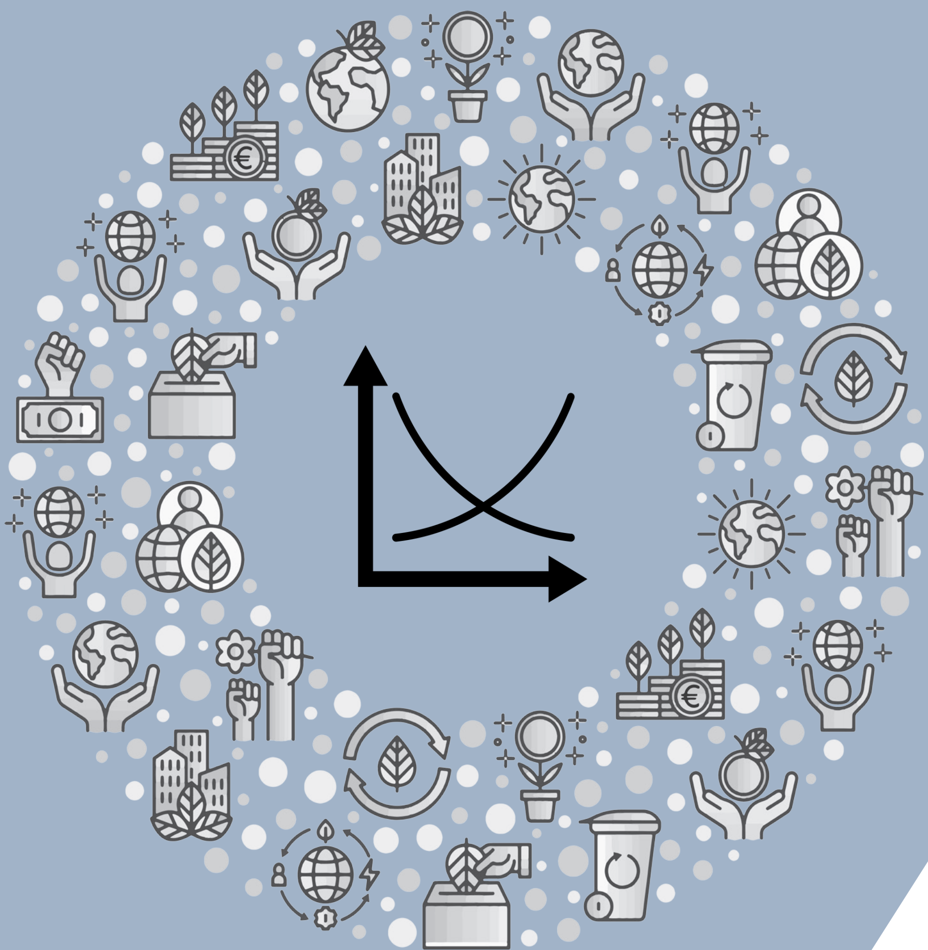
Handbook on Public Procurement Demand Aggregation and Framework Agreements

Developing strategies – Assessment of demand and supply



BETTER POLICIES FOR BETTER LIVES

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This project has received funding from the European Union

It should be noted that this handbook is not intended as legal advice or a legal interpretation of the EU Directives on public procurement. Legal or other professional advice should be obtained in relation to large or complex projects, or in relation to contracts with non-standard features, or if there is any doubt about the correct procedures to be followed.

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1 Context

This document has been developed as part of the OECD's mission – Better Policies for Better Lives – which promotes policies that will improve the economic and social well-being of people around the world. It is in this context, that the Directorate for Public Governance (GOV) supports countries to promote good governance through more strategic, agile and action-oriented public sectors that improve the functioning of national economies and support growth.

To this end the OECD was commissioned by the European Commission – (DG REGIO) to implement the initiative "Pilot Action on Strategic Public Procurement" aimed at helping Member States to improve the performance of both administrations and beneficiaries in applying public procurement for EU investments during the 2014-2020 programming period.

The purpose of this document is primarily meant to assist contracting authorities and centralised purchasing bodies (CPBs) in strengthening their capacities to support smaller purchasing entities and build on the collaboration with the EU and the OECD by exploring practical approaches on when and how to establish framework agreements for the purchase of different procurement categories with a focus on professional services. The use of such framework agreements would facilitate municipalities and public institutions across the EU in the execution of technical preliminary studies allowing them to apply for funding through Integrated Territorial Initiatives (ITI).

The practical guidance below and in its annexes could be used by any contracting authority (hereafter referred to as CAs) willing to engage into aggregation strategies through framework agreements. It should be noted that the steps described in this handbook constitute just one of the dimensions required for the effective design of procurement strategies aiming at implementing framework agreements.

2 Introduction

There is a renewed focus on public sector procurement in relation to the extent to which public bodies combine common requirements to create larger contracts and how they undertake a thorough market analysis. The need to drive greater efficiency is motivating the public sector towards reducing procurement costs, making use of combined buyers' power to achieve economies of scale. However, it should be noted that there are also concerns about the role of small firms in a competitive and healthy market, and the fact that in some markets a small number of suppliers are able to exert an undue influence on public buyers. As public bodies move towards adopting a more comprehensive approach to the markets in which they operate, it is becoming increasingly important to assess both the benefits and potential hazards of aggregation.

Efforts to improve procurement procedures, reduce duplication and achieve greater value for money have led to the development of policies across OECD countries that promote the use of collaborative procurement tools and strategies such as centralised purchasing, framework agreements, dynamic purchasing or joint procurement. The 2015 OECD Council Recommendation on Public Procurement reflects this possibility to drive efficiency throughout the public procurement lifecycle by moving towards centralised purchasing models (OECD, 2015[1]). Furthermore, procedures aiming at aggregating demand and achieving value of money, including framework agreements, have been pivotal in providing effective procurement responses to the COVID-19 pandemic.

This handbook is designed to inform decision making during the development of procurement strategies, and during the strategic planning stage prior to the procurement project itself. It aims to clarify what is meant by the term 'aggregation'; identifies the possible advantages and disadvantages associated with it; and discusses the key issues that will inform the decision-making process.

The four areas of procurement activity covered by the guidance are:

- Examining the benefits of aggregation and the related stages
- Framework agreements as a method for achieving demand aggregation;
- The key role of needs analysis and market analysis for demand aggregation and the impact of framework agreements on procurement planning;

How to conduct needs and market analysis in practice

3 What is demand aggregation?

Box 3.1. Key takeaways- Demand aggregation

- Aggregating demand both within and between public sector organisations is an important step towards creating an environment that generates more efficient dealings with markets – and better value for money.
- The aggregation of needs includes several benefits such as economies of scale, reducing red tape for contracting authorities or providing greater visibility on procurement spend to suppliers.
- The aggregation of demand for common goods or services, a procurement strategy that has several alternatives, has a number of logical steps. At each stage, a decision is taken on whether to continue following the aggregation route.

