



SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Framework agreements

**Maja Kušt, Croatia**

**Beirut, 4-5 July 2023**





SIGMA

# Concept and use of framework agreements (FAs)

- The term “framework” can be used to describe a number of commercial and procurement arrangements
- Widely used in procurement processes in various countries
  - Specific regulations, procedures, and terminology may vary between countries and even within a country

A joint initiative of the OECD and the EU,  
principally financed by the EU





## Concept and use of FAs (cont.)

- Other terms for FAs (or similar arrangements) used in different procurement systems
  - Requirements contracts; periodic requirements arrangements; periodic purchase arrangements; indefinite-delivery/indefinite-quantity contracts umbrella contracts, etc.
- Used to procure products/works/services when **CAs do not know the exact quantities, nature and/or timing of requirements**





SIGMA

## Concept and use of FAs (cont.)

- Extensively utilized within the EU member states
- UK - commonly used by public sector organizations
- USA - often referred to as Indefinite Delivery/Indefinite Quantity (IDIQ) contracts or Multiple Award Contracts (MAC)
- Australia - panel arrangements, similar to FAs
- Canada - Standing Offers or Supply Arrangements





## Concept and use of FAs (cont.)

- Arrangements whereby a contracting authority (CA) and economic operator (EO) establish the terms on which **purchases may or will be made over a period of time**
- **Procurement tools** used to establish the terms and conditions for future contracts between CA(s) (the buyer) and one or more suppliers
  - Structured framework for repeated over a certain period of time





# Use of FAs

## ■ Croatia - Statistical Report on PP for 2021

	Share by number	Share by value
Contracts	81.55 %	73.85
Framework agreements	17.86 %	26.09
Dynamic purchasing systems	0.59 %	0.06



SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Lebanon PPL

- Public Procurement Law (PPL), Art 2 point 16
  - *A valid agreement for a specified period of time between one or more procuring entities and one or more suppliers, contractors, consultants or service providers, with the purpose of defining the terms and conditions of the contract to be concluded within a specified time limit, in particular those terms and conditions related to prices and, where appropriate, quantities thereof.*





SIGMA

# Lebanon PPL (cont.)

- Key aspects of the definition from the PPL
  - Specified period of time
    - There is no defined time-frame for regular contracts!
  - Between one or more procuring entities and one or more economic operators
  - Purpose of defining the terms and conditions of the contract to be concluded







SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Rationale

- Allowing parties to establish terms for their dealings in advance of specific orders
- Saves both parties:
  - Time
  - Resources
  - Delay
    - Involved in conducting many separate award procedures





SIGMA

## Rationale (cont.)

- Helping to ensure transparency and competition
  - Comparing to undertaking a number of smaller purchases using less formal award procedures (splitting of procurement)
- Used for purchases which could conveniently be made in a single lot, but a CA breaks it up to improve the participation of SMEs
- Convenient for central purchasing bodies

A joint initiative of the OECD and the EU,  
principally financed by the EU





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Setbacks of FAs

- Tendency to give undue weight to administrative convenience at the expense of other procurement objectives – examples:
  - CAs use an existing FA not entirely suitable to their needs to avoid the administration of a separate procurement
  - FAs are used as substitute for good procurement planning





## Setbacks of FAs (cont.)

- Potential issue of transparency if smaller orders (cumulatively can be very large) are placed without adequate monitoring
- Cost to competition when some firms are excluded from the FA
  - More problematic with longer FAs and the more the basis of the orders diverges from the basis for awarding the FA in the first place





## Setbacks of FAs (cont.)

- In some cases FAs can have the opposite effect to SMEs
  - Aggregation of smaller requirements and a limitation on the overall numbers admitted to the market covered by the FA
- Orders under FAs are often placed by non-expert users – e.g. CPBs with many small users
  - Leading to poor commercial decisions and weak regulatory compliance





SIGMA

# Decision on use of FAs

- Securing the potential benefit of FAs in a manner that outweighs their setbacks and costs
  - Experienced PP practitioners
  - Adequate definition of CA's needs and procurement strategy
  - Oversight by competent institutions

