified in the competency framework.

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Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

There are no national accreditations yet for procurement units or certifications for procurement professionals available. Decree N° 43808-H, Articles 322-324, mandate both, the accreditation of procurement units and the certification of procurement officials. However, there are still no methodologies for the implementation of these mandates. In the case of the certification of procurement officials, the lack of a competency framework is one of the main obstacles. Notably, during the fact-finding mission, CCSS' staff mentioned they are already working on a certification scheme for procurement officials.

Gap analysis

There are no detailed methodologies or procedures established for the accreditation of procurement units or the certification of procurement officials, as mandated by the normative framework for the professionalisation of the procurement function.

Recommendation

As mandated by the legal framework, DCoP should design the procedures, guidelines, and methodologies to advance the accreditation of the procurement units and the certification of procurement officials. In the case of certification, it should define the different elements listed in the following table and could rely on elements of good practice from countries like Chile, Croatia, Lithuania, Peru, and Serbia, as well as from national institutions like CCSS.

The system for the certification of procurement officials differs across countries. The next table compares the characteristics of the certification frameworks of five countries: Chile, Croatia, Serbia, Lithuania, and Peru. (OECD, 2023)

	Chile	Croatia	Serbia	Lithuania	Peru
Owner	ChileCompra	Directorate for Public Procurement System	Public Procurement Office	Public Procurement Office	Supervising Body of Government Procurement (OSCE)
Start year	2007 (version 3.0 since 2019)	2012	2008	2022	2013 (latest version since 2017)
Level	4 levels (Basic, Intermediate, Advanced, Expert)	1 level	1 level	1 level	3 levels (Basic, Intermediate, Advanced) 1 level in 2013
Examination to obtain certification	Yes	Yes	Yes	Yes	Yes
Mandatory completion of training	Yes	Yes	No	No	No
Necessary to work on public procurement?	Yes, access to e-procurement system	Public Procurement Committee must include at least one certified procurement	At least one certified public procurement officer needs to be employed at a contracting	At least one certified official needs to be the member of evaluation committee at	Yes, required to work on public procurement at public entities

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		practitioner for above threshold public procurement procedures (EUR 26 000 for services and goods or EUR 66 000 for public works)	authority whose total value of public procurement in annual planning exceeds 175 000 EUR	contracting authorities	
Content of exam	30 questions including multiple-choice questions and scenario-based open-ended questions	50 questions (135 minutes)	55 questions on public procurement theory and practice (180 minutes)	50 close-ended (single or multiple choice) questions, (120 minutes)	73 multiple-choice questions (120 minutes)
Conditions for certification	Obtaining 60%: training course grade 60%: exam	35 (70%) of the 50 questions	Minimum 75% (75 out of 100 points)	Minimum 80% (40 out of 50 questions)	Basic: 30 to 42; Intermediate: 43 to 57; Advanced: 58 to 73 (Maximum possible points is 73)
Assistance to exam preparation	ChileCompra provides training and material	50-hour training courses (private or public providers)	PPO developed a manual to prepare for exams	PPO provides a list of modules (20) on the PPO website	OSCE provides optional training course
Validity of certification	3 years	3 years	Information is not available	5 years	2 years
Renewal conditions	Pass the exam again	Complete 32-hour training	Information is not available	Pass the exam again	Pass the exam again
To whom is the certification open?	Anyone interested	Anyone interested	Anyone interested	Anyone interested	Anyone interested

Assessment criterion 8(b)(b):

Academic and technical formal training programs based on competencies are provided by academic institutions and other training entities.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

As mentioned previously, Fidelitas University, a private institution, has a master's degree in business administration with a concentration on procurement. Likewise, the School of Public Administration of the University of Costa Rica used to offer a bachelor's degree in public procurement, and public officials are free to enroll in these programmes.

The Central American Institute of Public Administration (*Instituto Centroamericano de Administración Pública*, ICAP) offers a Master's in Public Procurement Administration. This master programme consists of defending a thesis and completing 20 modules covering different topics of procurement, including the regulatory framework, integrity, e-procurement, sustainable procurement, contract management, public finance, and conflict resolution. It takes 20 months and students are required to participate in a 4-hour class twice weekly. (OECD, 2020)

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The Costa Rica Institute of Technology (*Tecnológico de Costa Rica*, TEC) offers a Programme of Specialist in Public Procurement. This programme consists of the following six modules:

- I. Legal framework of public procurement
- II. Start and selection of procurement procedures
- III. Development and completion of procurement procedures
- IV. Financial aspects of public procurement
- V. Contract management
- VI. Judicial control of public procurement

The programme takes six months. Each module is taught for 4 weeks (16 hours).

In a survey taken in four of the major universities of Costa Rica, the following programmes were reported:

- Formal academic programmes or technical trainings on public procurement of 160 hours or more:
 - National University: None.
 - UTN: None.
 - UNED: None.
 - UCR: Bachelor's degree.
- Formal training programmes on public procurement of less than 160 hours:
 - National University: None.
 - UTN: None.
 - UNED: None.
 - UCR: None.