Definition of demand aggregation

The term aggregation refers to the aggregation (coordination) of demand from various public entities or various departments within an entity. These entities or departments can be involved in the implementation of integrated territorial investment strategies. Aggregating demand entails:

- analysing historical purchasing data to provide the competent services with information necessary to assess purchasing practices and trends at the level of each contracting authority/ each department;
- drawing together information on *common* or *similar* current or future requirements – within an organisation, and with other organisations using a functional approach. This approach enables to describe problems to be solved or functions to be fulfilled instead of describing the products to be procured;

Using this information to assess the potential for collaborating with other sections/units within an organisation, or with other relevant organisations, and agreeing to present these requirements in a coordinated way to the market.

In addition to grouping together information on common or similar requirements, it may also be prudent to include associated requirements (e.g. IT infrastructure, communications, application development). Indeed, responses to aggregated requirements could also include associated services.

Benefits of aggregation

The aggregation of demand can deliver various benefits:

- Better value for money: The aggregation of demand enable to benefit from better value for money through economies of scale. It also allows price benchmarking within an organisation and with others contracting authorities. In addition, this enables to achieve administrative savings given that one entity will be in charge of presenting the needs to the market.

- Better quality management information as the aggregation of needs enables the identification of duplication, unjustified need and gives a clearer idea of procurement spending.
- Enhance the strategic use of public procurement: Aggregating the demand enables to achieve in a coordinated manner different policy objectives in line with market characteristics.
- Benefiting from the administrative capacity of the coordinating entity: presenting the needs to the market requires developing tender documents taking into account market conditions. Many small contracting authorities do not have the adequate capacity to undertake in an appropriate and timely manner this task. Thus grouping the demand will enable them to benefit from contractual conditions developed by an experienced entity limiting then a number of procurement risks.

Aggregation stages

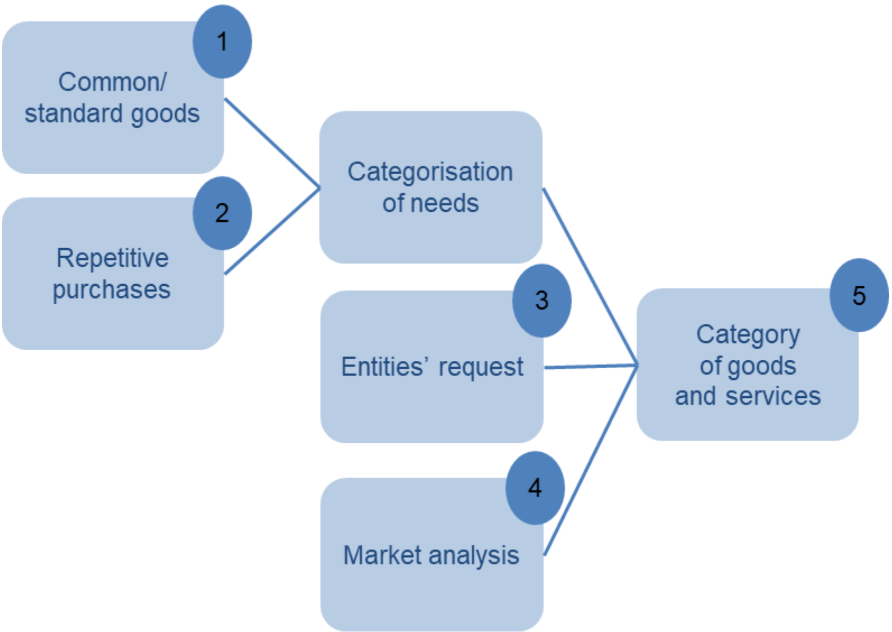
The aggregation of demand for common goods or services has a number of logical steps (see Figure 3.1):

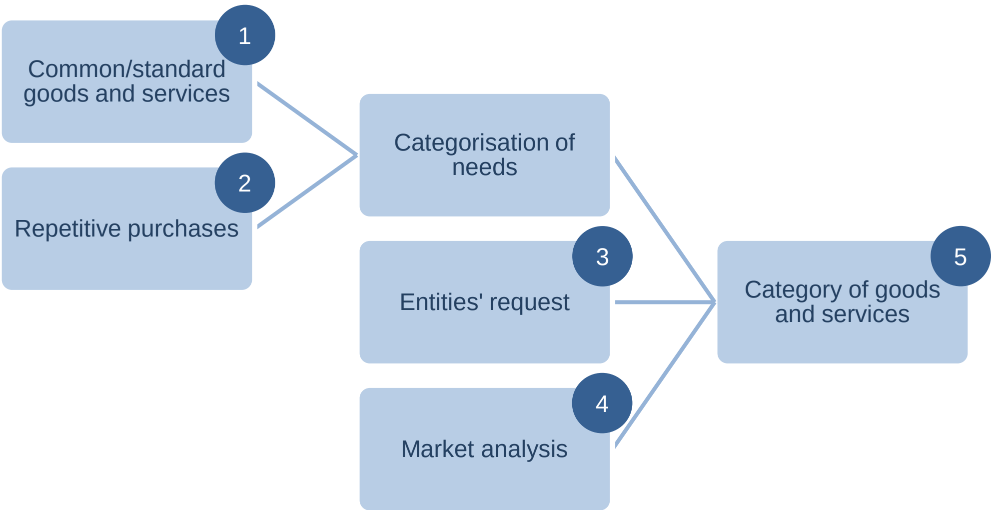
- An assessment of what the public body or bodies purchase and an assessment of whether certain goods and services are purchased frequently (repetitive purchase) and have sufficient commonality (common/standard goods and services) that make them suitable for presenting to the market in an aggregated manner. Aside from the obvious considerations such as homogeny of acquired goods/services and repetition of purchases - commonality can encompass a number of considerations:
    - Whether other public bodies have similar/homogeneous needs and requirements
    - Whether there are other public bodies which are likely to be suitable partners in an aggregated arrangement
    - Whether there are public bodies in the same geographical area or in the same activity which may be interested in aggregation
- This assessment will enable the categorisation of past needs and possible future needs.
- Based on that information, requests from all entities interested in joining the framework agreement (hereafter FA) can be collected
- The market analysis should be conducted to identify the structure and properties of the identified market(s) which could cover these requirements
- The results from the categorisation of historical needs, the collection of the entities' requests and the market analysis should be combined and compiled to set the proposed categories of goods and services

After those steps, the needs will be presented to the market in a way that corresponds to the reality of the market (this is the reason why market analysis is necessary).

At each stage, a decision is taken on whether to continue following the aggregation route. Indeed, analyses conducted in each of the above steps could lead to the conclusion that aggregating needs would not be the most suitable procurement strategy. For example, if contracting authorities do not have homogeneous needs they might decide not to aggregate their needs. If the market is not able to cope with larger procured volume of goods or services due to the aggregation of multiple needs, participating entities will not have any interest in bundling their needs.

Figure 3.1. Definition of categories of goods and services when aggregating demand





Aggregation of demand does not necessarily lead to aggregation of supply, and steps should be taken to specify requirements in such a way as to encourage suppliers to bid for distinct elements of the requirement by means of an allotment strategy.

Whether an entity in charge of aggregating needs should chose this procurement strategy heavily depends on all the factors mentioned above but also on the costs of developing and managing contracts.