A joint initiative of the OECD and the EU,  
principally financed by the EU





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Types of FAs

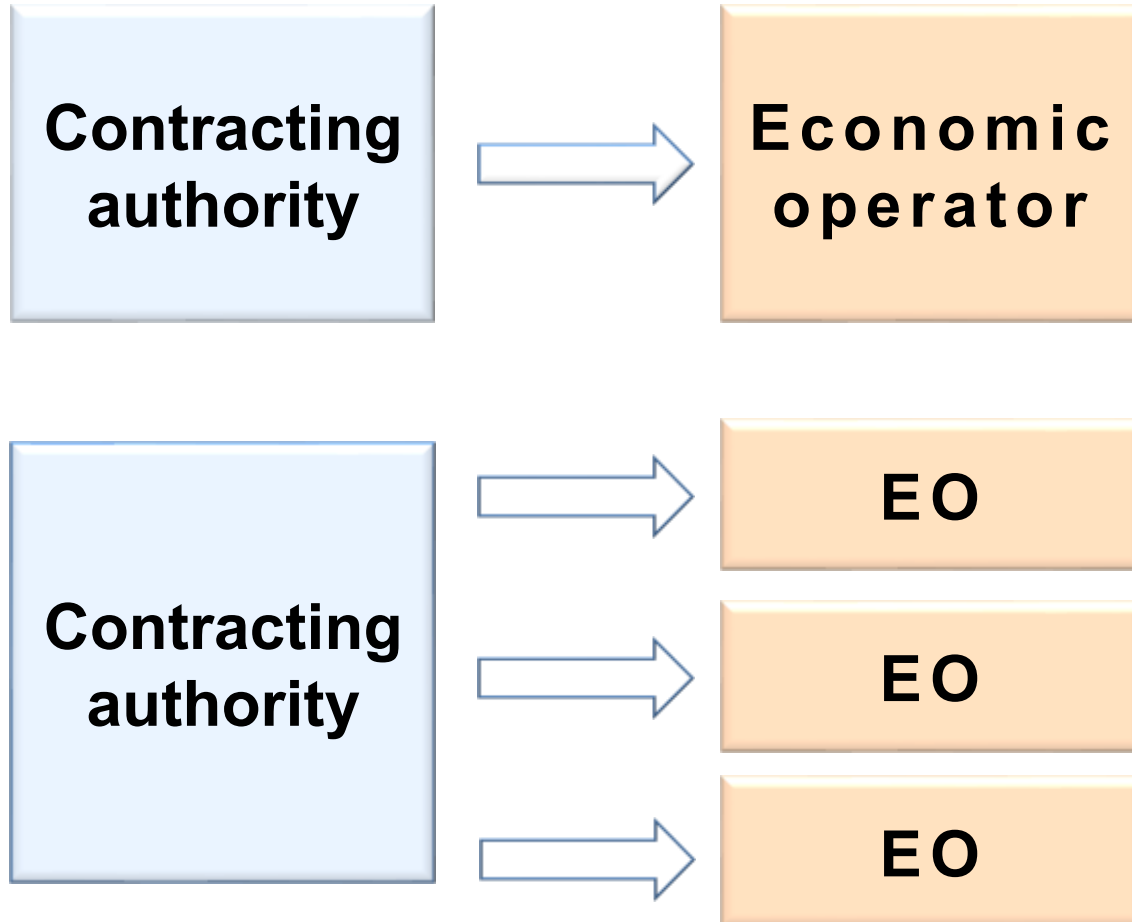
- Two basic types
  - With one economic operator - single-provider FA
  - With more economic operators - multi-provider FAs
- One or more contracting authorities