Gap analysis

Formal degree and technical programmes on public procurement are still quite limited. Only one formal education programme was identified among four of the main universities in Costa Rica (bachelor's degree in UCR).

Recommendation

DCoP should engage universities, the education, and the private sector as it develops the professionalisation strategy, including the competency matrix and the certification framework, so that these institutions identify training needs and design tailored programmes.

Once the skills assessments are completed, DCoP could share the results with educational institutions. The results of OECD and ASPROCA/REDICOP surveys already indicate some potential topics to develop tailored training (i.e. planning, contract management, market research, etc.).

Assessment criterion 8(b)(c):

The education and training programs available adequately deal with the interdisciplinary nature of public procurement.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

An efficient public procurement system requires a procurement workforce with the necessary multidisciplinary skills and competences. In consequence, it is critical to develop a training portfolio that balances theory and practice.

The education and training programmes on public procurement available in Costa Rica are quite limited. However, the programmes in ICAP and TEC mentioned before do recognise the need to study a variety of

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disciplines such as law, economics, finance, and conflict resolution. The same can be said about the training provided on public procurement in the Virtual Campus and the webinars organised by DCoP, as they include a variety of topics such as regulatory framework, sustainability, open data, ethics and probity, and innovation.

Gap analysis

There are not so many programmes in educational institutions that recognise the interdisciplinary nature of public procurement.

Recommendation

The professionalisation strategy should open spaces for public and private educational institutions to develop formal multidisciplinary programmes for procurement professionals.

In its pursuit to develop capacity-building alternatives, DCoP could ask the market for solutions, so that competition allows for efficient and quality responses (i.e. bids).

Assessment criterion 8(b)(d):

The education and training programs available are adapted to the country context and match the reality of the public service and its needs.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

It is hard to know if the training alternatives are adapted to the needs of public procurement officials, as an assessment based on a competency framework has not been completed.

Quantitative analysis

The OECD asked 881 procurement officials in the five institutions with the highest procurement spending which are the five main competences that should be strengthened. The competences that were signaled as number one to be strengthened were planning (305 officials, 34.6%), legislation (161 officials, 18.3%), e-procurement (61 officials, 6.9%), contract management (30 officials, 3.4%), and procurement strategies (28 officials, 3.2%). An ASPROCA/REDICOP report also found competences in need of strengthening after surveying 1 113 procurement officials. The five competences with the highest responses were application of the normative framework, strategic planning, time management, effective communication, and conflict resolution mechanisms.

Gap analysis

The programmes identified in TEC and ICAP addressed the competences in need of strengthening as identified by the OECD and ASPROCA/REDICOP. The same can be said of the training offered by DCoP. The main issue is that the number of programmes is limited and they may not be accessible in all the regions of Costa Rica. Furthermore, some programmes do not seem to be offered anymore.

Recommendation

DCoP should engage educational institutions throughout the country to motivate them to design formal training programmes and make them more accessible for procurement officials in the different regions. Fair competition and public-private co-operation could be advanced by addressing information asymmetries and encouraging suppliers of professionalisation services to provide detailed information about their services (i.e. prices, methodologies, assessments, etc.).

Sub-indicator 8(c)

Open and inclusive professionalisation market

Assessment criterion 8(c)(a):

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The professionalisation policy and plans allow the beneficiaries (professionals and institutions) to determine, assessing proposals of quality, institutional prestige, contents, costs and other conditions, which of the different proposals will be selected, considering the needs and circumstances of each institution or individual.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The normative framework, namely Article 132 of Law N° 9986 and Article 320 of Decree N° 43808-H, establish that DCoP may enter into co-operation agreements with universities and knowledge centers to implement training and professionalisation. Likewise, Article 323 of Decree N° 43808-H establishes that the ACP should validate certification services provided by public entities and knowledge centers. There is nothing that indicates there will be explicit restrictions to the freedom for procurement professionals and institutions to choose the training and professionalisation services they consider adequate and fit-for-purpose.

However, as it has been raised before, there might be rather informal restrictions. Public officials from the six institutions with the highest procurement budgets do not believe they are free to determine which professionalisation or training services to select. From a sample of 881 procurement officials from those institutions, only 31.6% strongly agreed or agreed that they are free to do it, while 40.3% disagreed or strongly disagreed.

Gap analysis

Even though there are no legal or formal restrictions for procurement professionals and institutions to choose the professionalisation or capacity building services they see fit-for-purpose, the answers to our survey suggest there may be informal barriers. It is unclear at this point what those barriers are.

Recommendation

DCoP could work with procurement officials and institutions to understand better the practical barriers to freely choose training and professionalisation services and agree with them on shared solutions to remove such barriers.

When designing the ACP validation process for certification services provided by public, educational, or private entities, it will be important to be transparent about the requisites and formalities to follow, so that the validation does not become a barrier to choose training and professionalisation services for procurement officials and institutions.

