

Proposal for Optimal governance model of Central Procurement in Slovakia

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Abstract:

When the government or a municipality wants to establish a central procurement body (CPB), it must consider several aspects and issues. These factors will significantly influence how CPB performs its duties and stakeholders perceive its success. This case study will present different models of a central purchasing body's organizational and operational structure; then, the steps that the newly created CPB at the Prime minister's office in Slovakia should consider to achieve the positive effect of central procurement. Finally, an optimal solution and governance model are proposed to overcome fragmentation and promote cooperation among the CPBs in Slovakia.

Keywords

Central procurement, Central purchasing body, Cooperation of CPBs, Governance models.

1. Introduction

When the government or a municipality wants to establish a CPB, it must consider several aspects and issues. These factors will significantly influence how a CPB performs its duties and how its stakeholders perceive its success. Even though they need to be considered in the early phase of establishing a CPB, if the conditions change in the future or the original settings are unsuitable, the CPB can change them.

The objective of this case study is to present different models of a central purchasing body's organizational and operational structure; then, steps that the newly created CPB at the Prime minister's office in Slovakia should consider are proposed to achieve the positive effect of central procurement.

The expected result is to find the optimal governance model for centralized public procurement in Slovakia to overcome fragmentation and promote cooperation among the CPBs in Slovakia.

2. General issues concerning governance models of CPBS

To centralize or not, this question must be answered even before the government or municipality decide to establish a CPB. This almost Hamlet-like dilemma is here with us procurers for a long time and will stay forever. We can observe waves of decentralization and, again, centralization in public administration for decades. There are several pros and cons of centralizing public procurement, and these must be carefully considered in the early stages of the decision process. According to some authors, centralization of procurement does not bring the same benefits to all categories of contracting authorities. Still, it may be suitable instead just for those for which "decentralization results in a lack of the professional competences needed to efficiently administer the procurement process, such as municipalities and utilities" (Chiappinelli, 2020).

There are several goals that a CPB could aim to achieve, for example, costs savings by aggregating the demand of several contracting authorities. By bulking and aggregating, the CPB can achieve savings by exploiting economies of scale. There are several examples of how collaborative and

centralized procurement, when progressively implemented over time, can generate savings through reduced unit costs for standard equipment and supplies (Graells, 2018). The positive effect of reducing the price when using central procurement was confirmed by a relatively recent paper that added another aspect, and that is that as prices decrease, delivery times increase; however, the effect of centralized procurement was in this case, perceived as relatively small (Clark et al., 2021).

Another goal could be reducing transactional costs. According to Albano, savings are achieved in the "overall process cost of procurement activities, as central agencies are in a position to bear the fixed cost of investments in infrastructures" (Albano et al, 2010).

In addition, a third goal could be the professionalization¹ of public procurement, which is achieved by specialists working at the CPB. The CPB can afford to employ experts on specific commodities who will prepare technical descriptions and procurement strategies based on a profound knowledge of market and commodity groups. By centralizing human capital and expertise, "specialized teams can be formed to design better procurement strategies and improve them over time through continuous learning and experience" (Piga et al., 2011). Having skilled professional procurement experts who are law-aware brings benefit of presumably lower risk of procedural mistakes leading to less review procedures (Graells et al., 2014). CPBs can benefit from this as more complex and high value tenders have higher possibility of expensive litigations. The role of CPBs in the professionalization of public procurement is also acknowledged in recital 69 of Directive 2014/24/EU (Comba, comment on art. 37 in Caranta et al., 2021).

Last but not least, a fourth goal could be the strategic use of public procurement at a centralized level to support the implementation of policy objectives. In a separate chapter, we deal with the strategic use of centralized public procurement to achieve sustainability goals.

3. The structure of a CPBs

Organizational model

The first factor to consider is the organizational model of a CPB. The most common organizational models are the following: state-owned company, government agency model, and a department within a ministry.

Each organizational model has its benefits and disadvantages. In the case of a department under the ministry, the benefit is that it is easier to establish it since there is already an existing structure from an organizational point of view. Another benefit is that because the control of CPB is under one body, there are clear objectives and views on the functioning of CPB. The disadvantage of such a model is that it is not as flexible in administrative questions and decision-making as a state-owned company could be. State administration bureaucracy limits its functioning when it comes to recruiting experts directly from the market, which is connected to a more rigid payment and salary possibilities.

In the case of a state-owned company, the benefits are that such organizational model is more flexible in business decisions, also it can implement fees for its services and it usually has a broader range of users which could be not only central administrations but regional and local ones.

