

## Mexico: Legal reform to government procurement policies, oversight of public expenditure, and public tenders for the sale of national goods

On April 28 th 2023, the Mexican Senate approved a legislative reform granting the Ministry of Public Function (SFP) powers and authority to concentrate the planning, conduction and surveilling of the procurement of goods, services and public works of all of the federal government entities and agencies, except for Pemex, CFE, the Army and the Navy.

Likewise, it was approved an amendment to the National Assets General Law in order to add new rules applicable to public tenders for the sale of federal real estate.

The main amendments to the Organic Law of the Federal Public Administration and the General Law of National Assets are described below.

### 1. Organic Law of the Federal Public Administration

<p><b>Concentration of powers in the SFP to conduct all government procurement</b></p>	<p>The authority of the Ministry of Finance and Public Credit (SHCP) to plan, establish, and apply the general public procurement policy regulated by the Public Sector Procurement, Leasing and Services Law and the Public Works and Related Services Law was transferred to the SFP, with the exception of the procurement of state-owned productive enterprises, the Ministry of Defense and the Ministry of Navy.</p>
<p><b>Reduction of powers to the Ministry of Finance and Public Credit</b></p>	<p>The powers of the SHCP were limited to collaboration in the establishment of the general government procurement policy. The SHCP will simply act as a consolidating area for the procurement procedures of goods and services.</p>
<p><b>New powers to participate in international trade negotiations related to government procurement</b></p>	<p>The SFP was empowered to participate in international trade negotiations related to government procurement and to coordinate strategic procurement.</p>

<p><b>Parastatal Entities will have an Administration and Finance Unit</b></p>	<p>The legal reform provides that all government entities of the centralized and parastatal public administration, as well as the coordinated regulatory bodies in energy matters, will have Administration and Finance Units as administrative support in budgetary planning. The SFP will be in charge of their coordination.</p>
<p><b>SFP Powers to redesign Internal Control Organs</b></p>	<p>The SFP is empowered to create, assign, distribute, coordinate and extinguish the internal control bodies of public agencies, including their decentralized administrative bodies and parastatal entities, as well as units of responsibilities or equivalents in the state-owned productive enterprises.</p>

## 2. National Assets General Law

<p><b>New discount percentages applicable to public tenders for the sale of federal properties</b></p>	<p>If a federal property could not be sold in a first public tender, a second public tender was held in which 20% of the base value could be discounted and if it was not awarded, a third public tender was allowed in which the base value could be reduced by 40%.</p> <p>The reform decreased the authorized percentages to allow discounts of 5% and up to 10% in the second and third public tenders respectively.</p>
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### What comes next?

It is likely that these reforms will be challenged through constitutional control mechanisms such as the amparo trial, the action of unconstitutionality and the constitutional controversy.

## **What impact will these reforms have on government procurement in Mexico?**

These reforms could affect the system of planning, execution and oversight in the use of public resources by concentrating powers and authority in the SFP. They also put at risk the system of internal control exercised by the agencies in the use of public resources by centralizing the planning and coordination of the internal control bodies.

# GARRIGUES

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