Assessment criterion 8(c)(b):

Mechanisms for cooperation between public and private sectors, professional associations, policy centers and knowledge centers that provide specific programs, education and training in procurement are in place.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The normative framework, namely Article 132 of Law N° 9986 and Article 320 of Decree N° 43808-H, establish that DCoP may enter into co-operation agreements with universities and knowledge centers to implement training and professionalisation. For example, DCoP is in the process of establishing such agreements with UCR and UNED. Likewise, BNCR entered into a co-operation with CICAP-UCR to provide a diploma training for procurement officials at three professional levels: Junior, intermediate, and advanced.

Gap analysis

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There is room to leverage more the co-operation with universities and knowledge centers to provide systematic professionalisation services for procurement officials, in the spirit of building a support network.

Recommendation

During the OECD fact-finding mission, several stakeholders suggested the idea of creating a training center for procurement officials, in a collaboration between DCoP and educational institutions.

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Indicator 9. The professionalisation policy considers ethics and accountability

Sub-indicator 9(a) Ethical considerations in the professionalisation policy
Assessment criterion 9(a)(a): Professionalisation policy and strategic plans include provisions that foster ethics and integrity.
Conclusion: No gap
Red flag: No
Qualitative analysis <p>Although there is no professionalisation strategy yet, Decree N° 43808-H mandates to incorporate ethics and integrity considerations. First, Article 320 explicitly mentions that ethical behaviours should be promoted in public officials. It mandates DCoP to produce guidelines for maximising the use of public resources and comply with the applicable regulations. Second, Article 321 indicates that procurement officials should participate in continuous training, including on ethics and probity in the public service.</p> <p>In addition to the previous mandates, the inclusion of ethics and integrity in the professionalisation strategy would be consistent with other reforms and processes experienced in Costa Rica. For example, Article 7K of the new Public Employment Law (<i>Ley de Empleo Público</i>, LEP) establishes that the Ministry of Planning (MIDEPLAN), which has a seat in the board of the Public Procurement Authority (<i>Autoridad de Contratación Pública</i>, ACP) will work with the Public Ethics Attorney (<i>Procuraduría de la Ética Pública</i>, PEP) to issue mandatory guidelines and rules to train public officials on their ethical duties. Even though this point is not exclusive for procurement officials, it is consistent with the mandates of Decree N° 43808-H. Furthermore, Costa Rica promotes the ethics management model (<i>Modelo de Gestión Ética</i>, MGE) in public organisations based on self-regulation. An institution wishing to implement the MGE has to follow several steps including aligning and inserting ethics in institutional management systems and mainstreaming it in several management processes, including public procurement. (OECD, 2022)</p> <p>Moreover, a Technical Guide (<i>Guía Técnica para el Desarrollo de Auditorías de la Ética</i>) provided by the General Comptroller's Office (<i>Contraloría General de la República</i>, CGR) contains a theoretical section about ethics, why it is important to manage ethics, how it relates to internal control and corporate governance and presents some of the main relevant regulations in Costa Rica. It contains checklists for the components of an ethical framework, as defined by the CGR, and a series of examples of what internal auditors should consider when evaluating ethics in public processes, including in public procurement.</p> <p>Finally, the recently adopted National Strategy for Integrity and Prevention of Corruption (<i>Estrategia Nacional de Integridad y Prevención de la Corrupción</i>, ENIPC) is a milestone towards a coherent integrity system. Costa Rica launched the ENIPC in August 2021 and declared it of public interest by Executive Decree 43248-MJP on 27 January 2022. Overall, the ENIPC is organised in five components, one of which is "corruption risk management in the interaction between the public and private sectors", which contains activities aimed at mitigating corruption risks in public procurement and increase awareness and training of integrity standards in the private sector.</p> <p>It is worth noting that DCoP is currently working on an Ethics Code for procurement officials, but this is in early stages. Notably, ICE already has an Ethics Code for its <i>proveeduría</i>. Indeed, during the OECD fact-finding mission several stakeholders expressed the expectation that the professionalisation process could help fighting corruption. In fact, in a survey applied by OECD to 881 procurement officials of the six institutions with the highest procurement spending, 95% of them agreed or strongly agreed that the professionalisation strategy should include ethics and integrity considerations.</p>

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Gap analysis
Recommendation
Assessment criterion 9(a)(b): The normative/regulatory function actively participates in local or international initiatives for the development and implementation of professional and ethical standards in the public procurement profession.
Conclusion: No gap
Red flag: No
Qualitative analysis As part of the public administration, DCoP has to participate in the integrity efforts mandated by the regulatory framework of Costa Rica, including the ENIPC. Indeed, Costa Rica's legislation elaborates on integrity and ethics standards for the public service. For example, Article 17 of Decree N° 43808-H establishes that the activities of procurement officials should aim to address the public interest and follow the principles of good faith and probity, including: <ul style="list-style-type: none">• Upholding the public interest in all their activities.• Avoiding abusing of his powers to obtain a patrimonial benefit, or any other kind of benefit.• Refusing any payment, bribe, gift, commission, or gratuity.• Avoiding establishing private interests or relationships with physical or moral persons incompatible with their duties.• Observing the principle of legality.• Adapting their behaviours to the highest standards of ethics and probity in the public service.• Drafting calls for tender aiming to the highest participation and a leveled playing field for bidders.• Avoiding participating in decisions leading to conflicts of interest.• Keeping their objectivity and impartiality in any of the issues they deal with. Some other regulations that are part of the integrity framework are the following: <ul style="list-style-type: none">• Decree N° 33146, Ethical principles for public servants.• Law N° 8422, Law against corruption and illicit enrichment in the public function.• Bylaws N° 32333 against corruption and illicit enrichment in the public function.• Law N° 8292. General Law on Internal Control.• General guidelines on ethical principles to be observed by heads, subordinated officials, CGR officials, internal audit units, and public servants in general.
Gap analysis
Recommendation
Sub-indicator 9(b) Management for results and accountability
Assessment criterion 9(b)(a): Management for results and accountability of procurement professionals are included in the professionalisation policy.
Conclusion: Substantive gap

