



Preventing and Combating Corruption and Collusion in Public Procurement

Model Law on Procurement, Leasing and
Services for Federal Entities



Instituto Mexicano para la Competitividad A.C.

About IMCO (Mexican Institute for Competitiveness)



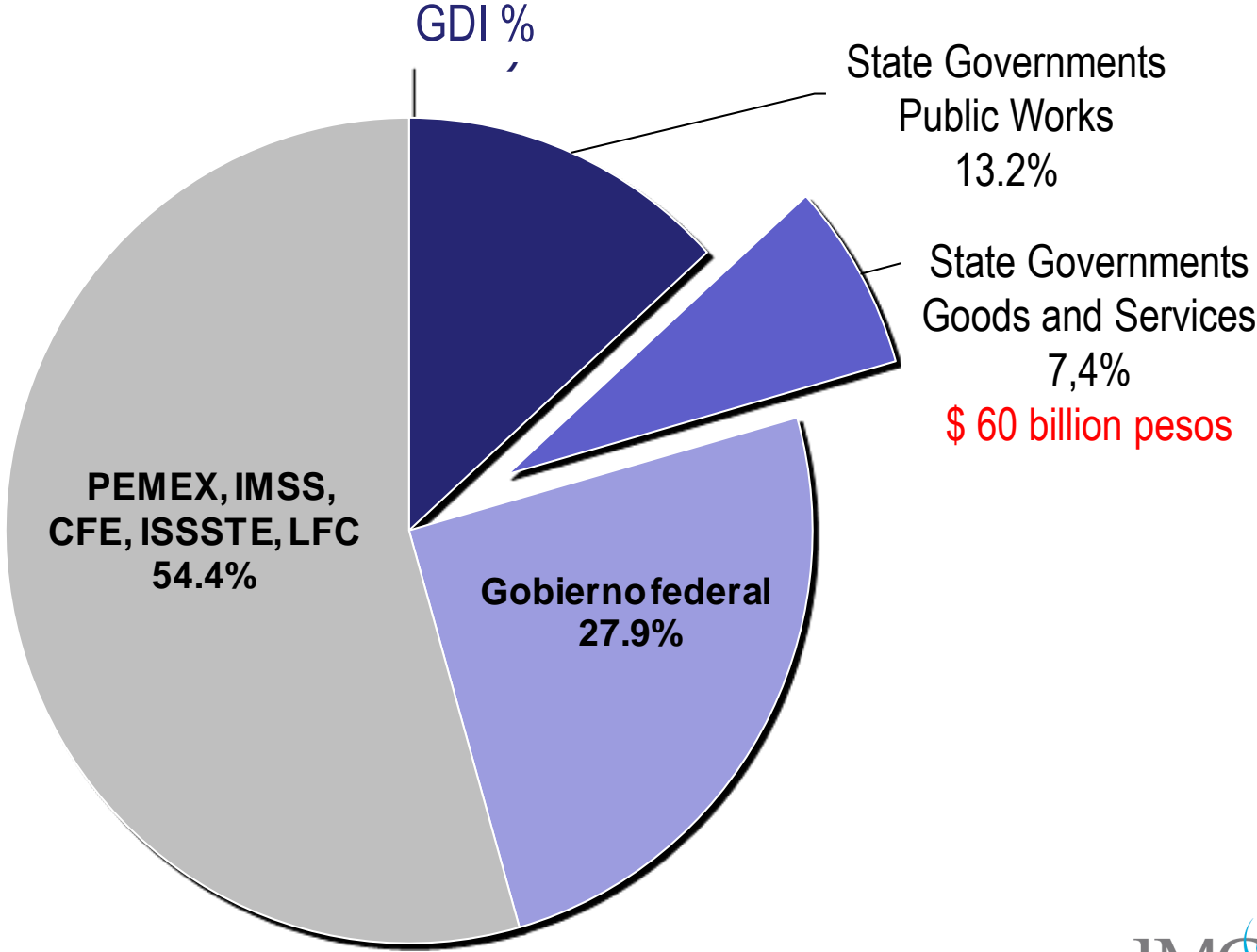
Alliances with World-class Institutions

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INTERAMERICAN DEVELOPMENT BANK
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EMERGING MARKETS FORUM
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Diagnosis of Public Procurement in Mexico

Public contracting and procurement in Mexico equal 6.8% of GDI (Gross Domestic Income)