4 Framework Agreements could be a response to needs aggregation

Box 4.1. Key takeaways - Framework agreements

- A framework agreement is an agreement between one or more contracting authorities and one or more economic operators, where the purpose is to establish the terms governing contracts to be awarded during a given period.
- Framework agreements are the most common method of aggregation used in public procurement. The implementation of framework agreements (when appropriate) includes several benefits but requires having in place an enabling environment. Framework agreements can be set up by individual contracting authorities; a contracting authority acting on behalf of a number of other contracting authorities,; or a central purchasing body acting on behalf of a sector or group of contracting authorities. The framework agreement must clearly indicate which contracting authorities are party to it.
- The use of a framework agreement by its participant contracting authorities can be mandatory or voluntary. Both options have benefits and drawbacks.
- The duration of framework agreements is limited to a maximum of 4 years.
- Developing and implementing FAs requires having in place adequate institutional arrangements.
- There are four main categories of FAs (with one or multiple suppliers/ with and without all terms fixed in advance); an allotment strategy can be used when designing FAs.
- There are two main options for awarding a contract under an established FA (a “call- off”): Direct Draw Down and Mini-competition.

Key features of Framework Agreements

What is a framework agreement?

A framework agreement (FA) is an agreement between one or more contracting authorities and one or more economic operators, where the purpose is to establish the terms governing contracts to be awarded during a given period, for instance with regard to price and, where appropriate, the quantity. Framework agreements are the most common method of aggregation used in public procurement. They are in effect umbrella agreements with one or more suppliers or service providers setting out the rules under which specific purchases (“call-off” contracts) can be made during the term of the framework agreement. The most appropriate use of a framework agreement is where a contracting authority or a group of contracting authorities have a repeated requirement for goods or services.

Why use frameworks?

The use of FAs provides several benefits, including those related to the demand aggregation. However, the successful implementation of FAs requires having in place an enabling environment and considering various risks that can affect negatively the procurement outcome. The following table provides an overview of the benefits and risks related to the implementation of FAs.

Table 4.1. Benefits and risks of framework agreements

Benefits	Managerial aspects		**Procurement intelligence on spending** The use of FAs can ensure that public bodies are benefiting from the same pricing for the same good or service from the same supplier. In the absence of a framework, a supplier may be charging numerous public bodies different prices for the same goods or services. Consequently, aggregating demand can enable more consistent application of best practice, and can reduce the procurement costs associated with gathering price and market information. It can also create opportunities for learning, through collaboration with other organisations.
			**Influence on markets** A FA may facilitate improved management of suppliers at a strategic level – for example by enabling buyers to see patterns and raise issues in a coordinated way at senior level in companies. It could encourage the strategic use of public procurement to achieve pressing policy objectives in line with the capacity of the market. Aggregating requirements can strengthen a public body's negotiating position in contracting with their suppliers. The ability to realise these benefits depends on the competence of the buyers and contract managers. Aggregation of demand can allow capacity constraints in the market to be identified and managed across a region or country.
	Transactional aspects		**Economies of scale** Opportunities to achieve economies of scale can be exploited, including enabling smaller organisations to benefit from the same advantageous deals achieved by larger ones, if the contract is set up to allow multi-access by a number of contracting authorities. However, it is important to understand how the potential for economies of scale varies between different markets as it depends on the price elasticity of supply.
			**Reducing transaction costs** The use of a FA across or within public bodies can simplify the tendering process, leading to: • reduced procurement costs for buyers (arising from reduction in the number of individual tender competitions because of the availability of an aggregated arrangement), and, • reduced bidding costs for suppliers (arising from the reduction in the need to draft complex submissions in response to numerous tenders). Reduced project management and contract management costs can be achieved – as long as project managers, negotiators and contract managers are sufficiently skilled and adequately resourced.

<table>
<tr><td rowspan="4">Risks</td><td rowspan="2">Managerial aspects</td><td></td><td>Skilled procurement workforce
Procuring and managing very large, complex contracts requires appropriately trained procurement, project management and contract management staff. If procurement staff do not possess these skills many of the potential benefits of aggregation may be missed.
Centrally managed and large contracts may not be responsive to specific needs of front-line staff.</td></tr>
<tr><td></td><td>Complex agreements
Without an appropriate planning, large and complex contracts can entail lengthy and costly procurement processes – and complexity increases the potential for delays to procurement timescales. It is possible for the total costs of a consolidated procurement to exceed those that would have been incurred if parts of the total requirement had been procured separately.
Further, it can be difficult to develop a specification that addresses the needs of all members of a buying ‘consortium’.</td></tr>
<tr><td rowspan="2">Transactional aspects</td><td></td><td>Distorting markets
FAs that combine the needs of a wide variety of larger public purchasers could distort markets. Over the long term, this may lead to a situation where a few suppliers can control prices above competitive levels and harmfully exploit their market power. If FAs are not designed correctly, they may pose significant barriers to entry for smaller firms, or those wishing to diversify into the market. A combination of the evolving strength of incumbents, size of contracts and high bid costs can lead to less competitive marketplaces.</td></tr>
<tr><td></td><td>Missing innovation
Public buyers may risk becoming over-reliant on very large suppliers who are not themselves reliant on their public contracts and therefore have strong negotiating positions.
Suppliers that are not part of a FA are locked out of the public sector marketplace for a prolonged period and might not bring innovative or alternative solutions.</td></tr>
</table>

Institutional aspects of framework agreements:

Framework agreements can be set up by:

- individual contracting authorities (CAs);
- a contracting authority acting on behalf of a number of other CAs,; or,
- a central purchasing body (CPB) acting on behalf of a sector or group of contracting authorities.

When a FA is being established on behalf of a group of contracting authorities by a CPB or another public entity, the framework agreement must clearly indicate which CAs are party to it. This can be done either by listing the CAs in the Contract Notice or framework agreement documentation or describing them in a way that makes the scope and range of the framework clear to market operators. For instance, it would be acceptable to indicate in the published notice that a FA applies to “all municipalities in a certain region”, and for greater clarity, it is possible to list the relevant authorities in the FA documentation. On the other hand, for example, describing a framework as “open to all public bodies” would not be sufficiently clear and transparent.

Extending the use of a framework to CAs not included at the outset is specifically prohibited. The same rule applies as regards suppliers or service providers: Only those pre-qualified and admitted at the outset may participate in the FA. It is not possible for CAs to admit new entrants during the course of the agreement.

It is worth mentioning that the dynamic purchasing system – DPS- is another tool that enables demand aggregation. A DPS operates rather like a live, online, internet-based framework agreement, which economic operators can join at any time. However, this tool is not adapted to all procurement categories.

Mandatory vs voluntary use of framework agreements

The use of a FA by its participant CAs can be mandatory or voluntary. Both mandatory and voluntary uses of FAs have benefits and drawbacks.

A mandatory FA is likely to benefit from better inputs in terms of design and assessment of needs which in turn lead to better outcomes in terms of quality, administrative savings and value for money. A FA could be made mandatory by a number of means - a legislative instrument, an administrative instruction (common law jurisdictions) or by a binding agreement. It is important to:

- monitor the use of the FA to ensure it is used; if the FA is mandatory it's important to identify CAs who are not complying with this obligation.
- understand that CAs may already be party to contracts that, in the short term, preclude them for using this new FA.
- be clear with potential suppliers that this new regime will mean that it is important for them to compete to be part of the FA as there won't be opportunities outside the framework over its lifetime.