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Red flag: Yes

Qualitative analysis

Despite all the references to ethics and integrity and even though the national Constitution provides for the principle of accountability, the only item in the normative framework that indicates some consideration for management for results is Article 321 of Decree N° 43808-H, which dictates that procurement officials should participate in continuous training, including on management for results, efficiency, and economy in public procurement.

Gap analysis

As Law N° 9986 and Decree N° 43808-H are rather general mandates on the professionalisation strategy, they are not explicit and do not describe in detail considerations on management for results or accountability.

Recommendation

The professionalisation strategy should include the design of KPI to facilitate management for results. The OECD framework for measuring efficiency, compliance, and strategic goals could be the basis for such exercise.

The professionalisation strategy should provide guidelines on accountability measures and supporting competences that will apply to procurement officials, including (OECD, 2015):

- Identifying clear lines for oversight to ensure that the chains of responsibility are consistent, that oversight mechanisms are in place and that the delegated levels of authority for approval of spending and key procurement milestones are well defined.
- Developing a system of effective and enforceable sanctions for government and private-sector procurement participants, in proportion to the degree of wrongdoing to provide adequate deterrence without creating undue fear of consequences or risk-aversion in the procurement workforce.
- Managing complaints and challenges in a fair, timely and transparent way to correct defects, prevent wrongdoing and build confidence of bidders in the integrity and fairness of the public procurement system.

Assessment criterion 9(b)(b):

The professionalisation policy recognises the importance of procurement professionals to be held responsible and rewarded with respect to (i) the organisation, and (ii) procurement stakeholders

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

The current normative framework for the professionalisation of the procurement function does not include any reference to rewards or incentives for the procurement workforce. The motivation of public procurement officials is critical not only for maintaining the high performance and productivity of the public sector but also for attracting talented professionals.

Gap analysis

No rewards or incentives mechanisms are anticipated in the normative framework for the professionalisation of the procurement function.

Recommendation

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The professionalisation strategy should include a rewards and incentives mechanism to recognise behaviours and outstanding performance and contributions by procurement officials. Incentive structures can play a key role in motivating public officials: they can be used to attract and retain qualified staff and motivate them to perform better. Incentive and rewards mechanisms harness the principles of extrinsic motivation to increase motivation. They can be classified as financial (e.g. wages, performance-linked bonuses, pensions, allowances) and non-financial (e.g., professional development including training courses and certification, work recognition and award, working conditions). The following table provides a typology of incentives (OECD, 2023):

<i>Types of incentives</i>	<i>Specific incentives</i>
Financial incentives	Wages and salaries Performance bonus and promotions
Other financial benefits	Pensions Insurance Allowances (e.g. travel, child-care, etc.)
Non-financial incentives	Professional development, training, and certification Recognition and awards Feedback mechanisms Working environments Holidays Flexible working hours Remote work

In recognition of fiscal constraints, the rewards mechanism could include non-financial incentives such as awards, training opportunities, and extra holidays. Recognition could be an effective way to motivate public servants through acknowledging good behaviours or actions with no or little cost. In New Zealand, for example, procurement officials can be recognised through the Procurement Excellence Award. This award was established to raise the profile and awareness of procurement, or what great procurement looks like and how it can contribute to better outcomes for New Zealand, across both private and public sectors. The founders thought that it was possible only through sharing great stories of achievement across many organisations in both the public and private sectors, inspiring others to raise the bar, and to make sure that organisations achieve more than just good practice and compliance. The New Zealand Procurement Excellence Awards are the foremost recognition of industry-leading procurement practice in the country with five competitive categories:

- Young procurement professional of the year (30 years old or under)
- Procurement professional of the year
- Most effective teaming of the year
- Social or environmental impact of the year
- Most innovative project of the year

The prize for the winners includes not only an award certificate and trophy but also a paid trip to a procurement conference anywhere in the world. The New Zealand Procurement Excellence Awards contribute not only to knowledge sharing among procurement professionals, but also to enhancing the motivation and incentives of public procurement experts in New Zealand, thus lifting the recognition of procurement as a professional task. (OECD, 2023)

Indicator 10. The country has mechanisms that support professional integrity in public procurement