¹ For more information about the impact of professionalisation in public procurement, see following article. Coppola, M. A. & Piga, G. (2019). The Impact of Professionalization in Public Procurement – evidence from a case study, *European Journal of Public Procurement Markets*, 2(4), 59-73. Available at <https://doi.org/10.54611/NLRE4256>

Moreover, such model is more flexible when it comes to recruiting experts directly from the market. Nevertheless, the disadvantages are related to the more complicated process of establishing such type of CPB as well as to the necessity to define the steering model carefully based on the conditions of the legal frame.

The third model is the Government agency model, which could be described as a model between the two ones described above. The benefit, mainly when comparing it with the department under the ministry model, is that the main task of such agency is to conduct procurement. Therefore, it does not overlap with other core activities of the "mother" ministries which could create problems with non-transparency and downgrading procurement functions (OECD, 2011).

Organizational structure

The organizational structure influences in many ways how the processes of a CPB are organized. It influences what person or department is responsible for writing technical specifications, preparing the tender strategy, running the tender procedure itself, managing the procurement contract, and other functions or services that the CPB may provide.

There are different models of possible organizational structures: functional, divisional, project, and matrix.

Financing models of CPBs

Decisions influence the financing model on the organizational model of the CPB. In the case of the department within the ministry, it will be financed by the state budget. In contrast, in the case of a company owned by the state, we can often see financing by fees from economic operators or contracting authorities.

CPB can be financed from the government budget or services fees from contracting authorities or economic operators. In the case of fees from economic operators, which are usually in the form of a percentage of supplier's invoiced sales, these need to be introduced with caution because there might be a possibility that this will negatively influence the participation of SMEs on central tenders. There are also examples of hybrid financing from the state budget and service fees. (Albano et al., 2016).

4. The current state of Central purchasing bodies in Slovakia

Centralized public procurement is defined in Slovak law in § 15 of the Public Procurement Act. Currently, there are three major CPBs in Slovakia on the national level:

- the Ministry of Health, acting as CPB primary for hospitals and medical institutions;
- the Ministry of Interior, which is the CPB for different commodities for various CAs at national level;
- the Ministry of Investments, Regional development and Informatisation of the Slovak republic which acts as CPB for software licences for various CAs at national level.

The new amendment to the public procurement act, which entered into force on 31 March 2022, introduced a new CPB under the Prime minister's office (new CPB). The law states that CAs will mandatorily procure specific goods, services, and works at the national level utilizing this CPB. Such specific categories will be defined in a decree issued by the government. One of the downsides of such an arrangement is that the date when this decree will be issued is not yet known. Therefore, there is no obligation of CAs on the national level to procure through this newly created CPB at the moment.

5. SWOT analysis of central Procurement in Slovakia

SWOT analysis is used for analyzing strengths, weaknesses, opportunities and threats of specific issues, mainly applied to companies. The definition of these would be slightly different depending on the sector where you conduct such analysis. Below it is illustrated the SWOT analysis of central procurement in Slovakia.

Table 1- SWOT analysis of the central procurement in Slovakia

Strength (+ positive)	Weakness (- negative)
<ul style="list-style-type: none"> • already existing and established several CPBs at the national level • good cooperation and communication between CPBs at the national level • already existing team of professional buyers with experience • in most cases, the division of competencies is based on the sectorial responsibilities of each CPB 	<ul style="list-style-type: none"> • unsure legal status and responsibility of the Ministry of Interior as the CPB due to a new amendment to the procurement law • not sufficiently analyzing the impact of higher value tenders on the market and competition • Ministry of Interior is primarily focusing on the needs of its end-users and not collecting the needs of other CAs • not sufficiently making use of possibilities of sustainable procurement • the service of CPBs for CAs is free, which leads to CAs not valuing the services the CPBs provided
Opportunities (+ positive)	Threats (- negative)
<ul style="list-style-type: none"> • promoting sustainable procurement with the possibility of having a more significant impact than in the case of small CAs • promotion of innovation and innovative procurement • to agree with CPB at the Prime minister's office that would allow the Ministry of Interior to further continue its function as CPB for specific goods and services with procurement of which it has already experienced - sectorial responsibility • by calculating savings show the benefits of central procurement • by showing the benefits of central procurement to CAs, introducing fees for services of CPB 	<ul style="list-style-type: none"> • no political will at the Ministry of Interior to continue as CPB • the newly created CPB at the Prime minister's office will lack skilled procurement professionals to conduct proper need analysis, tender strategy and tender itself • the newly created CPB would not be able to conclude contracts with better prices than the CAs could, and therefore there will be opposition to procuring through newly created CPB

6. What should the new CPB take into consideration and not forget

In this section, steps that the newly created CPB at the Prime Minister's office should consider will be proposed for such CPB to achieve the positive effects of central procurement. These steps consider the SWOT analysis in chapter 5, focusing on opportunities and threats.