In some countries, FAs are made mandatory. However, if a contracting authority finds better condition outside this framework, it is entitled to not use it. Potential drawbacks from a mandatory use of framework agreements include an offering which is not exactly answering contracting authorities' needs or a lack of incentives for the institution responsible for their implementation to design the most effective procurement strategy.

Conversely, a voluntary use of framework agreements stimulates the institution responsible for their implementation to provide CAs with the best possible offering responding to their needs. In turn, when the use of FAs is voluntary, needs assessment and the visibility offered to the market are subject to higher uncertainty. In this case, there are certain considerations to take into account:

- get agreement from all CAs that they will actively participate in the FA;
- Provide CAs with incentives to join the FA (appealing conditions)
- Communicate on the use of the FA.

Duration of framework agreements

In general, the duration of FAs is limited to a maximum of 4 years and may be shorter. The scope should, therefore, address the known requirements, including the categories of expenditure covered in the plan (e.g. professional services) throughout the FA duration.

It should be noted that if the project's duration exceeds the four year timeframe of the FA, that it is possible to award a contract that will extend beyond that timeframe prior to the expiry of the FA. Another option is to introduce FAs with shorter duration which can be renewed (up to the overall limit of 4 years). This could provide opportunities for periodic assessment of whether the FAs continue to provide the best value for money in comparison with market trends.

Institutional arrangements to manage FAs

When FAs are managed by a CPB or by a contracting authority acting on behalf of a number of other CAs (central or multi – authority FAs), it is important that all parties to them are familiar with the terms and conditions. It is necessary to ensure that CAs participating observe the provisions of the framework. This is why the necessity for appropriate management is stressed.

Aggregated arrangements require the involvement of suitably skilled procurement staff. The staffing allocation and commitment of financial resources to any aggregated arrangement should be proportionate to the value of the procurement. At whatever level aggregation occurs, it is important that clear lines of responsibility are established; and that participants, including users/customers, understand their role and obligations.

The key roles/ institutional arrangements in multi-body aggregation arrangements are:

- When feasible, a steering committee comprising relevant representatives of buying bodies, to agree among other things on the type of supply arrangement, terms and technical specifications. This usually comprises representatives of all those public bodies that purchase goods or services from the FA. Requiring the CAs to be represented in the committee builds ownership and puts specific individuals responsible for ensuring that the FA is used within their organisation and, where possible and necessary, providing information to the contract manager.
- A contract manager responsible for the management of the FA (either internal or external) should be appointed by the steering group, to monitor and report to the steering committee on supplier performance and buyer discipline and to manage relations with suppliers and purchasers.
- In some cases, and with large (national) arrangements it will not be possible to have all the purchasers represented on the steering group and in such cases, they can be represented by parent or proxy public bodies. For example, a larger municipality may be able to represent those close to it, which may lack the resources to do so.

A similar structure with a steering group could be used to develop and manage internal aggregated arrangements within public sector bodies.

There is scope for variation of this model but it needs to be clear who is:

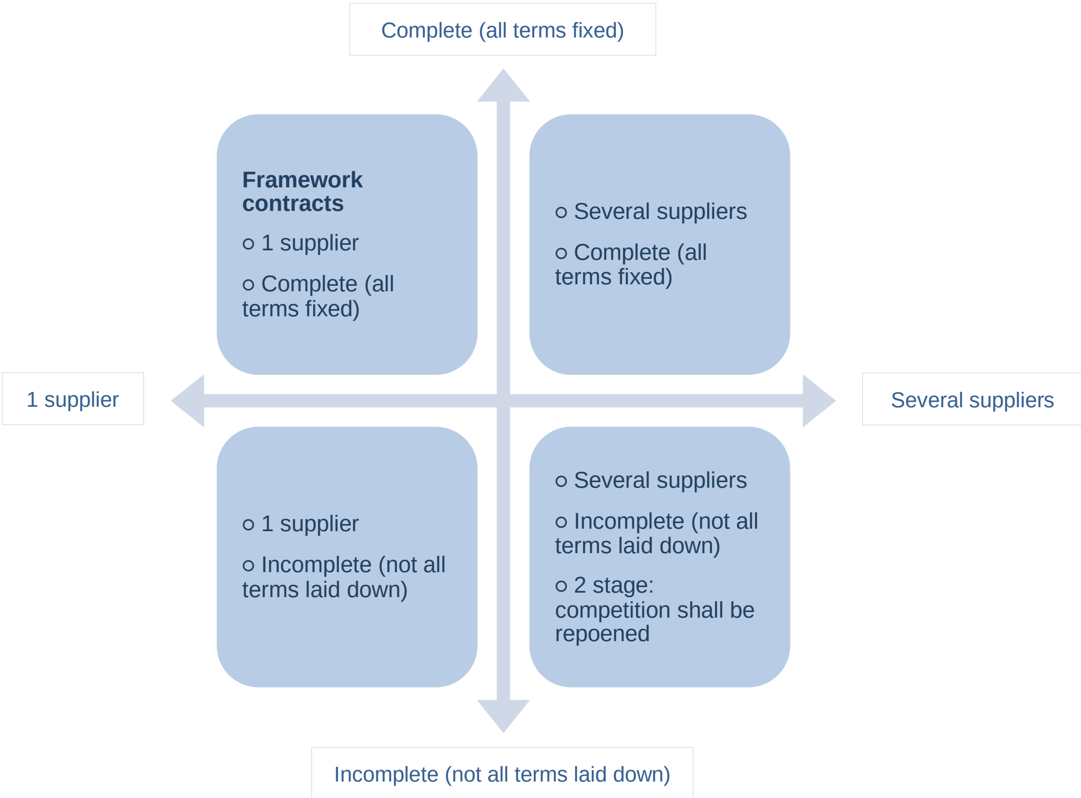
- responsible for determining requirements
- managing the contract
- ensuring that it is delivering value for money.

It is not always easy to agree and approve such arrangements but if properly structured and managed, the benefits should outweigh the effort involved.

Options for designing framework agreements

In general, there are four main categories of FAs (see figure below). The choice of the most appropriate category of FAs will depend on a variety of elements including the possibility to determine the exact needs in advance, the size of the supply base in the product category, the level of competition in a specific market, etc.

Figure 3.2. Different categories of framework agreements



- Single supplier FA – complete with all terms fixed (framework contract). The CA enters into contracts with the supplier in accordance with the terms of the FA.
- Single supplier FA – Incomplete with not all terms fixed. The CA enters into contracts with the supplier in accordance with the terms of the f FA but can also ask the supplier to supplement its tender to reflect requirements that are more refined.
- Multi-supplier arrangements, which set out all the terms under which contracts may be called off without further agreement. It must be clear from the procurement documents which supplier will perform the contract.
- Multi-supplier arrangements, which do not set out all the terms of the arrangement and under which contracts will be awarded following mini competitions, the procedure for which must comply with 2014/24/EC - Article 33.