Composition of public expenditures in public procurement and contracting

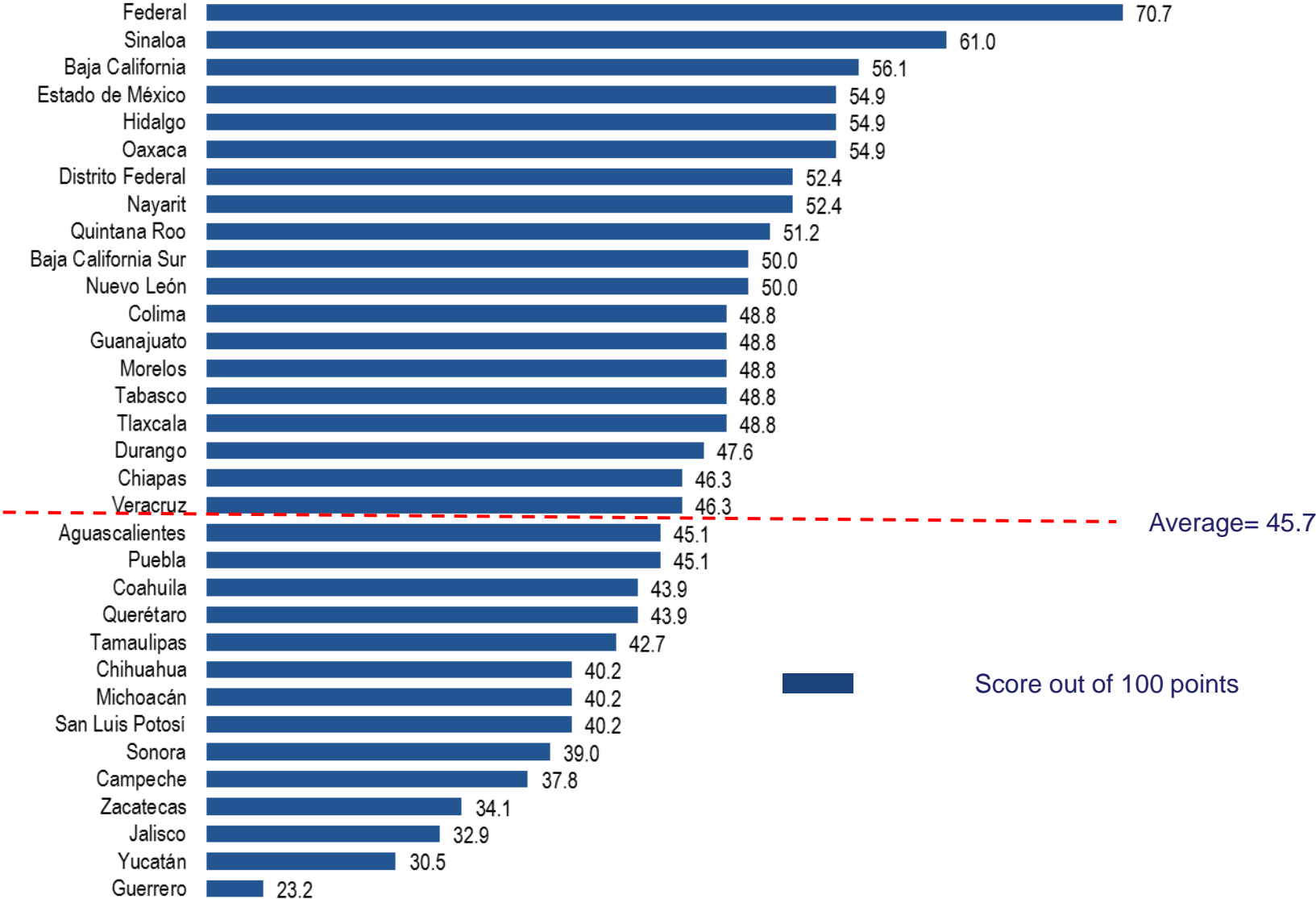


Source: INEGI, Statistics of state and municipal public financing, 2008



A good law does not guarantee efficient procurement; however, a **bad law** increases corruption and waste probability

General Evaluation to Legislative Quality for Public Procurement,, IMCO 2011



There is a **great disparity** in the way the states procure goods and services

- Within Social Security agencies, prices of the same prescription drug vary up to 84%.¹
- Sources of differences:
 - 20% by the market structure
 - 20% by logistics and distribution
 - 60% might be partly due to defects in regulations and lack of transparency

¹ Estudio realizado por la Comisión Nacional para la Protección Social en Salud por encargo del Director del Seguro Popular (2008).

Lack of planning is an important factor in wasting public assets

Last- minute procurement because “funds are not allocated”

What is the impact of emergency procurement?

Example: IMSS procures prescription drugs 2010

- Comparison: centralized procurement vs. derived from breach of duties
- Two procurement options : BUO and “emergency procurement”
 1. Through BUO: average surcharges amount to 4%
 2. Emergency Procurement: average surcharges amount to 426%

Some state laws on procurement violate Mexican Constitution (interpretation Art. 117)

Some state laws on procurement allow bids in which only providers established in that specific state may take part :

Baja California

Baja California Sur (taxpayers and/or having fiscal domicile)