SIGMA

# One contracting authority



A joint initiative of the OECD and the EU,  
principally financed by the EU

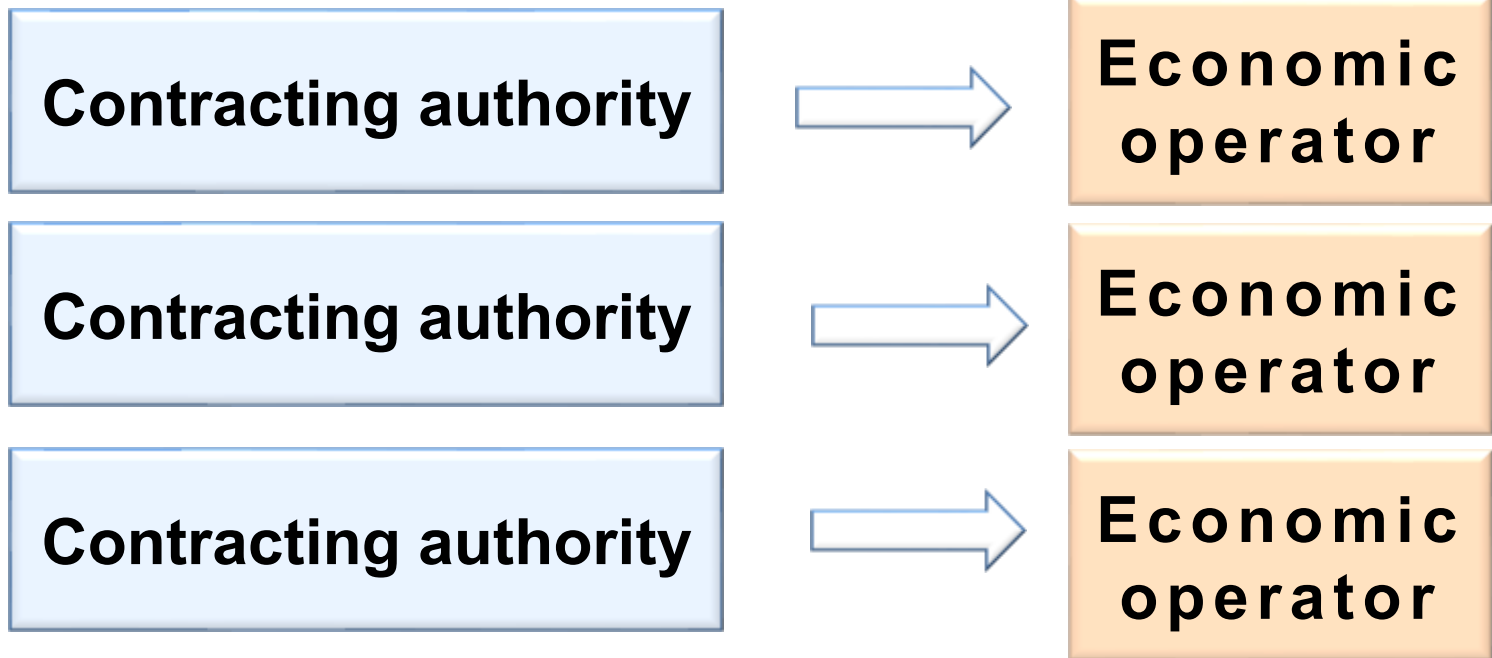






SIGMA

# Several contracting authorities



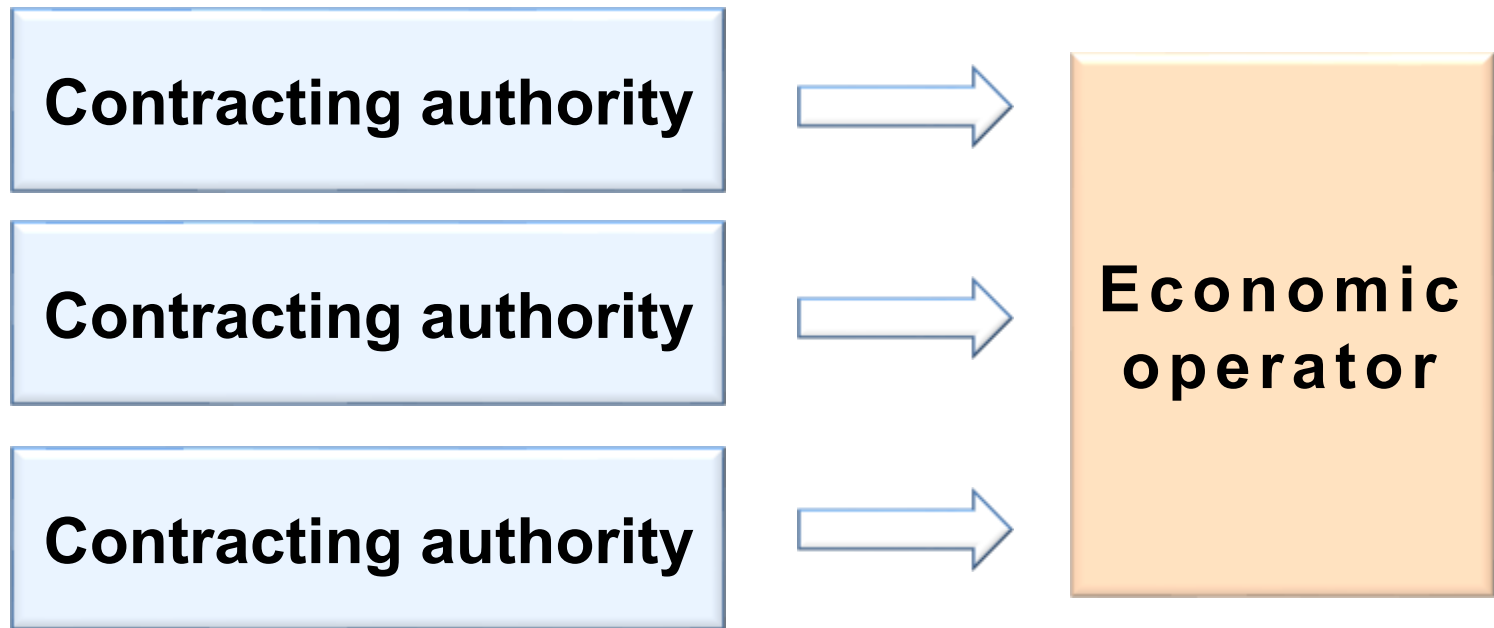
A joint initiative of the OECD and the EU,  
principally financed by the EU