Contracts awarded under a FA may have a completion date after the end of the framework. It is important, however, that any “overhang” should not act to distort the market.

Although it is possible to use any competitive procedure set out in the EU Directives to establish a FA, in practice the open and restricted procedures are most commonly used. This is because FAs are generally more suited to the procurement of straightforward commodity and non-complex purchases. FAs may also be used for procurements below the EU thresholds.

Allotment strategy

One of the elements to take into account is the possibility to split the FA into separate lots. When it is not obligatory to award contracts in the form of separate lots, a decision should be made on a case-by-case basis. As such, decisions depend on the specific characteristics of the market and on the characteristics of the contract. The specific market characteristics that may impact on the decision include:

- the number and type of economic operators in that market (including SMEs),
- technical and quality aspects,
- speed of technological change, and
- risk of dependency on a sole supplier.

A poorly thought out allotment strategy can lead to negative outcome, that may include lack of competition, with poor value or low quality tender outcomes; and failure to encourage SME participation or new entrants.

A CA should have a thorough understanding of how the specific market works before it makes a decision on whether and how to split a contract into lots. To this end, a comprehensive market analysis, involving the collection and analysis of market data, should be carried out.

A CA also needs to understand the potential practical impact on economic operators and on the procurement process of a decision to split a contract into lots and the way in which those lots are structured. In general, the most common ways a contract can be divided into lots are as follows:

- **Geographical** – divide the contract into sub-regions, with each sub-regional lot covering all of the services required in the sub-region.
- **Product type** – an office supplies framework could be divided into small (stationary) and large office (furniture) supplies.
- **Technical expertise / Qualification** – a framework for professional services could be divided according to the different technical expertise required (e.g. architects, engineer, etc…).
- **Service type** – divide the contract by type of service, with each service being provided across the whole region.
- **Service frequency** – the ability of the supplier to provide a given service within a specific period of time.
- **Value** – Larger contracts can be broken down by value to encourage a broader number of suppliers to participate.
- **Low Value allotment under the EU Directives** – create a “low-value” lot, using a multi-supplier framework agreement to award contracts below EUR 20 000, perhaps also divided by service type.

It is important to note that the FA could be divided in a number of ways, which could possibly be combined. For instance, if a CA decides to use FA for the procurement of professional services, it might make sense to create a series of lots for each service being sought or design the lots based on the potential value of contracts that may be awarded.

Suppliers can take part in more than one lot, if they provide a variety of professional services or have the necessary scale to be able to provide the service. This approach might have the advantage of being easier to understand for suppliers participating in the framework and for potential buyers that wish to use the framework. Suppliers can get disillusioned by competing for awards that they are not suited for. A good allotment strategy can ensure that suppliers only see opportunities for which they are most suited.

Methods for calling off from framework agreements

The structure and methodology for calling off a FA is an important consideration. There are two main options for awarding a contract under an established FA (a “call- off”):

Option 1: Direct Draw Down

Awards can be made directly, without re-opening a competition amongst framework members, based on an objective procedure/methodology that has been set out in the FA. For example, a CA may opt to use a cascade approach for call-off where a contract is typically awarded to the supplier who achieved the highest score following evaluation to get onto the framework agreement or, if not available, and the documents permit it, the next highest-scorer. Alternatively, the framework may be designed to ensure as many members get an opportunity to be awarded a contract and therefore may rotate between framework members in a pre-determined order. For example, the supplier ranked first might get 50% of the procurement volume, the next one might get 30%, etc. The two systems provide incentives to the suppliers to be ranked first. Whilst direct drawdown arrangements involve less administration, it is important to note that because of the lack of competition following the establishment of a framework, that this type of drawdown arrangement may be less competitive, yielding poorer value in the long term. Care needs to be taken to ensure that whatever method is used is set out in the FA and that it is transparent and objective.

Option 2: Mini-Competition

Following the creation of a FA, awards are made based on a further competition, which invites all suppliers, part of the FA (FA members), to participate (a mini-competition). The CA may a mini-competition where not all terms governing supply are laid down in the FA. This process allows the terms referred to in the specification to be more precisely formulated. This is still subject to the principle that the parties may under no circumstances make substantial amendments to the terms laid down in the FA. The call-off contract award criteria and the weightings (or weighting ranges) must be clearly stated in the documents sent to FA members in relation to a mini-competition. The flexibility in terms of changes in the weightings of each criteria compared to the ones foreseen in the initial tender documents are relatively limited.

All of the FA members capable of performing the contract must be invited to participate in a mini-competition on this basis. CAs must fix a time limit for submission of tenders which is sufficiently long enough to allow tenders for a call-off contract to be submitted. The tenders that have been submitted shall not be opened until the timeframe for reply stipulated in the supplemental request for tenders. The CA shall award the call-off contract to the best tender on the basis of the award criteria specified in the procurement documents for the FA or for the mini competition.

5 Needs analysis

Box 5.1. Key takeaways – needs analysis

- CA have to assess their needs and translate them into procurement plans. These analysis should cover both past and future procurement-related spend.
- A coordinating entity should be in charge of assessing the needs of the different CAs and assess the possibility of aggregating needs using an appropriate methodology
- This process should be concluded with a needs analysis report

This section covers a range of issues that may be considered in reaching decisions about developing a FA. This is not intended to be a “one size fit all” method as not every issue will apply to each procurement, The aim is to provide sufficient evidence and assurance that your organisation’s procurement strategy is likely to result in the best possible value for money in the short and longer terms – taking into account the specific features of both the demand and the relevant supply market.

Procurement planning and objectives

The needs of each contracting authority will be translated into **procurement plans** that include the following positive attributes:

- Strengthening the link between procurement and the objectives of the organisation(s).
- Aligning procurement with the organisation’s corporate business plan
- Determining future procurement needs and enabling more efficient use of resources and value for money
- Establishing goals and targets leading to improved procurement outcomes and better measurement of these. This embeds a good public procurement culture within the organisation(s)
- Identifying adequate timeframes necessary to fulfil the organisation(s) procurement needs
- Identifying critical contracts and development of the organisation’s risk management approach
- Providing affective means of reviewing existing procurement strategy, practices and systems

An effective needs analysis should be based on key findings from the analysis of both past and future procurement-related spend. Early identification of future procurement needs will help in planning how larger purchases can be made, supported and delivered on time. Given that the scale and nature of procurement varies across the public sector, it is likely the level of detail required will also vary. The level of detail therefore should be proportionate to the strategic value of the procurement for the organisation to achieve its goal and to the procurement-related spend available to the organisation and the associated risks. The data collection template provided in Annex A illustrates that this does not need to be a complex process.

The expression of needs should be based on a functional approach. This approach consists in searching, ordering, characterising, prioritising and/or valuing functions. These functions are those of the product or service or work expressed exclusively in terms of the purposes expected by the user. By using this approach, without technical bias will ease the aggregation of needs. Needs analysis will ensure that the FA developed will address the needs of all of the participating CAs .

This type of planning and review is pivotal to ensure that CAs make sound use of public and EU funds, and to ensure that the best possible value for money is obtained whenever public money is being spent or invested.