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Sub-indicator 10(a) Supplementary mechanisms for supporting professional integrity in place
Assessment criterion 10(a)(a): The country has in place audits and supervision actions that exceed compliance with legality, including review of performance and professional judgement.
Conclusion: No gap
Red flag: No
Qualitative analysis <p>The institutional framework for integrity includes the PEP, which is an anti-corruption office established by Law to promote ethics and transparency in the public sector. It carries out activities to prevent, detect, and fight corruption and advance ethics and transparency. Its main functions include receiving and processing corruption or misbehaviour reports, raising awareness among public officials and citizens regarding anticorruption, and suing for criminal charges related to corruption. However, by law, the PEP cannot process anonymous reports.</p> <p>On top of that, the National Commission for Ethics and Values (<i>Comisión Nacional de Ética y Valores</i>, CNEV) was established in 1987 by Executive Decree 17908-J and reformed by Executive Decree 23944 of 1994 to direct and co-ordinate the National System of Ethics and Values. The CNEV co-ordinates the Institutional Commissions on Ethics and Values (<i>Comisiones Institucionales de Ética y Valores</i>, CIEV). Overall, the CNEV is responsible for promoting, developing, and strengthening ethics and values in the public sector, in private organisations, and the Costa Rican society as a whole. Specifically, one of the core values promoted by the CNEV is integrity, defined as acting consistently with the principles of truth and honesty in daily work and with transparency, justice, and honor as guides to what is just, correct, and adequate. In turn, the CIEV are the implementing bodies of the CNEV that exist in each ministry or agency of the executive branch, but that are only optional in the rest of the public administration (Executive Decree 23944-JC). (OECD, 2022)</p> <p>Furthermore, the CGR is Costa Rica's Supreme Audit Institution (SAI). It has full functional and administrative independence in the performance of its duties and reports to the legislative. Article 184 of the Political Constitution grants the CGR the power to supervise the execution and liquidation of the regular and extraordinary budgets and to examine and approve the budgets of the municipal governments and the autonomous institutions and supervise their execution and liquidation. In addition, the CGR provides guidelines regarding internal control and monitors and evaluates the internal control system. The CGR maintains a registry of disciplinary sanctions to public servants and penalties applicable for non-justifiable increases in wealth. The CGR has also developed electronic tools to promote transparency and accountability and to measure the performance of the public administration. It is also responsible for the asset declarations and for sanctioning public officials in case of inconsistencies or unjustified increases. Likewise, the CGR receives and processes corruption reports and, contrary to the PEP, processes anonymous reports as well.</p> <p>The Office of the Ombudsman of Costa Rica (<i>Defensoría de los Habitantes de la República</i>, DHR) participates in a wide range of anti-corruption activities including the Inter-institutional Transparency Network, delivers trainings, courses and workshops on corruption prevention and informs the public on how to file a complaint for corruption cases.</p> <p>Moreover, the ENIPC in its component 3, "promotion of social oversight and participation", aims at strengthening mechanisms for citizen oversight, promoting effective reports and protection of whistleblowers, and measures to advance education for integrity and participation.</p>

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Gap analysis

Recommendation

Assessment criterion 10(a)(b):

Audits and supervisory actions that include performance and professional judgement review are conducted on a regular basis.

Conclusion: No gap

Red flag: No

Qualitative analysis

In addition to the audit work of the CGR, each institution carries out audits on its processes, which may consider the performance of officials. In most cases, there are Services Comptrollers (*Contraloría de Servicios*), where citizens can file reports on the behaviour of public officials, which then initiate investigations.

Beyond the internal disciplinary competence of the head of the entity and managers, the legal framework gives the possibility to investigate administrative irregularities in the public service to the internal audit function of entities and to the CGR depending on the subject matter. The CGR can recommend to the competent body the application of an administrative sanction – warning, suspension, and dismissal – if a public official breached rules of the control and oversight system or has caused damage to the public treasury. The competent authority has to comply with the recommendation issued by the CGR, unless a duly reasoned and substantiated request for review is filed by the head of the entity. The CGR may issue a reasoned resolution declaring the civil liability of a public official and its pecuniary amount when it ascertains a damage against public funds, arising from a flagrant and manifested illegal act.

The CGR developed a methodology and a set of tools for conducting ethics audits (*Auditorías de la Ética*) to be carried out by internal auditors. A Technical Guide provided by the CGR (*Guía Técnica para el Desarrollo de Auditorías de la Ética*) contains a theoretical section about ethics, why it is important to manage ethics, how it relates to internal control and corporate governance and presents the main relevant regulations. The CGR defines ethics audits as a systematic, objective, and professional process for evaluating the functioning and effectiveness of the institution's ethical framework. The Technical Guide defines the ethical framework of a public entity as a set of formal and informal factors that conceptualise and materialise the philosophy, approaches, ethical behaviour, and management of an institution. It comprises the following three elements:

- The ethical programme, which includes the formal aspects, such as the statement of institutional values, the code of ethics, the vision and mission, the definition of indicators of ethical management, and the existence of a formal strategy for strengthening ethics.
- The ethical environment, which comprises the shared values, beliefs, and behaviours of the members of an organisation. It includes observable informal factors such as the organisational climate, the management style, the models of decision-making, the verbal expressions, and the behaviours of individuals.
- The integration of ethics within the institution's management systems, which refers to the incorporation of ethical controls in the systems and procedures used in activities that are particularly sensitive and exposed to ethical failure and corruption, such as public procurement.