Stakeholders management

It is crucial to identify the stakeholders. Internal stakeholders will be at least the owner of the CPB, in this case, the government, then CAs and economic operators. External stakeholders will be, for example, manufacturers, media, NGOs, end-users, taxpayers, lobbyists and others, depending on the nature of the procurement project.

It is essential to frequently communicate in a clear and structured way with all stakeholders involved, explaining the benefits of central procurement and presenting positive results of the procurement procedures. On the other hand, it is crucial to listen to their suggestions, experience and needs. Identify your allies and use them to persuade passives or opposition.

The organizational model of CPB

The decision on the type of the organizational model should be made in the early phase of establishing the CPB. As mentioned in chapter 3, there are several options. It is possible that in the early phases of the CPB, a divisional organizational model will be chosen. In this model, one person is responsible for the whole procurement cycle. One of the reasons would be a lower number of qualified personnel in the early phases of the CPB that could specialize in one function. After the CPB is already established, the other organizational models should be considered, for example, the matrix organizational model or functional.

Needs analysis

Only those who know the needs can cover them. The CPB shall know the needs of CAs for CAs to use the procurement contracts awarded by the CPB. If such needs are not met, CAs will not purchase from the contracts awarded by the CPB and will prefer to conduct their own separate tenders. It is suggested that the newly created CPB analyses the demand side to assess the potential demand regarding client users and the range of goods and services to target.

Market analysis

After the need analysis, the CPB shall conduct a market analysis. Why do we need market analysis? Because we need information regarding what kind of products and services are available on the supply side to prepare a tender strategy that will guarantee the successful result of the tender in the sense of price-quality ratio and quality of the product or services procured.

The professionalization of public procurement officials

A newly created CPB needs to start a recruiting process² to ensure that its employees have sufficient knowledge and experience. The focus should not be only on legal skills and knowledge of national and EU public procurement legislation but also on the economic side of public procurement. The CPB must understand that public procurement is not only an extended domain of legal experts but an interdisciplinary field where different skills (legal, commercial and technical) are needed. Furthermore, the CPB should consider the need for continuous knowledge improvement of its employees, whether through internal training³ or by allowing them to attend

² The newly created CPB can consider attracting employees from other CPBs to benefit from their experience with central procurement.

³ The internal trainings can lead to creation of internal training program with its procurement specific curriculum. The example can be internal Academy for new but also existing employees established by BBG.

specialized post-graduate programs focusing on purchasing and public procurement⁴. The European competency framework⁵ for public procurement professionals can provide sufficient guidance in this effort. There are scientific works that prove that competences of procurement officials are likely to be an important determinant of performance to the extent that categories of contracting authorities with more competent officials perform better on average (Chiappinelli, 2020).

Electronic platforms for e-procurement

The following should also be taken into consideration when establishing a system for e-procurement at the newly created CPB: the system should be user friendly; should cover the whole procurement cycle from the pre-tender phase⁶ until contract management; should include an analytic module that would allow monitoring existing contracts and framework agreements and also the previous tenders to use this data for preparing new tenders. Also, if the CPB wants to operate efficiently, it should include a re-ordering and e-invoicing module that would allow suppliers to send the invoices to all CAs that made orders through the system. This can save suppliers' money as it is more effective than using the different systems with separate CAs. Moreover, the new system should be interoperable with other state administration IT systems, for example, for checking economic operators' tax and health insurance responsibilities.

Contract management

The contract management is not specified as the regulated phase of public procurement process in EU directives or by national legislation (Hamer, chapter 7, in Risvig Hamer et al., 2021). We can observe that as the last phase of public procurement often neglected by CAs and CPBs. Newly created CPB must incorporate contract management principles into its processes to monitor the orders of CAs, the fulfilment of orders and contract clauses by the suppliers, as well as other essential components of the contractual relationship between CPB, CAs and suppliers.