Chiapas

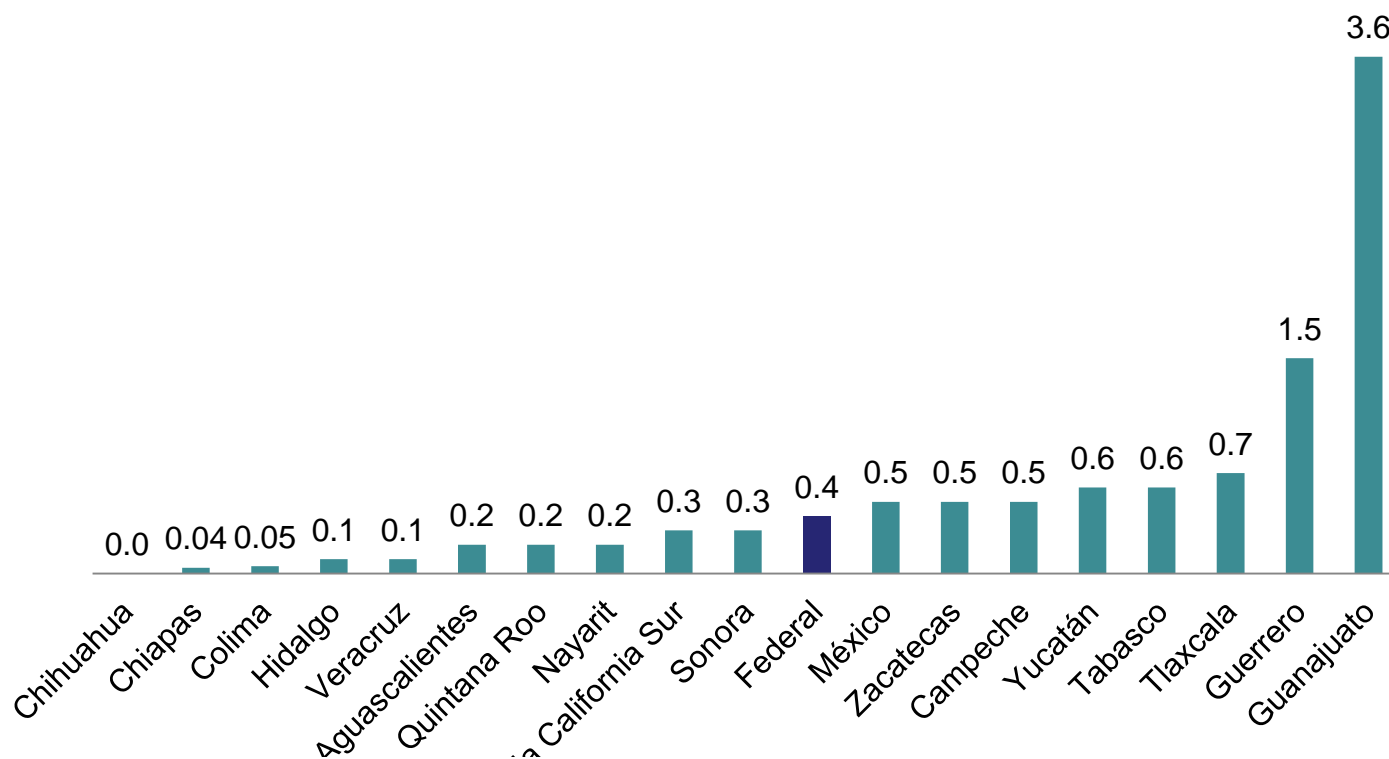
Jalisco

Tabasco

Veracruz

Promote Sole Source Awards

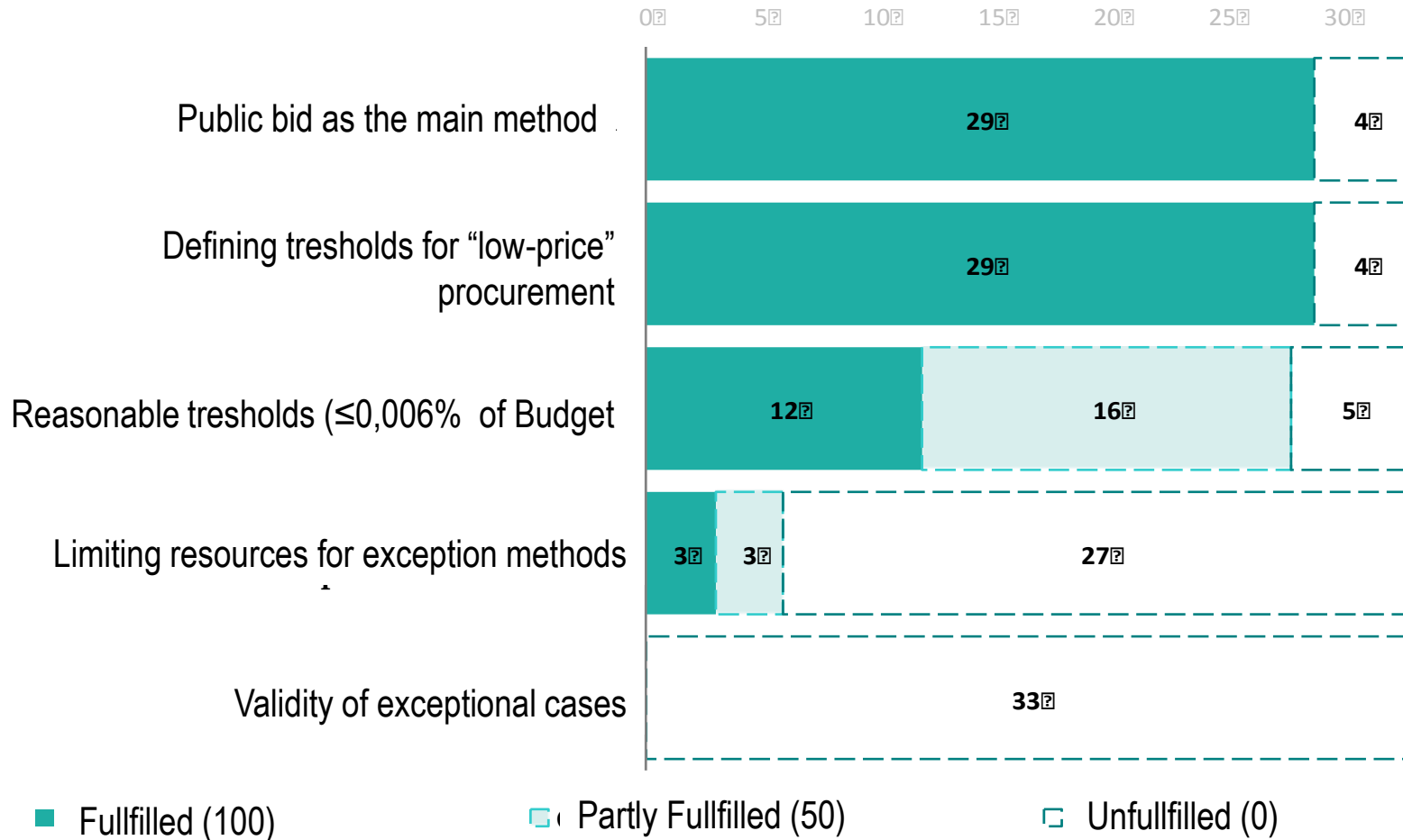
Maximum amounts for selecting sole source awards by a federal entity (Amount in million pesos)



Source: IMCO based on the analysis to procurement and budgeting laws and regulations in federal entities and the federation