Ethics audits set incentives to work on improving ethical management in public entities. They can help the public administration to improve effective ethics management through the analysis and recommendations they

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provide. Furthermore, the information provided through the audit reports inform policy discussions on integrity policies within the public administration as they provide a comparative view over several years and across different public entities.

Next to the CGR, each public entity has an internal audit function reporting to the head of the entity but also receiving technical guidance and oversight from the CGR. Its main role is providing assurance to the entity or body to contribute to the achievement of the institutional mission and objectives. The internal audit function is empowered to deal with complaints submitted by citizens, establishing the duty to maintain confidentiality with respect to the identity of the complainants and those under investigation, as well as the information, documents and other evidence gathered during the formulation of the report or investigation. As such, internal audits have the power to carry out investigations in response to the presentation of a complaint, at the request of an administrative body, or even *ex officio*.

The CGR performed four audits on public procurement processes in 2020, two in 2021, and 16 in 2022. Likewise, in 2021 it carried out the operative audit on the effectiveness, efficiency, and economy of sustainable public procurement in Costa Rica's public sector (DFOE-FIP-IF 0006-2021 and DFOE-FIP-IF 0007-2021). Furthermore, in 2022 it carried out a special audit on the degree of preparedness of the Ministry of Finance to implement Law N° 9986. The table below shows the compliance audits over the last three years directed to some of the six institutions with the highest procurement spending. Additionally, the CGR audited CONAVI seven times (one financial, one performance, and five compliance audits) during the execution phase of procurement of works such as bridges of the national highway network, SJ San Ramón corridor, highway maintenance, and management of the design of highway infrastructure projects, among others. Likewise, ICE was audited three times.

Year	Subject of the audit
2022	Special audit on the management of procurement processes for goods carried out by the BNCR
2022	Special audit on the management of procurement processes for goods carried out by the municipalities of San José and others
2022	Special audit on the management of the project to widen the highway corridor San José-San Ramón
2021	Special audit on the procurement to address COVID-19 carried out by the CCSS
2019	Special audit on the governance of procurement processes carried out by the CCSS
2019	Special audit on the methodology adopted by CONAVI to control and follow up the deadline and cost during the execution phase of public works projects
2019	Special audit on the management of the project for the construction of the highway Chilamate-Vuelta Kooper

On top of all the previous activities, the CGR is currently collecting evidence about challenges in procurement processes to determine the main and more repetitive weaknesses.

The number of reports for misbehaviour related to public procurement received by the CGR was 166 in 2020, 241 in 2021, and 242 in 2022.

Gap analysis

Recommendation

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Assessment criterion 10(a)(c):

The results of the audits and supervision actions are publicly disclosed.

Conclusion: No gap

Red flag: No

Qualitative analysis

Audit reports are publicly disclosed, with concrete exceptions anticipated in the legal framework and which may harm the competition regime.

The DHR leads an Inter-institutional Network for Transparency (*Red Interinstitucional de Transparencia*), which facilitates online access to information relative to the administration of public resources. Audit reports are some of the documents published by this platform.

Gap analysis

Recommendation

Assessment criterion 10(a)(d):

There are mechanisms for anonymous report of unethical conduct in public procurement, which are widely promoted among civil servants, contractors, and civil society.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

As mentioned previously, the ENIPC in its component 3, “promotion of social oversight and participation”, aims at strengthening mechanisms for citizen oversight and promoting effective reports and protection of whistleblowers. There are several institutions that can receive whistleblower reports. Internal audit areas, for example, can receive whistleblowing reports and conduct investigations. The CGR can also receive information on possible breaches from whistleblowing reports from internal audit areas. (OECD, 2022) Corruption reports can also be filed to the public attorney or judicial investigation body.

Citizens can report to the PEP behaviours by public officials seeking to obtain illegitimate benefits for themselves or a third party, undue exercise of the public position, conflicts of interest, breaches to probity, or behaviour or crimes against the duties of public servants. Reports can be filed through an electronic format in PEP’s website (www.pgr.go.ce/servicios/procuraduria-de-la-etica-pep/), in written (by mail, fax, or personally delivering the written report in PEP’s office), or verbally in PEP’s office. By law, anonymous reports are not processed by PEP, only when evidence is received and under exceptional circumstances an investigation can be launched. Indeed, PEP indicates that reports should include the name and identification number of the whistleblower, even when it stresses that this information is for internal use and will remain confidential. In fact, public officials that disclose the identity of whistleblowers can be subject to administrative, criminal, and civil responsibilities, according to the Basic guide to exercise the public function with probity (*Guía básica para ejercer con probidad la función pública*). On the contrary, the CGR receives and investigates irregularities based on anonymous reports.

Users of public services in Costa Rica could be invited to respond to short satisfaction surveys. Anonymously, respondents could indicate not only the quality of the public service provided, but also how they perceived the integrity of the institution or the public servant with whom they interacted.