The information gathered will enable the institution responsible for the implementation of FAs to make an informed decision on the actual needs of these smaller CAs and identify what kind of FAs could be established in order to facilitate the achievement of the objectives of the individual projects and of the overall strategic goals of this ITI.

Methodology

Who carries out needs analysis?

Carrying out a needs analysis can be challenging. In order for the analysis to be carried out in a consistent and effective manner across a wide variety of organisations with differing administrative structures it is necessary to define the nature and scope of the analysis. For this purpose the data collection template for needs analysis provided in Annex A could be useful to support the collection of comparable data on which the analysis will be based. Likewise, the roles and responsibilities of procurement practitioners or other officials involved in the procurement process could provide useful insights.

Involving the right people and skills is crucial for the success of the demand analysis:

- Ideally, the needs should be carried out under the guidance and the supervision of the coordinating entity which is responsible for the development and administration of the FA and should result in a report that will form the basis for the development of the FA.
- In order to improve the effectiveness of the exercise and support the coordinating entity, it should be assisted by any available technical and procurement experts from among the CAs that will be using the FA.

Assembling the team in this manner will not only result in an effective consolidation of needs/requirements but will also provide concrete inputs and help prepare tender documentation at a later stage.

The coordinating entity is responsible for preparing a document allocating clear roles and responsibilities at individuals, identifying the owner of the plan and his/her reporting lines and obligations. The document should also detail who is authorised for the final sign-off, those involved in developing the plan, and which units/functions/organisations were consulted in formulating the plan should also be detailed.

Why need analysis is a fundamental part of developing a framework?

The key question to be answered by needs analysis before starting a procurement process is: “what do we really need?” Therefore, the main objective of the needs analysis is to contact and discuss with the CAs part of the FA in order to assess their procurement spend in selected product categories and subsequently measure the type and value of potential demand, using information such as:

- the geographical distribution of the CAs
- identifying needs in terms of:
  - common categories of goods and services
  - total value
  - total value by CA type and geographical area
  - A detailed description of already procured products and services for recurrent purchases.

Such information should clearly show the scope for bundling similar goods and services to the market. The extent to which the market can effectively respond to that need will depend on the nature of the market which is why market analysis is required (Market analysis is covered in the following section).

How to analyse need

Depending on the administrative or governance structures of the different entities that the coordinating entity may decide to include in a FA there may be numerous sources of information and ways to assess the actual needs. The following are some possible sources of information and suggested approaches for collecting this information:

- Use figures from the official data on past spending (under various elements, e.g. number and size of contracting authorities; geographical distribution, product categories, etc.).
- In case data on past spending does not provide a comprehensive evaluation of the needs of a specific CA, undertake an evaluation of future needs using a functional approach. This is particularly relevant in the context of new projects such as those under an Integrated Territorial Investment Programme (ITI).This could be done by carefully assessing future projects and their related procurement needs.
- Examine which CAs are the most important buyers and what their needs are or what they have bought frequently over the past years, how they have done it and from whom.
- Study published procurement notices and invitations to tender published by CAs.
- Analyse CAs' current/former contracts looking for information about their suppliers, the quantities purchased, the current price lists with all items as well as the terms and conditions.
- If it is possible to use the administrative binding agreement to consult with the CAs that will use the FA to acquire rough data on their spending in different categories. This could be achieved through a questionnaire or by visiting the CAs. It is recommended to use a functional approach to assess their needs. This process can provide a good estimation of what goods or services CAs procure the most often and whether they buy them through a procurement procedure or, if of low value for example, they are bought directly without a competitive process. This will help understand the real needs.
- In the case of professional services, it may be useful to provide a list of common services, to conduct demand aggregation and consolidation based on the CAs' input. This can be done through data collection templates such as those included in Annex A to this handbook. In addition, it can be useful for specific categories of procurement to get all of the key procurement players to meet to discuss their current and future needs.
- In addition, this information could also be drawn from and/or feed into the organisation's contract register which will show:
  - What has the organisation been buying? How often. What quantity and at what price? (use CPV[1] codes where possible)
  - Are there other CAs buying similar things?
  - How do the prices paid by CAs compare?

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[1] Common Procurement Vocabulary - https://simap.ted.europa.eu/web/simap/cpv

- Is there a significant amount of one off buying within our own organisation?

Ideally structuring the data collection process by using tools such as a spreadsheet will assist in the analysis of data and standardise the collection of needed information. The Annex A to this handbook provides a data collection template for needs analysis.

Defining the Baseline – defining current and future need

Knowing what goods and services were purchased in the past is fundamental to planning future procurement. Spend analysis provides an opportunity to review historic expenditure with a view to improving future spending, for example, by consolidating lower value purchases and/or the number of suppliers. However, this analysis could be completed by the evaluation of the forecasted spend in the same product categories to anticipate possible peaks or decrease. The needs analysis data collection template provided in Annex A aims to support the coordinating entity and the CAs involved to identify appropriate procurement strategies for each category or type of goods and services, and specific procurement goals and targets. If each CA that will participate in the FA properly fills in the template tables, the coordinating entity tasked with developing the framework will have the following information:

- The number and names of all CAs that will use the FA
- The number of public procurement processes carried out by each CA
- The type of goods and services purchased and those that are forecasted/ planned
- The value of the goods and services purchased and those that are forecasted/ planned
- How contracting authorities reference purchases (product coding) – this can be useful for governance purposes
- The average duration of contracts
- The number of suppliers
- The name of suppliers
- The location of suppliers
- How are goods and services purchased (Direct award or public procurement process)
- The official who provided the data in each organisation and therefore the best person to consult in relation to their needs.

With this information it should be possible to see if CAs are buying the same goods or services for a range of prices and assess whether there is room for greater consistency in prices, or greater standardisation of specifications.

"Are our organisations' requirements really that different from those required by others?": Providing meaningful answers to these questions requires that the coordinating entity has sufficient information to understand how CAs are buying specific goods and services and what the likely trends are for the future.

Defining the Scope – organisation(s) requirement

On the basis of the structured data collection detailed above, the officials of the coordinating entity can start answering the following questions that would help to shape the aggregation strategy to be implemented.

- How much room is there to aggregate? Do more than one of the involved CAs have similar requirements? This analysis may point to either the use of a framework or to a disaggregated approach.

Importantly in the context of carrying out a market analysis, the needs analysis exercise will show what suppliers are currently availing of public procurement opportunities. Whilst these will form a very important part of any market analysis exercise, it should be borne in mind that aggregating demand is likely to create interest from larger suppliers. In that context, potential suppliers should also be the subject of any possible research/survey.

- Are there slight variations of requirements, for example geographically, or in terms of the overall product or service such as logistical considerations between the different CAs?
- What are the business implications of aggregating requirements? For example, for a geographically spread requirement, how important are response times and service levels?
- What is the duration of each organisation’s need? Is it possible that the requirement may change significantly in the near future? It would be a mistake to aggregate if the duration of need is less than the contract length necessary for each organisation involved to benefit from a significant saving or for the market to secure a return on its investment.