Mandatory vs voluntary use of CPB

It is essential to have mandatory use of CPB by CAs at the state level for some commodities because it enables the CA to establish first contact with the CPB and familiarise with its services. In addition, it is crucial to have a specific binding amount of goods or services when calculating the estimated price at the beginning of the procurement. If not, economic operators cannot calculate precisely their bidding price, which would result either in higher prices or in the inability to fulfil contract conditions. The list of commodities that will be mandatorily procured by the CPB will be defined in the decree that will be issued by the Slovak government. After the initial period of mandatory use of CPB other models could be considered ranging from conditioned compulsory

⁴ There are several well established programs focusing on different aspects of purchasing and public procurement such as IMMPPM program at University of Tor Vergate in Rome, program focusing on sustainability side of Public Procurement at Universtiy of Turin or the LLM program at university of Nottingham.

⁵ The official name is ProcuCompEU - The European competency framework for public procurement professionals. More information can be found here: https://ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers/professionalisation-public-buyers/procurcompeu-european-competency-framework-public-procurement-professionals_en.

⁶ Including functionality for conducting market analysis and need analysis.

mode to fully voluntary or optional model as they applied with success in some CPBs in Europe (Comba, chapter 3 in Risvig Hamer et al., 2021).

7. How can CPB contribute to sustainability goals

Central procurement can represent an essential tool for achieving secondary objectives in public procurement, such as promoting innovation and protecting the environment through applying green public procurement or achieving positive social impact. The use of centralized procurement may help spend the taxpayer's money in a way that would not only focus on what procuring entity may buy but how they buy it to achieve other deserving goals (Caranta, chapter 7, in Trybus et al., 2014). It is worth mentioning that sustainability resonates in public administration and the private sector. As Johnsen points out, "the pressure on business to deliver economic returns from greener goods is mounting and corporate social responsibility is no longer something that can be dismissed as fad for environmental fanatics" (Johnsen et al., 2014).

CPB which is aware of its role in promoting sustainable public procurement, can help to achieve a higher rate of use of environmental characteristics in public procurement. The reason is that it is easier to ensure that the environmental criterion is applied in one, more monitored public tender than if you would have several separate tenders done by each contracting authority by itself.

We observe that the correct application of environmental criteria may not always be easy. As mentioned above, CPBs are more likely to employ a specialist procurer who could specialize in sustainable public procurement, thus ensuring the correct application of green public procurement.

When it comes to the situation in the Slovak republic, strategic goals at the national level were set in the National Action Plan for Green Public Procurement for the years 2016-2020, with the fact that one of the goals for the years 2016 and 2020 was to achieve a 50% share of implemented "green" contracts by state administration bodies out of the total volume of contracts concluded by them for selected groups of products. This ambitious strategic goal was not achieved during the monitoring period. In the future, the newly created CPB at the Prime minister's office must acknowledge the importance of sustainable public procurement to the Slovak republic to achieve those goals.

8. Models for cooperation in public procurement between new and existing CPBs

The starting point for creating the models was the assumption that almost all CPBs implement cooperation with the others in some form. The models illustrated in the following paragraphs focus on the most common form of cooperation. The models aim to support, in particular, the qualitative component of cooperation between the new CPB and existing CPBs in the planning and implementation of activities. The models could be used as a guide for establishing contact between the new CPB and the already existing ones and vice versa.

Model of sectorial responsibilities for each existing CPB / general responsibilities of new CPB at the prime minister's office (Model 1)

This model is based on the parallel existence of the new CPB under the prime minister's office and the existing sectorial CPBs. The new CPB provides for intersectoral needs for stakeholders that are not related to the specialized area of these stakeholders. At the same time, sectorial CPBs meet the specialized needs of these stakeholders. A good example is the Ministry of Health of the Slovak Republic, the CPB for health care in Slovakia. In applying this model, the Ministry of Health of the Slovak Republic (or any other sectorial CPB) could continue in this activity while ensuring the

stakeholders' fulfilment of their specialized needs, such as medical equipment, a specific type of medicament and other medical needs. At the same time, the new CPB under the Prime Minister's office could meet the other needs of the stakeholders, such as office equipment, software and software security, energy supply, ICT, security services, etc. At present, however, the new CPB under the Prime Minister's office is not in a position to secure stakeholders' needs, but it can be assumed that it is ideally moving towards this.