In theory, bids are the main procurement method

Selecting legislation Quality indicators for public procurement, IMCO 2011

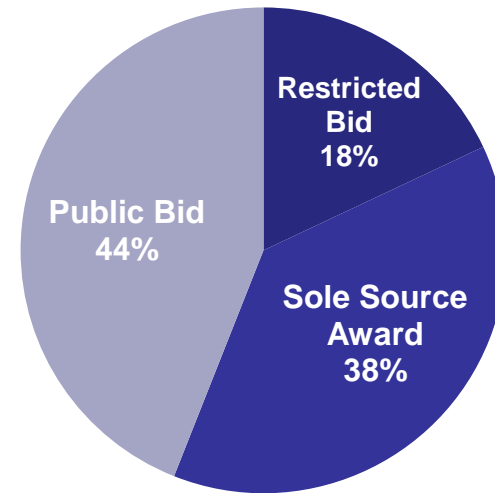


These discretionality spaces are reflected on the procurement scheme

Example:

- Threshold to public exception: 1.5 million pesos
- Article 15, Chapter V to LARM: when “the State Executive decrees that it is necessary to promote local industry and trade”
- There is not a budget limit to the total amount of procurement through exceptional procurement methods

Layout of contracting methods by amount, Guerrero (2011)



Source: IMCO based on data provided by government of Guerrero State.

For good procurement, a government requires a quality institutional framework and personnel qualified to purchase strategically

For good procurement by Mexican governments, it is required to:

- 1. Develop quality procurement laws**
2. Increase professionalism of public officials for correct law enforcement.

IMCO prepared a **Model Law** which promotes efficient and strategic procurement within a competition, transparency and accountability environment

- It is minimalist
- It is flexible
- Encourages competition
- Promotes transparency
- Speeds up procurement processes
- Includes performance evaluations

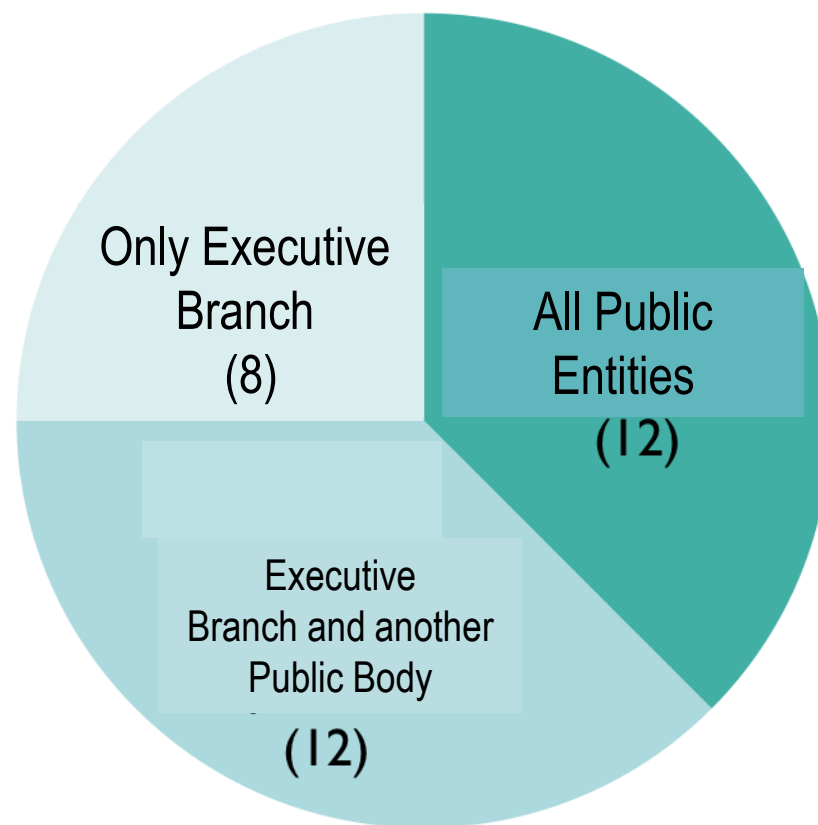
To prepare the **Model Law**, we performed a deep research

- “Good international practices”: OCDE, BID, *Handbook of Procurement*, study on IMSS, among others
- Comparative law analysis: Chile, Italy, United Kingdom, Australia, New Zealand, Tasmania, among others
- Outstanding rules in law states on procurement : Sinaloa, D.F., Nuevo León, Baja California, Veracruz, among others
- UN Model Law (Uncitral): Law and structure