Needs analysis report

At the end of the needs analysis process, the coordinating entity should prepare a report on needs analysis. The report will be a transparent record that:

- lists and explains the issues that have been considered,
- includes a record of the research sources and information used,
- sets out the conclusions of the needs analysis.*

The report should prioritise product categories to be aggregated and rank them in order of importance. In addition, the needs analysis report could be used to obtain stakeholder verification and endorsement of the statement of needs. This needs analysis report should be translated into a procurement plan.

6 Market Analysis

Box 6.1. Key takeaways- Market analysis

- The coordinating entity has to undertake a market analysis to have a better understanding of the market and to better design the framework agreement.
- To undertake market analysis different sources of information can be used (primary and secondary research)
- The results of the market analysis should be recorded in the "market analysis report"

Collecting and analysing needs are necessary, yet insufficient, steps to effectively implement FAs. Indeed, those needs should be structured and put to tender in a way that meets market capabilities. This section is therefore dedicated to techniques and steps that would provide contracting authorities with a greater understanding of the capacity of the market to answer the aggregated needs of the individual smaller public entities.

Supply market analysis is a technique that enables a CA to understand how a market works, the direction in which a market is heading, the competitiveness of a market, the key suppliers and the value that suppliers place on the CA as a customer. Do they value more the coordinating entity than smaller municipalities for example? This can help inform, improve and shape the tendering process leading to improved procurement outcomes such as better value for money or service, reduced prices or achieving outcomes.

Before commencing any market analysis, the competent officials of the coordinating entity should consider the aims and objectives of this research so that the analysis will provide the answers required within the time available.

For example, the designated team may want to consider whether the coordinating entity is seeking:

- to speed up tendering time for smaller CAs which may lack both resources and expertise in applying the regulatory provisions and using the related IT systems
- to use the FAs as a tool to support the strategic goals of the ITI
- to reduce cost
- to understand the range of suppliers in the market and the goods/services they provide in order to develop an appropriate specification
- to understand the latest trends in technology in a particular sector

Once the aim of the research is understood, the coordinating entity's officials need to:

- identify potential information sources;

- identify any potential costs and
- set a timetable for completing the research.

The level of detail in any research will vary with the complexity of the purchase and supply market.

It is important to record the process used to prepare for and conduct the market analysis so that there is a clear understanding within the coordinating entity's management and services of the purpose and objectives of the market analysis and of the need to ensure the transparency of the process and equal treatment. It is a good idea for the coordinating entity and any contracting authority engaging in a market analysis to prepare and use a market analysis research document to identify issues that are to be considered and the process that will be followed to gather relevant information.

Who should carry the analysis out?

The person or team in charge of the market analysis should have the appropriate capacity to do it, including good knowledge of the public procurement processes, the regulatory framework and the characteristics of the category of supply. The team that conducts the market research can be the same team that coordinates/runs the needs analysis exercise. Needs analysis and market research are complementary activities that provide input and feedback to each other, so they could be run mostly in parallel.

Why should market analysis carried out?

Supply market analysis provides a strategic understanding of:

- how a market works/ Structure of the supply chain and typology of the market operators (producers / resellers / system integrators / global service providers, etc.)
- the characteristics and specifications of the items to be purchased and the existence of alternative solutions (identification of the relevant market)
- the direction in which a market is heading
- the competitiveness of a market
- the capability, capacity and performance of a market
- the key suppliers and market share information/dominant positions (monopoly / oligopoly / competitive market)
-)
- the potential for developing suppliers or markets to better meet customer requirements
- how the pricing of the market works, cost structures and recent price trends
- the risks, which would allow taking actions to mitigate them
- the probability of market failure
- how the market can support the achievement of broader policy objectives (i.e. sustainability, innovation, SME's development, etc.).

The outputs of market analysis as regards tender procedures include:

- planning and budgeting the procurement activity
- designing tender documents which match needs with the suppliers' available solutions, including the right specifications as well as evaluation and award criteria
- choosing the right procurement procedure and strategy (both in terms of how the market currently operates and how it may operate in the future in relation to new entrants or innovative

technology). This includes the tender method, the award and selection criteria, the development of technical specifications, the allotment strategy, etc.

- structuring public tenders so as to obtain healthy competitive bids
- procuring without negatively affecting the supply base, and in particular providing opportunities for SMEs.

Market research serves to learn about the suppliers' classification of the goods/services, their cost structure (e.g. percentage of labour/materials in the price), what makes it a mass or premium goods/service, etc. It also may serve to inform about the suppliers' current contracts and their performance (OECD, 2014[2]).

Market Analysis - Sources of information

Market and industry information is available from a variety of sources: primary and secondary sources. It is recommended to start the analysis by exploring information available from secondary sources

Secondary sources refer to information on the market that is available online. This kind of analysis may provide good background information about the market and specific supply related issues and/or suppliers. In terms of general market information this may include overall market size and other statistics, key suppliers in the market and the like. Specific supplier information may include goods and services supplied by particular firms, company reports and information about future plans. This research incudes:

- Visiting websites of potential suppliers and professional social networks, reading articles and blogs, etc;
- Accessing relevant data from e-procurement systems (using the CPV codes) and consulting CAs part of the framework agreement or other CAs.
- Reading sectorial studies (they can be published by relevant federations or by relevant public or private institutions).

The table below provides a list of additional sources of information.

Table 5.1. Potential secondary information sources

	Information sources
Online procurement databases	• The national public procurement portal www.https://opentender.eu/gr/ • The EU public procurement portal https://simap.ted.europa.eu/
Government services	• National Statistics • Register of Businesses (GEMH) • Local Enterprise organisations • Enterprise bodies targeting small business • Industrial development agencies • National research institutes
Industry representatives bodies	• Chamber of commerce and industry (Epimelitiria) • Trade associations
Specialist commercial organisations	• Many commercial organisations have data that may be useful when gathering supply market information.
Other	• Specialised journals • Internet search engines • Media sources
	•

Once you have an initial understanding of the goods or services and the supply market arising from the secondary research, you can undertake an analysis of primary sources.

Primary sources include interviewing or surveying those in the best position to understand any issues about the goods or services required to meet their needs. This type of research should involve a range of potential suppliers both current and noncurrent. This research can be performed through:

- the organisation of public events (i.e. meet the buyer event)
- the distribution of consultation surveys to the market. The data collection template included in Annex A could guide the retrieval of detailed information that could complement data gathered from other sources.
- One on one interviews with individual suppliers, provided that transparency and integrity standards are strictly followed.

There is need for caution in any research work with suppliers as they are likely to be biased towards promoting their own products and services. It is important that a range of suppliers are interviewed since this gives a wider picture of services and markets and reduces potential complaints about bias or favouritism..

When deciding to talk to potential suppliers be careful not to make any representations or promises on behalf of the contracting authority(ies) or give away any information that is commercially valuable to the contracting authority(ies).

After completing the secondary and primary research, it is worth interviewing internal users of goods or services, including technical people and managers to obtain a good understanding of the issues. For example, procurement professionals and engineers across contracting authorities, as well as experts working in the Managing Authority could all provide valuable inputs. Targeting the appropriate person is important in getting the best information. Such individuals may also have a good understanding of the supply base and of the supply issues in that particular market and could provide a reality check on information obtained from primary or secondary sources. The information each person may provide is likely to be different but useful in building a complete picture of the range of suppliers and the nature of the supply market.