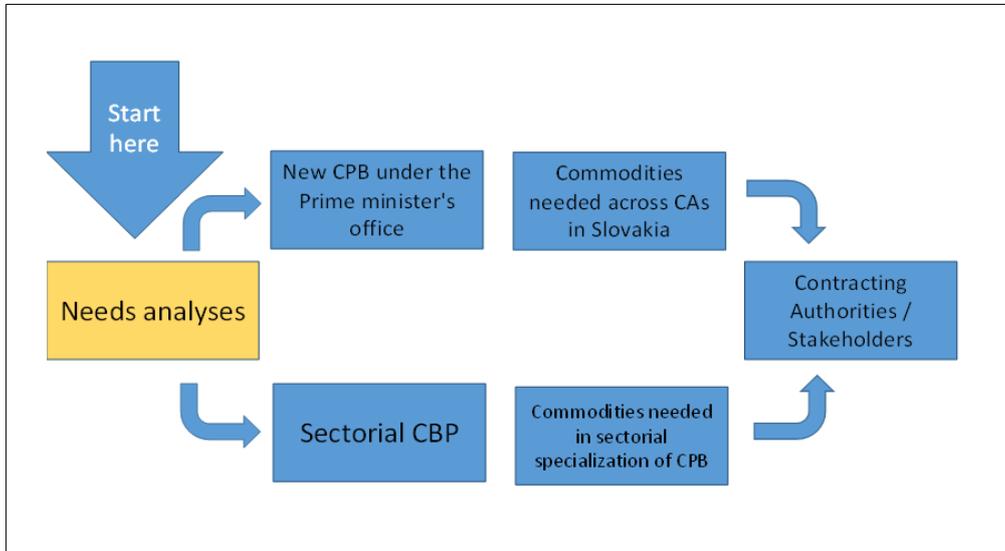


Figure 1 - Model 1 of cooperation in PP between new and existing CPBs

Model-based on the single lead buyer principle (Model 2)

A lead buyer principle is a strategic approach in public procurement. In principle, it means a unified procurement strategy under the umbrella of a single organization that requires technical expertise, qualified staff, standardization of goods, and volume commitment. This should lead to reduced overall procurement costs and coordination across the public procurement process. There are several possibilities of how can the lead buyer principle works. The model presented here would mean a single CPB in Slovakia covering all areas of possible public procurement. It would mean that sectorial CPBs would no longer carry out these activities.

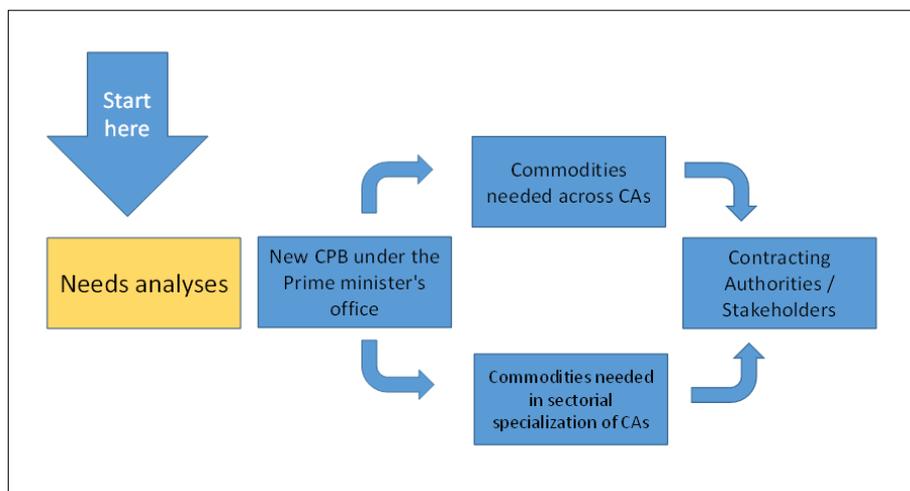


Figure 2- Model 1 of cooperation in PP between new and existing CPBs

Comparison of two selected models

The comparison of models mentioned above is presented in the following tables. First, the pros of the two models are compared in table 1 below. Then the cons of both models are compared in table 2 below.