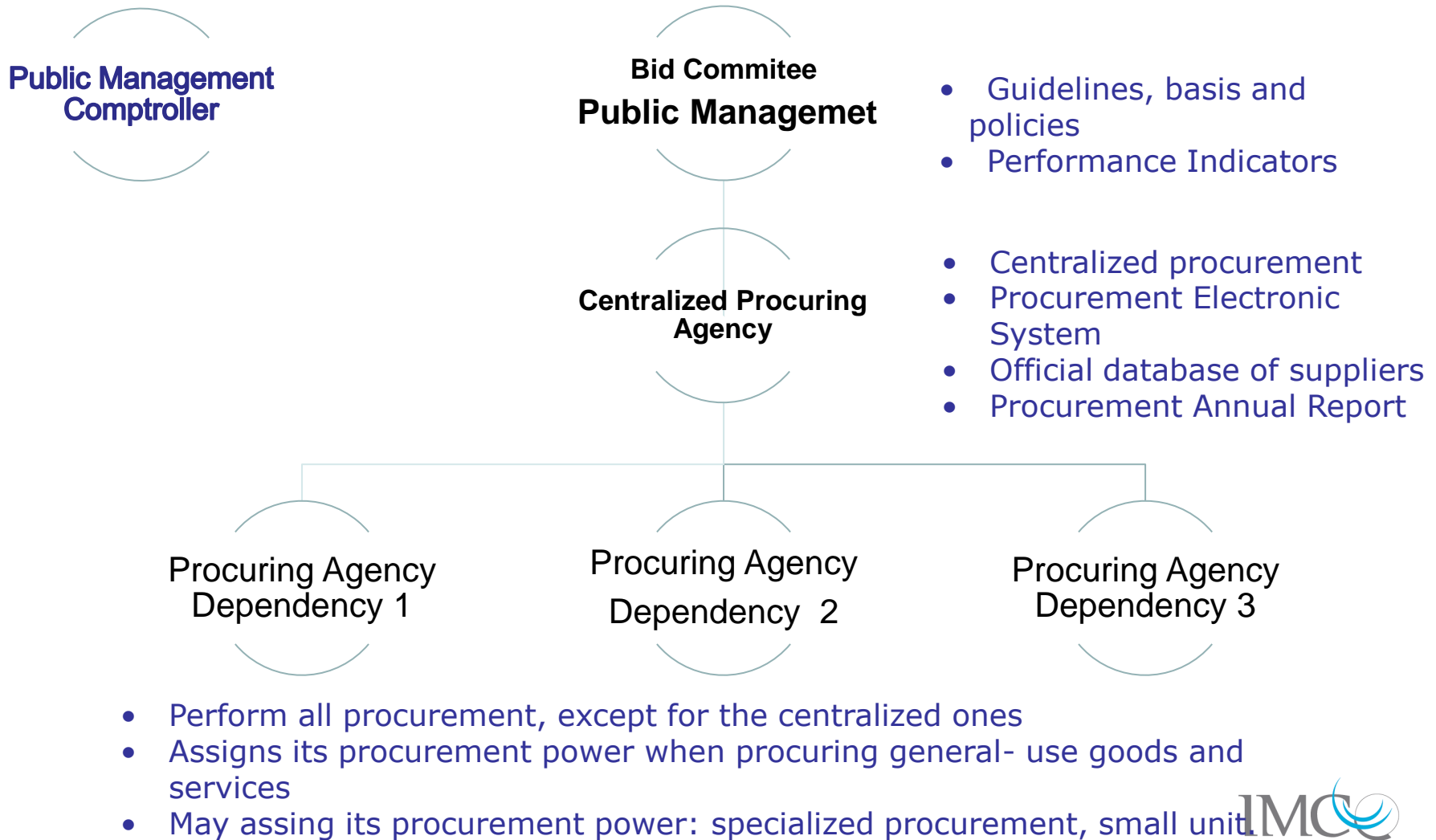
Innovations to the Model Law

1. Comprises **all public entities** performing procurement and lease at state and municipal level

Current layout of the 32 laws per regulated entities



2. Structure to facilitate centralized procurement, specialization and quick decision having persons responsible defined



3. Some secondary objectives are considered without ignoring efficiency

Procurement as a public policy in favor of :

- Local suppliers
- SMBs
- Vulnerable groups
- Sustainability

vs.

Purchase the best quality at the lowest price

Solution: flexibility when including them by recommending the “best” way to do it.

Preference to local suppliers in state laws on procurement

STATE	Preference Margin (%)
Hidalgo	2
Aguascalientes	5
Baja California	5
Estado de México	5
Nayarit	5
Querétaro	5
Sinaloa	5
Sonora	5
Veracruz	5
Morelos	6
Chihuahua	8
Baja California Sur	10
Colima	10
Chiapas	10
Tamaulipas	10
Coahuila	15

* Federal bodies not included in the listing do not provide a preference margin for local suppliers.

** In Hidalgo, the law states that the preference margin shall be included in specifications and to do so, approval is requested from the corresponding committee.