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Gap analysis

By law, anonymous reports are not processed by the PEP. The recent approval in the Legislative Assembly of legislation on whistleblower protection should lead to the PEP reassessing its attributions to process anonymous reports, just like the CGR does.

Recommendation

The PEP should review its reporting procedures for whistleblowers to allow for anonymous reports, taking advantage of the law just approved by the Legislative Assembly to protect whistleblowers. Anonymous reporting can be critical to build trust and protect whistleblowers. As they may question the capacities of the institutions to protect their identities, confidentiality rules may not be enough to motivate reports.

Some experts believe that the possibility to disclose anonymously may encourage reporting, especially where it is culturally unsuitable to be a whistleblower, or where the institutional safeguards are non-existent or too weak to provide adequate protection. In certain countries, the term whistleblower is often associated with being an informant, a traitor, a spy or even a snitch. Further concerns regarding anonymous disclosures include the possibility that the identity of a whistleblower could be deduced from the circumstances, and that a disclosure made anonymously may focus attention on the identity of the person disclosing rather than on the message disclosed. Several countries including, for example, Germany, the Netherlands, Hungary and the United States have established electronic intake systems and hotlines that cater to, among others, anonymous reporting (OECD, 2016).

In contrast, others believe that anonymous disclosures can render reporting systems less effective as the large volume of cases can render investigations difficult due to insufficient information and limited options for follow up. However, given today's technologies (i.e. blockchain, etc.), it is quite feasible to follow up anonymous reporting to request evidence or further details to substantiate a report.

Assessment criterion 10(a)(e):

Regular training programs on public procurement rules, principles, standards, and ethics are offered to public procurement professionals, auditors, journalists and civil society organisations.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The Ministry of Finance developed, together with the Attorney General Office (*Procuraduría General de la República*, PGR) a self-learning course on ethics and probity in the public service, which is part of the induction programme for new officials of this Ministry. During 2023, DCOP organised webinars on several topics, including ethics and probity. The Ministry of Finance offered two courses on ethical rules and principles for procurement officials during the last 12 months. Likewise, the DGSC Centre for Training and Development (*Centro de Capacitación y Desarrollo*, CECADES) trains public officials, in general, on ethics and probity.

The PEP offers training sessions (*charlas*), upon request, on five different topics:

- Ethics and probity in the public service
- Criminal responsibilities of public servants
- Administrative reporting of corruption
- Freedom of information rights

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- Conflicts of interest in the public service

Moreover, Article 7K of the new LEP establishes that MIDEPLAN will work with the PEP to issue mandatory guidelines and rules to train public officials on their ethical duties. The competition authority, COPROCOM, also offers training on collusion and bid rigging.

Some institutions, like CONAVI and ICE, also report organising integrity courses for their own staff. ICE has its own Ethics Code for its *proveeduría* and a Protocol to engage with suppliers and contractors. According to the Ethics Code for the *proveeduría*, the guiding principles for its activities are legality, equality, regularity, efficiency, effectiveness, austerity, transparency, loyalty, probity, responsibility, integrity, honesty, leadership, innovation, and client service. The ethical principles are good faith, diligence, public awareness, equality, impartiality, public moral, orientation to results, responsibility, confidentiality, and environmental protection. On its side, the BNCR has a Code of Ethics and its employees must be certified annually. The programme includes topics such as conflicts of interest, gifts and gratuities, and illicit enrichment, among others. The Red Cross of Costa Rica, given the fact that about 40% of its funding comes from public resources, is subject to Law N° 9986. It developed a Code of Conduct for Suppliers, which includes not only prohibitions of corruption, but also child labour and discrimination.

Even though the training on ethics and probity from the public sector is available, such training does not seem to be provided by the educational sector. None of the four universities surveyed by the OECD (National University, UCR, UNED, and UTN) has offered programmes on the rules, principles, and regulations on ethics for procurement officials during the last 12 months.

Gap analysis

None of the four universities surveyed by the OECD (National University, UCR, UNED, and UTN) has offered programmes on the rules, principles, and regulations on ethics for procurement officials during the last 12 months.

Recommendation

In establishing co-operation agreements with educational institutions and knowledge centers, DCOP could include projects to advance ethics and probity in public procurement.

Sub-indicator 10(b)

Implementation of mechanisms to sanction professionals for their unethical behaviour

Assessment criterion 10(b)(a):

The civil service has mechanisms in place to prevent, detect and punish conduct contrary to ethics, including violations of the ethics code.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The civil service has established several mechanisms to prevent and detect irregular behaviour and corruption. Law 8422 and its regulation contain the general rules for asset declarations. Article 22 states the three types of declarations that must be filled: initial, annually and upon departure. In particular, the law requires all senior level officials to submit an asset declaration within 30 days of taking office and following that, on an annual basis. The final declaration must be presented 30 days after leaving public office. The information to be declared is comprehensive and includes assets, income, participation in companies, bonds, and other 20 categories. Assets must be reported when hold in Costa Rica or abroad. However, there is no obligation to report about previous

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employment, which could prove useful to identify and guide a public official on possible pre-public employment conflicts of interest.