SIGMA

# Several contracting authorities (cont.)



A joint initiative of the OECD and the EU,  
principally financed by the EU



OECD



# Forms of FA

- Depending on national legislation and /or CAs' practices
  - Important to define in tender documents, depending on the CA's needs
- Some examples of forms:
  - Defined minimum order to be purchased by the CA
  - CA does not undertake to buy all or part of its future requirement from the EO but that EO undertakes to supply any orders





SIGMA

# Multi-provider frameworks

- Involves an initial process to choose several EOs who can supply on terms and conditions set by CA – first award phase
- When a requirement actually arises – CA chooses from these EOs that parties of the FA
  - Second award phase – "call-off", mini tender

A joint initiative of the OECD and the EU,  
principally financed by the EU





# Multi-provider frameworks (cont.)

## ■ Why to chose them?

- It may not be possible to know who can offer the most advantageous terms for a particular requirement until it arises
  - Products that are constantly changed (e.g. IT)
  - Fluctuations in supply and demand result in continuous price changes
  - Specific nature of the order is known – consultancy services (nature of the specific project or document to be prepared)





# Multi-provider frameworks (cont.)

- **Why to chose them?**
- Centralized purchasing - higher freedom of choice for end-users (different users may have different preferences)
- Security of supply
  - Example - In the case of small works at the city level, when there is a high number of requests, the capacities of a single economic operator may not be sufficient





SIGMA

# Multi-provider frameworks (cont.)

- **Why to chose them?**
- Enhancing participation of SMEs
  - Involving smaller orders compared to a single large contract
  - Orders spread out over time

A joint initiative of the OECD and the EU,  
principally financed by the EU





# Awarding contracts

- Placing orders **only between**:
  - CAs clearly identified for this purpose in the call for competition and
  - EOs party to the FA as concluded
- CAs that are parties to a specific FA should be clearly indicated
  - By name or by other means
    - Reference to a given category so that CAs concerned can be easily and unequivocally identified







SIGMA

# Award of contracts under FAs

## *EU rules and methodologies*

### ■ Single-supplier FA

- Contracts to be awarded within the limits of the terms laid down in the FA
- CA awards the contracts directly to the EO without a further competition
- CA may contact the EO in writing, requesting it to supplement its tender as necessary
  - **No substantial modifications may be made to the terms laid down in the FA**





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Award of contracts under FAs (cont.)

- **Multi-supplier FA**
- **Option 1:**
  - By awarding the contract directly to a particular EO by applying the terms and objective conditions laid down in advance in the FA,
  - Without re-opening competition





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Award of contracts under FAs (cont.)

- **Option 1 (cont.) :**
- If the FA sets out all of the terms governing the provision of the works, services, supplies
- Parties may under no circumstances make substantial amendments to the terms laid down in the FA





# Award of contracts under FAs (cont.)

- **Option 1 (cont.):**
- Various methods for awarding contracts - for example:
  - contract is always offered first to the first-ranked EO; or
  - award of contracts may rotate between the EOs; or
  - the EOs may be awarded a pre-agreed percentage of the total value or number of awarded contracts
- Method has to be transparent and to ensure equal treatment





# Award of contracts under FAs (cont.)

- **Multi-supplier FA**
- **Option 2:**
  - By re-opening competition between the EOs that are parties to FA
  - Inviting all of the EOs in the framework that are capable of performing the contract to participate
    - “mini-competition”





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

## Award of contracts under FAs (cont.)

- **Option 2 (cont.):**
- May be used **where not all terms are laid down in the FA**
- Must be based on the same terms as those applied for the award of the FA
  - Those terms may be “more precisely formulated”





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Award of contracts under FAs (cont.)

- **Option 2 (cont.):**
- Allowed to use for other terms that are referred to in the procurement documents for the award of the FA
- Subject to the principle that the parties may under no circumstances make substantial amendments to the terms laid down in the FA
  - For example, cannot change maximum delivery time if defined in the FA, but can define additional terms (delivery method, place, etc.)





# Award of contracts under FAs (cont.)

- **Multi-supplier FA**
- **Option 3:**
  - by awarding the contract partially without re-opening competition, in accordance with Option 1, and
  - partially with re-opening competition between the EOs that are parties to the framework agreement, in accordance with Option 2.







# Award of contracts under FAs (cont.)

- **Option 3 (cont.):**
- If the FA sets out all of the terms governing the provision of the works, services, supplies
- Use must be stipulated in the procurement documents for the FA
  - Objective criteria to be used to determine the award of a contract must be set out in the procurement documents for the FA.
  - It must be specified which terms may be subject to the re-opening of competition





SIGMA

# Tender documents

- Important to define
  - Type of FA
  - Duration
  - CAs that will be parties of the FA
  - Methodology for awarding contracts
  - Information on quantities and other aspects of contracts





SIGMA

A joint initiative of the OECD and the EU,  
principally financed by the EU

# Thank you for attention!