Table 2 - Comparison of pros of two models

No.	Pros	Model 1	Model 2
1.	Specialized know-how	+	
2.	Sufficient number of qualified personnel	+	
3.	The existing relationship between sectorial CPBs and CAs	+	
4.	The existing relationship between sectorial CPBs and suppliers	+	
5.	Volume discounts of goods/services/works contract.	+	+
6.	The availability of a broader range of possible goods, services and works	+	+
7.	The faster availability of contracted products	+	+
8.	Standardized processes for all market segments		+
9.	Uniform and standardized environment for CAs		+
10.	The possibility of providing professional advice in the specialized market segment	+	
11.	Clearly defined areas of responsibility	+	+
12.	They have already established processes for conducting central procurement in their respective sector.	+	
	TOTAL	10	6

Table 3 - Comparison of cons of two models

No.	Cons	Model 1	Model 2
1.	The lack of capacity/competencies required to meet the needs of CAs		-
2.	Confusion of stakeholders regarding which CPB to address in case of a specific request	-	
3.	Possible corruption based on existing relationships	-	
4.	Perceived lack of trust from CAs towards new CPB		-
5.	The availability of a specialized range of possible goods, services and works		-
	TOTAL	2	3

We can evaluate the score for each presented model based on the table above. For calculating the score the points received for cons should be deducted from the point received for pros. Higher score means a better result. The model 1 final score is eight (ten pros and two cons) The model 2 final score is three (six pros and three cons).

Best model in conditions of Slovak republic

According to the above-stated comparison of the two models, the best model would be a model with sectorial responsibilities for each existing CPB and general responsibilities of the new CPB at the Prime minister's office (Model 1).

However, I acknowledge the possibility of implementing a specific hybrid model between the above-illustrated models 1 and 2 that could also be intriguing. This hybrid solution would be based

on allocating a strategic and policy-making procurement competence to the CPB in the Prime minister's office to give it the power to coordinate public procurement in Slovakia by using the already given experience of the sectorial CPBs. This solution would benefit both models and probably bring the most effective solutions. This solution is technically and legislatively demanding, and it is currently unclear whether there is a (political) will to implement it.

9. Conclusion and optimal governance model of central procurement in Slovakia

We consider one of the most significant issues of central procurement in Slovakia is fragmentation, where several CPBs on a national level exist without a clear mandate. Based on in-depth analysis, we propose that the optimal solution would be a model of sectorial responsibilities for each existing CPB and general responsibilities of the newly created CPB at the Prime minister's office. This means that the Ministry of Health would continue to act as CPB for hospitals and the health sector. The Ministry of Investments, Regional development and Informatisation of the Slovak Republic would focus on the Procurement of ICT, mainly software licences for various CAs at the national level. The Ministry of Interior would also focus on the security sector and, if agreed with CPB at the Prime minister's office, act as CPB in commodities it has experienced due to previous tenders, for example, vehicles or energy vectors and fuel. The CPB at the Prime minister's office should first analyze the needs of CAs at the national level and, according to the results, focus on commodities that are needed across CAs at the national level. To coordinate the actions of CPBs, regular meetings should be organized where CPB could interact and exchange best practices.

Several arguments back the proposals just mentioned. First, the CPB at the Prime minister's office does not have to train a sufficient number of qualified public procurement experts in a sector where other CPB are already making tenders. They should also focus on strategic commodities essential for the government, as stated in the introductory message to the amendment to the law, for example, ICT hardware, services of mobile telecommunication providers, and legal and audit services. Secondly, there is a perceived lack of trust from CAs on whether the CPB at the Prime minister's office will conclude FAs or Dynamic Purchasing Systems that would offer better conditions for goods and services as CAs procured by themselves. A sufficient level of trust will come with the first significant positive results. Thirdly, the infrastructure of existing CPBs already exists from an operational point of view, meaning they have established processes for conducting central procurement in their respective sector.

After the CPB at the Prime minister's office obtains qualified personal and significant results with specified commodities, it shall take responsibility for other CPB's non-sectorial responsibilities, such as procurement of energy vectors, ICT hardware, cars and special vehicles. We expect these steps to happen no earlier than in the horizon of two years due to the complicated process of hiring new personnel.

Regarding the e-procurement platform, I suggest that the newly created CPB continue the development of the state e-procurement platform, which all CAs could use without fees. This platform should not be made mandatory, but CAs should be able to choose also from e-procurement platforms provided by private companies in case the functionalities of these privately owned e-procurement platforms suit better needs of specific CAs.

Currently, the newly created CPB is, from the organizational point of view a department under the ministry (Prime minister's office). In our opinion, the best organizational model of CPB in Slovakia in future would be a state-owned company, which would bring the following benefits in the long-term horizon:

- more flexibility in business decisions, for example, faster signing of the contracts, which usually takes a longer time at ministries due to bureaucracy;
- easier implementation of fees for its services than in the case of the department under the ministry;
- more flexibility when it comes to recruiting experts directly from the market and probably also more attractive to employees;
- a more comprehensive range of auxiliary services that could offer to CAs, for example, ad-hoc consulting services.

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