The review of asset declarations by the CGR consist of two phases. A first phase crosses databases to review false statements and contrast the declarations against other registries. A second phase reviews increases of income (salaries and assets). More recently, the CGR started leveraging on ICT and data analytics to review the declarations and identify suspicious patterns and trends.

Indeed, after a 2022 OECD Integrity Review and leveraging on ICT and data analytics, the CGR reformed its verification protocols and now reviews all the declarations submitted by public officials. It verifies the information submitted by reviewing data bases such as those of the Social Security System (income), the Civil Registry (family ties), the Property Registry, and the Association of Engineers and Architects (incompatibilities) and leveraging analytics tools and techniques for the transformation, automation, and visualisation of results, supported by programming tools such as SQL and R and business intelligence software such as QlikView and Google Looker. The next table illustrates detected irregularities through the verification of asset declarations.

<i>Year</i>	<i>Detected irregularity</i>	<i>Type of responsibility</i>	<i>Cases</i>	<i>Sanctions</i>
2021	Omission in the declaration	Administrative	39	7
2022	Omission in the declaration	Administrative	9	21
2023	Omission in the declaration	Administrative	31	13
	False information declared	Criminal	2	0
	Conflicts of interest	Administrative/criminal	9	0

Source: Information provided by the CGR.

Note: Since cases detected are investigated the year after, and given the time it takes for a resolution, the number of sanctions does not correspond to the number of cases in a given year. Cases of false information declared are submitted to the Public Attorney. Conflict of interest cases are submitted to the PEP.

Costa Rica applies a risk-based approach, as it does not require all public officials to declare their assets, but only obliges those that face a higher risk of corruption due to their position. Furthermore, the list of persons required to provide an asset declaration is clearly defined, based on risk criteria and decision-making capacity (e.g. officials working in public procurement or managing public funds).

Regarding conflicts of interest, Costa Rica's legal framework used to be fragmented with blanket prohibitions and sanctions. The provisions in Law N° 9986 help providing consistency and clarity to address conflicts of interest in public procurement. First, Law N° 9986 adopts a wide scope in determining the officials subject to conflict-of-interest rules, which includes all the stages of the procurement cycle (i.e. from planning to execution and audit) and different roles (i.e. deciding, deliberating, providing opinions and advice). Second, it also provides detailed situations to determine the cases, the officials, and the private individuals and firms who are prohibited from participating in procurement processes. Third, it innovates in incorporating beneficial ownership as part of the prohibitions to participate in procurement processes. Finally, it includes in the prohibitions post-public employment considerations (i.e. legal persons who hire a former public official who intervened in a stage of the procurement process) and cool-off periods of 18 months. In addition, the PEP developed a Guide to prevent, identify, and manage conflicts of interest in the public sector, which provides detailed explanations of the concepts of conflict of interest (real, apparent, and potential), as well as guidance to avoid, declare, and manage them. For example, while recommending to abstain from participating in a public decision where a conflict of interest exists, it also provides other alternatives such as transferring the official to other position, reassigning duties and responsibilities, and getting rid of the private interest creating the conflict.

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Gap analysis

A major integrity concern in many OECD countries is the conflict of interest stemming from movements from the private to the public sector and vice versa. The main challenge for governments is to strike a fair balance between, on the one hand, fostering public integrity and the safeguard of the public interest and, on the other hand, preserving a reasonable measure of employment freedom. A risk-based approach may be appropriate to reach such balance in Costa Rica's procurement authorities.

Recommendation

DCoP could complement legislation with criteria and guidance for situations where a procurement official moves from or to a sector covered by his portfolio or where he had previous influence over government decisions.

DCoP could put together a set of guidelines for procurement officials to manage different kinds of conflict-of-interest situations that go beyond prohibitions and incompatibilities and provide practical examples on how to resolve specific conflicts.

Costa Rica could strengthen its regulations on cool-off periods as the basis for managing conflict of interest, including the assessment of cases based on the risks entailed. While an 18-month cooling off period is consistent with practices in OECD countries, it is also true that some of them adopt a case-by-case approach to assess risks and the scope of individual conflicts of interest and hence the cool-off period could be adjusted. Such analyses could be anticipated in the professionalisation guidelines for officials to identify their own conflicts of interest, Tailoring the duration of restrictions is also necessary depending on the type of problem area and level of seniority.

Assessment criterion 10(b)(b):

Mechanisms are in place that sanction with the suspension or disqualification of the office to officials who intentionally contradict ethical rules.

Conclusion: No gap

Red flag: No

Qualitative analysis

When analysing the typology of sanctions in the legislation, there is some degree of homogeneity. Nonetheless, differences exist in the multiple and diverse legal provisions regulating the exercise of disciplinary power with respect to the description of the offences and the details of the procedures. In ascending degree, the typical sanctions are: (OECD, 2022)

- Verbal (oral) reprimand (or warning)
- Written reprimand (or warning)
- Suspension from work without pay
- Dismissal without responsibility, revocation of appointment or separation from the public function.

The Ministry of Finance has not registered any of its public officials having been suspended or terminated for unethical behaviour.

Gap analysis

Recommendation