The list of organisations and potential sources of information listed here is not exhaustive. Individuals involved in such a market analysis should use the sources listed here – but also seek out their own sources of information.

Box 6.2. How to engage with, and collect information on, the market?

Different methodologies can be used to engage with the market.

Direct engagement mechanisms

- Publish procurement plan
- Organise public events to meet with suppliers
- Meeting with some key suppliers (taking into account integrity risks)
- Request for quotation (RfQ) / Questionnaires

Getting information from third parties

- Commission a consultant (public and transparent selection)
- Market analysis or sector study reports published by specialised companies or trade unions
- Consult other contracting authorities with experience in the specific procurement

What does market analysis reveal to the framework organiser?

Especially for the implementation of new FAs, the market analysis will enable the framework organiser (coordinating entity) to:

- know companies on the market
- obtain information on administrative and technical specifications, i.e. on the characteristics of the products/services under procurement, which will be included in the tender specifications
- create a financial estimate of the contract
- define labels/norms (like eco labels, ISO standards or sustainability requirements) to be included in the tender specifications
- choose the most appropriate tender procedure given the structure of the market, taking into consideration that open tender is the standard procedure
- define the adequate allotment strategy
- give special attention to:
  - the presence of SMEs on the market, including compliance with European guidelines, delivery conditions, financial and other qualification criteria
  - not favouring any one company in particular.

The market analysis would provide the necessary information to answer the following questions:

- Would a FA approach to the market change our supplier base from local to regional, national or international market, or would structuring the FA to attract interest locally be a better option?
- Are we a significant sized purchaser to achieve greater economies of scale and/or leverage through presenting a consolidated requirement to the market?
- What are the key factors that influence price in the market?

- What is the degree of competition in the market?

Responses to the above questions could further lead to answers on the potential impact a FA might have on the market.

1. Are there many players in a strongly competitive market? If we aggregate does this change?
2. Are we dealing with a monopoly supplier?
3. Is it a market with a small number of players that may be, separately or together, able to exert their influence and exercise market power?

If 1, presenting aggregated demand to the market may reduce the benefits of competition, especially in markets where a) there are no significant further economies of scale to be achieved and b) procurement and contract management costs will not be reduced significantly.

If 2 or 3, the organisation may benefit from joining other buyers in order to: a) use our collective buyer power to put pressure on providers to improve value for money; or b) take action to create or develop a market to meet our need.

Market analysis report

At the end of the market analysis process, the designated team of the coordinating entity should prepare a report on the market analysis. The report will be a comprehensive and transparent record that lists and explains the issues that have been considered, includes a record of the research sources and information used, and sets out the conclusions of the market analysis. A template spreadsheet for service providers is provided in Annex A to collect information from suppliers that would then feed the market analysis report.

Annex A. Data collection templates for needs analysis and market surveys

The below template could be filled in once the product category(ies) for which a market survey is necessary has been defined. The below template is designed for professional services but could be adapted for other goods or services. It could be used in the context of a Request for Information (RFI).

Company Name	
Contact Person	
Position within the company	
Email Address	
Telephone Number	
Office Address	
SECTION ONE - COMPANY PROFILE	
1.1: When was it established	
1.2: How many locations and where are the locations	
1.3: Number of Employees	
1.4: How would you catagorise this business (Micro, Small, Medium, Large)*:	
1.4: Identify your core business	
1.6: Recent Mergers/Acquisitions or any such planned in the near future	
1.7: Total annual turnover for each of the preceding 3 years	
1.8: Any other relevant information	
SECTION 2 - INFORMATION ON RELEVANT EXPERIENCE	
2.1: If you have experience of providing any of the mentioned services to public sector bodies, please provide the following details	
2.2.a: Client Details	
2.2.b: Contract Value	
2.2.c: Contract Duration	
2.2.d: References	
2.3: If you have experience of providing any of the mentioned services to other organisations that you consider relevant, please provide the following details	
2.3.a: Client Details	
2.3.b: Contract Value	
2.3.c: Contract Duration	
2.3.d: References	
SECTION 3 - Service Provision Details	
3.1: Identify which services you provide of a. Business Consultancy, b. Management Consultancy, c. Management Consultancy & Advisory Services (insert further services if required)	
3.2. What is the nature of the professional services provided?**	
3.3: Please provide details of Sector Specific or Niche Services that your company can provide in relation to Business Consultancy, Management Consultancy & Advisory Services	

3.4: Based on your current Public Sector Client base, what % of your contracts are with public bodies for Business Consultancy, Management Consultancy & Advisory Services? (e.g. local Government or other public body)	
3.5: How many engagements Contracting Authorities award you below €25k for professional services in each of last three years, as an estimate	
3.6: How many engagements did Contracting Authorities award above €25k for professional services in each of the following years, as an estimate	
3.7: What value of contract you consider to be a relevant to a capacity of your company:	
SECTION 4 - ADDITIONAL INFORMATION	
4.1: From your perspective, what would be the appropriate weights for selection and award criteria: - Financial proposal - Technical and Professional Ability - Quality Assurance or other Relevant Standards - Previous Experience	
4.2: Does the company engage in the following areas that are beneficial from a public policy perspective:* **	
4.2.a: Is the company a small to medium sized enterprise	
4.2.b: Does the company carry out business in an environmentally friendly manner?	
4.2.c: Does the company provide innovative solutions?	
4.3: Are there any other areas of interest that we have not address in this RFI that you wish to mention, please provide any additional information or commentary you believe is relevant and of use in this process	

*EU Business Classifications

** Services can include the following: Client-side Advisory Services - The provision of advice, guidance and professional support focusing on the provision of high quality impartial and or functionally specific and or “expert” advice for the identification of innovative solutions and recommendations. For example, the customer may invite the involvement of a client-side adviser at an early stage within a project to formulate transformational policy and provide strategic advice, through the design and change management phases. Client Side Programme Delivery - The scope provides the flexibility for customers to procure a programme of work or project that will include the total life-cycle of the programme or project, for example this may take customers from transformational policy and strategic advice through the design phase, change management and implementation aspect to enable hand over to operating service delivery providers.

***Directive 2014/24/EC precludes contracting authorities from taking a company’s corporate social policy into consideration in a public procurement exercise. Therefore, the consideration of wider public policy can only be taken into account if such policy id directly linked to the subject matter of the contract.

Time period 20XX – 20XX											
No.	Name of the Contracting authority	Contract manager	Goods and services (Spend category or CPV)	Quantities (eg. man days, services units, etc…)	Contract value (€) (excluding VAT)	Contract reference	Contract start date	Contract end date	Supplier's name	Supplier's location	Procurement method (for example, open tender, direct award, etc…)

Time period [for example, 2-3 year period from 2019-2021]								
No.	Name of the contracting authority	Responsible owner	Goods and services (Spend category or CPV) / or descrption using a functional approach	Quantities (eg. man days, services units, etc…)	Estimated cost (€) (excluding VAT)	Anticipated procurement method (for example open tender, direct award, etc...)	Timeline for procurement (Target)	Anticipated contract duration

For more information, please contact:

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