



INFOCARD ELANBiz Public Procurement

Last updated in September 2017.

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The Mexican government is the main buyer of goods and services in the country. By 2016 the GDP percentage for this sector amounted to 5%.¹ The agreement with the EU improves access to government procurement in México for the European enterprises by establishing the principles of “National Treatment” and “Most Favoured Nation” which guarantee European businesses entering the Mexican market will be treated as nationals.

What is the applicable legal framework in Mexico?

The federal government follows standardized procedures in all of its dependencies and entities for the procurement of goods, services and public work. Therefore, to conduct any procurement it is essential to know the Law on Tenancy, Acquisitions and Public-Sector Services (LAASSP by its acronym in Spanish), the Law on Public Work and Related Services, the Federal Law on Economic Competition (LFC by its acronym in Spanish) and their respective regulations.

These laws had been designed based on the article 134 of the Mexican Constitution, which considers the next principles for the administration of public resources: efficiency, effectiveness, economy, transparency and honesty.

The procurements by federal entities or that represent charge – total or partial – to federal funds are governed by LAASSP. Nevertheless, when the federal resources are a federal contribution², the Law on Fiscal Coordination rules the acquisitions.

¹ “Size of public procurement”, in [Government at a Glance 2016](#), OECD

² Resources transferred by the Federation to the public finance offices of the states, municipalities and Distrito Federal. The spending of these resources is conditional on the achievement and fulfillment of the objectives that each type of input establishes.



In general, the federal public sector's dependencies can make their acquisitions through one of three available procedures³:

- National or international public tender
- Inviting at least three people.
- Direct adjudication

If the procurement is at state level it must be in compliance with their respective regulations on government compliance of goods and services. For more information consult: [Normativity](#)⁴

Where to find information?

[CompraNet](#) is the online system for public government information concerning the Federal Public Administration's acquisitions, leases and services.⁵ In its website, information concerning current tenders, annual programs, minutes from the clarification meetings, judgements of the tenders and information about contracts can be found.

The guidelines of CompaNet establish that foreign businesses that wish to register in the platform are required to complete the forms and lend the legalized⁶ and fully translated documents to Spanish in order to register, foreign companies must provide the following data:

- Testimony of the deed, which accredits its legal existence and the powers of its legal representative or agent, including their respective reforms.
- Digitalized official identification with photo of the legal representative or attorney.
- Tax identification or proof that provides the competent tax authority in your country
- Unique Population Registry Code (CURP by its acronym in Spanish) or federal taxpayer registration of the legal representative or attorney (This point applies only to legal representatives or agents with Mexican nationality).
- Application for [certification of the individual](#) or request [certification of the entity](#).
- Requirements (.req file). For generating this file download the app [requerimiento.exe](#) and execute.

³ Government Procurement: <https://www.comprasdegobierno.gob.mx/web/quest/33>

⁴ <https://www.comprasdegobierno.gob.mx/web/quest/normatividad>

⁵ Government Procurement – [Online Procurement System](#)

⁶ According to the Law on Mexican Foreign Service, the consular servers can legalize signs of foreign public documents issued by the resident authorities in their respective consular circumscription.



Once registered in the system, the electronic identification is also created. Foreign bidders can sign the propositions electronically and send them through CompraNet, and, if necessary, present unconformities online. The Ministry of Public Administration for the foreign person or entity registered that complies with the required documents generates this electronic identification. If you wish to learn more about the electronic identification (advanced electronic sign) you can consult the [Law on Advanced Electronic Signatures](#).⁷

Once the enterprise is fully enabled in the system, you can send offers and be a participant of the public tender processes published on the website. For more information about the registration and how the system is operated, consult: [CompraNet Guide](#)⁸

Can European Enterprises participate of the Mexican Public Tenders?

According to article 28 of the LAASSP there are different “types of procedures” for public tenders:

- I. National: in which only persons with Mexican nationality can participate and the goods acquired must be produced in the country and count with at least 50% of national content.
- II. International under treaties coverage: in which only Mexican bidders and foreign bidders from a country that has a free trade agreement with a chapter on government procurement with Mexico can participate.
- III. International open: in which Mexican and foreign bidders can participate, no matter the origin of the goods to acquire or hire, and the services to hire when:
 - a) A national tender has been made and it was declared deserted.
 - b) Stipulated by contracts financed by external loans granted to the federal government or with its endorsement.

By virtue of the type “International under treaties coverage” and the Title II of the [Decision 2/2000](#) of the Joint Council, the European enterprises can participate in the public tenders under the stipulated guidelines on the Decision and its respective annexes.

The publication of the public tenders will be made through CompraNet and the Official Journal of the Federation and obtaining them is free.

⁷ *Technique Guide for bidders on the use CompraNet.*

⁸ *The guide is available for download here: <https://sites.google.com/site/cnetrucp/>*



Article 29 of the LAASSP provisions required appearing at a public tender. The proposals cannot be made in less than 20 working days after the tender is published. The technical and economic proposals must be delivered:

- I. Physically thorough an enclosed envelope.
- II. Through the electronic envelope generated by CompraNet.

How does the Agreement with the EU improve the opportunities of any of the parts for participating on the public tender organized by the counterpart?

The Decision 2/200 of the Joint Council contains the guidelines that regulate the access of the providers of goods, services and public working into the public tender of the counterpart. However, due to Title III of the Decision, the federal entities (states) are expressly excluded.

To determine if the European entities can participate in a tender, it is necessary to fulfil the next requirements: 1) the entities of the Member State must be listed in Annex VI of the Decision; 2) the goods, services and construction services must be enlisted in the Annexes VII, VII and IX of the Decision; 3) The National Defence and Navy can only purchase the goods and services enlisted in Annex VIII; 4) the estimated value of the purchase made by the institution must be equal or superior to existing amounts for goods, services or services construction set out in Part A of Annex X for the year of recruitment. For more information consult Title III of the Decision 2/2000.

If the enlisted specifications are complied, the Mexican authorities must not discriminate European providers. Due to article 26 of Title III: "With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Title, each Party shall provide immediately and unconditionally to the products, services and suppliers of the other Party, treatment no less favourable than that accorded to domestic products, services and suppliers."

Links of Interest

- [Text of the Agreement EU- Mexico](#)
- [Decision 2/2000 of the Joint Council EC – Mexico of March 23, 2002](#)
- [Annex VI: entities covered by Title III](#)
- [Annex VII: goods covered](#)
- [Annex VIII: services covered](#)
- [Annex IX: Construction Services Covered](#)
- [Annex X: Thresholds](#)



- [Law on Tenancy, Acquisitions and Public-Sector Services \(LAASP\)](#)
- [LAASP's Regulations](#)
- [Administrative Manual of General Application Procurement, Leasing and Public-Sector Services](#)
- [Ley on Fiscal Coordination](#)
- [Public Procurement Portal of Mexico CompraNet](#)



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