4. Includes **evaluation** mechanisms focused on performance of procuring agencies in terms of efficiency

Beyond audits, to measure system efficiency

**Centralized Procuring
Units**

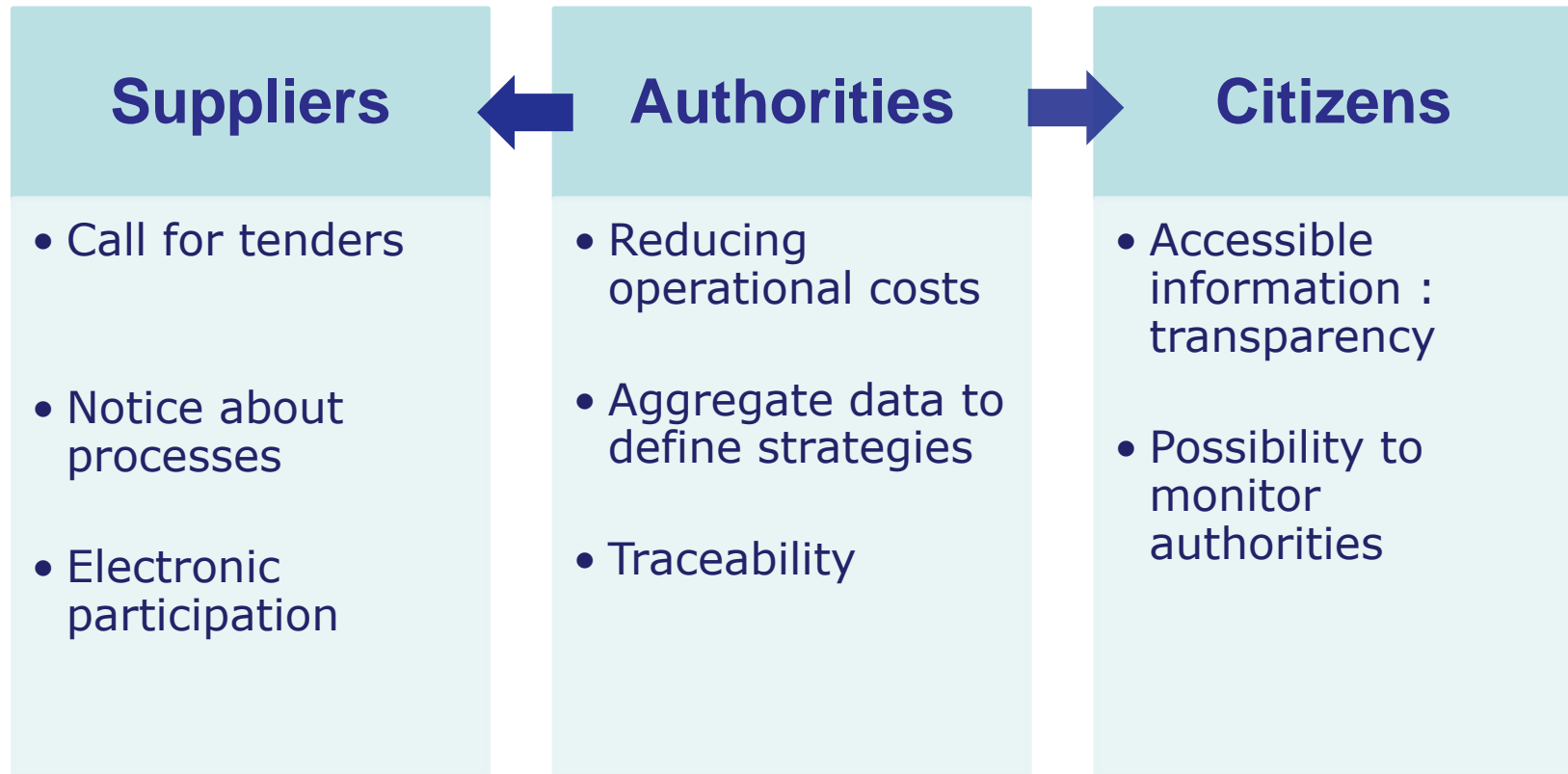
Annual Reporting

- ✓ Actual vs. planned Indicators
- ✓ Competition Indicators
- ✓ Need Satisfaction Indicators

Procuring Agencies

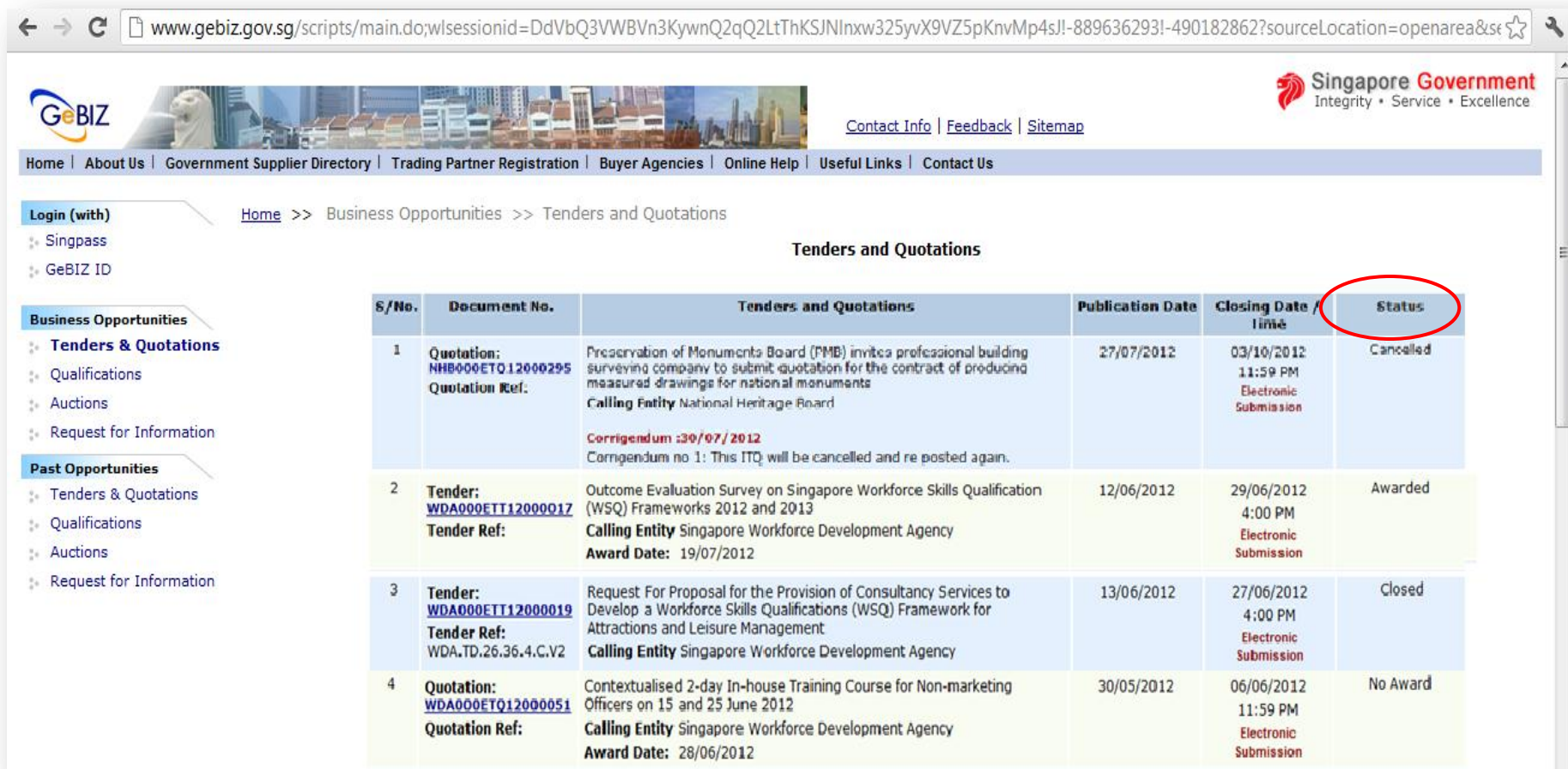
***Performance Evaluation
(or self-evaluation)***

5. Prevailing role of the procurement electronic system addressed to several actors



5.1. Section for suppliers

The Singapore procurement portal allows observing status of procurement as made:



The screenshot shows the GeBIZ portal interface. At the top, there is a navigation bar with links for Home, About Us, Government Supplier Directory, Trading Partner Registration, Buyer Agencies, Online Help, Useful Links, and Contact Us. The main content area is titled "Tenders and Quotations" and displays a table of procurement opportunities. The table has six columns: S/No., Document No., Tenders and Quotations, Publication Date, Closing Date / Time, and Status. The Status column for the first row is circled in red. The table lists four items: a cancelled quotation, an awarded tender, a closed tender, and a no award quotation.

S/No.	Document No.	Tenders and Quotations	Publication Date	Closing Date / Time	Status
1	Quotation: NHB000ETQ12000295 Quotation Ref:	Preservation of Monuments Board (PMB) invites professional building surveying company to submit quotation for the contract of producing measured drawings for national monuments Calling Entity National Heritage Board Corrigendum :30/07/2012 Corrigendum no 1: This ITQ will be cancelled and re posted again.	27/07/2012	03/10/2012 11:59 PM Electronic Submission	Cancelled
2	Tender: WDA000ETT1200017 Tender Ref:	Outcome Evaluation Survey on Singapore Workforce Skills Qualification (WSQ) Frameworks 2012 and 2013 Calling Entity Singapore Workforce Development Agency Award Date: 19/07/2012	12/06/2012	29/06/2012 4:00 PM Electronic Submission	Awarded
3	Tender: WDA000ETT1200019 Tender Ref: WDA.TD.26.36.4.C.V2	Request For Proposal for the Provision of Consultancy Services to Develop a Workforce Skills Qualifications (WSQ) Framework for Attractions and Leisure Management Calling Entity Singapore Workforce Development Agency	13/06/2012	27/06/2012 4:00 PM Electronic Submission	Closed
4	Quotation: WDA000ETQ12000051 Quotation Ref:	Contextualised 2-day In-house Training Course for Non-marketing Officers on 15 and 25 June 2012 Calling Entity Singapore Workforce Development Agency Award Date: 28/06/2012	30/05/2012	06/06/2012 11:59 PM Electronic Submission	No Award

5.2. Section for authorities

Chile has an interactive program for data analysis about procurement:

The screenshot shows the 'analiza ChileCompra' web application interface. At the top left is the logo 'analiza ChileCompra BETA'. To the right is a search bar with the text 'Ingrese nombre o número de la licitación que está buscando' and a 'BUSCAR' button. Below the search bar are links for 'Licitaciones' and 'Órdenes de compra'. A navigation menu includes 'Inicio', 'Reportes', 'Análisis', 'Gestión', and 'Ranking'. A 'Ver Guía Rápida' link is on the right. The main area features a 'Slicer' with a 'Drop Slicer fields here' prompt and two tabs: 'Chart' (selected) and 'Grid'. The chart is a bar chart titled 'Cantidad Ofertas by Comprador - Institución' showing the number of offers for various institutions. The y-axis ranges from 0 to 8,000,000. The x-axis lists institutions: FFAA, Gobi. Central, Universidades, Legislativo y judicial, Municipalidades, Obras Públicas, Otros, and Salud. A legend indicates the blue bars represent 'Cantidad Ofertas'. On the right side, there is a 'Series' section with a 'Measures' button. On the left side, there are sections for 'Reports', 'Selected Cube' (set to '01 - Licitaciones'), and 'Measures and Dimensions'. The 'Measures and Dimensions' section includes 'Measures' (TH Licitaciones) and 'Dimensions' (Comprador - Institución, Comprador - Ministerio, Comprador - Territorio, Estado Licitación, Fecha Cierre Licitación, Fecha Publicación Licitación, Indicador de Ofertas, Tipo Licitación). At the bottom, there is a 'Categorical' section with a dropdown menu set to 'Comprador - Institución' and two red prohibition icons.

Institución	Cantidad Ofertas
FFAA	~1,000,000
Gobi. Central, Universidades	~1,800,000
Legislativo y judicial	~0
Municipalidades	~6,000,000
Obras Públicas	~200,000
Otros	~0
Salud	~3,500,000

5.3. Section for citizens

IMSS compró

Periodo 2012

¿Qué compró el IMSS?

Categoría	Porcentaje
Bienes	65.09%
Servicios	33.5%
Obra pública	1.41%

Período 2012
Monto total: \$55,724,185,215.73
* Montos en moneda nacional

[Ver detalle](#)

¿Cómo compró el IMSS?

Licitación pública	\$39,983,103,613.76
Adjudicación directa	\$15,369,058,252.00
Invitación a cuando menos tres proveedores	\$354,065,105.17
Compra emergente en unidades de servicio	\$17,958,244.80

[Ver detalle](#)

Productos que compra el IMSS

- Consulta los productos que más compra el IMSS
- Consulta el catálogo de productos

¿A quién compró en el IMSS en 2012?

Compras por Estado

Compras vía Nivel central:
\$33,802,757,891.85

[Ver detalle](#)

¿A quién le compra el IMSS?

Proveedores que más le vendieron al IMSS en 2012

- GRUPO FARMACOS ESPECIALIZADOS, S. A. DE C. V.
\$8,781,643,944.76
- FARMACEUTICOS MAYPO, S. A. DE C. V.
\$3,328,625,779.98
- DISTRIBUIDORA INTER. DE MEDS. Y EQ. MEDICO, SA CV
\$2,239,686,722.81
- BAXTER, S. A. DE C. V.
\$1,903,278,478.37
- SAVI DISTRIBUCIONES, S.A. DE C.V.
\$1,702,682,098.67
- COMERCIALIZADORA DE PROD. INSTITUC., SA DE CV
\$1,248,038,151.85

5. Alternate **agile and flexible** mechanisms for dispute resolution through voluntary agreements

Once the contract is awarded, the parties choose the mechanism for dispute resolution:

Negotiation or mediation

- Applicable law: State Law
- Term: As stated by the parties

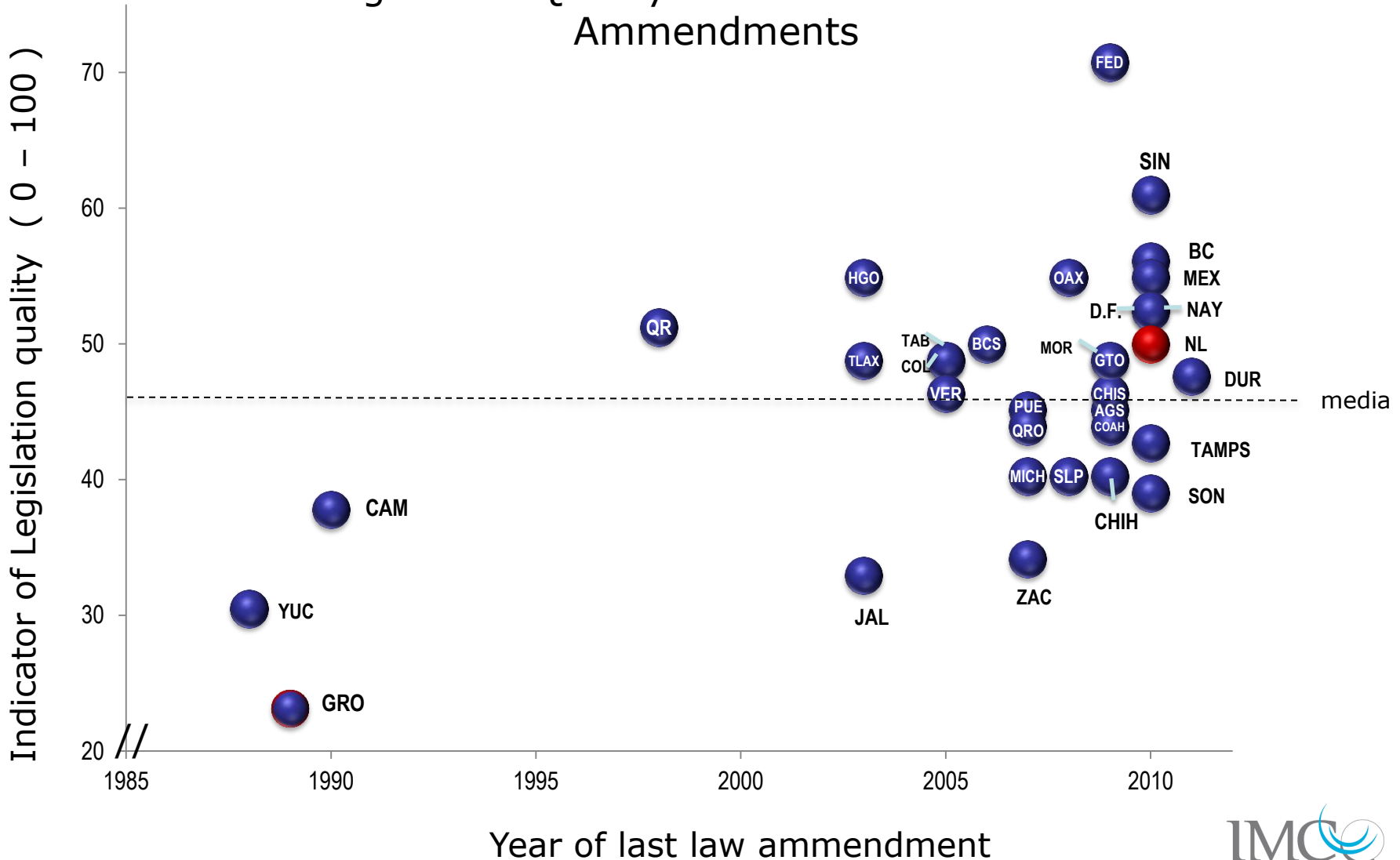
Arbitration

- Applicable law: Federal Law
- Term : As stated by regulations

* Nonexcluding mechanisms; there is always the possibility of protection

Amending state legislation in the correct direction is a question of political will

Legislation Quality and its Relation to Law Amendments



Nuevo León State took IMCO model law as a reference and approved law ammendments in 2013

INFORMACIÓN A LA COMUNIDAD ORGANIZACIÓN TRANSPARENCIA CONTÁCTANOS

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APRUEBA CONGRESO LEY DE ADQUISICIONES, ARRENDAMIENTOS Y CONTRATACIÓN DE SERVICIOS DEL ESTADO DE NUEVO LEÓN

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28 de Febrero 2013

El Congreso del Estado aprobó por mayoría la Ley de Adquisiciones, Arrendamientos y Contratación de Servicios del Estado de Nuevo León.

Durante el período extraordinario de este jueves, el Diputado Alfredo Rodríguez Dávila presentó el dictamen que contiene el decreto que expide esta Ley.

APRUEBA CONGRESO LEY DE ADQUISICIONES, ARRENDAMIENTOS Y CONTRATACIÓN DE SERVICIOS DEL ESTADO DE NUEVO LEÓN
Imagen: H. Congreso del Estado de Nuevo León

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