

Professionalizing Public Procurement in Lebanon

DIAGNOSTIC REVIEW AND A VISION FORWARD





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About this report

The report describes the status of public procurement in Lebanon. Findings are based on a desk review and a field survey conducted in the period 2011-2012.

It attempts to estimate the size of public procurement based on macroeconomic figures, to identify legal and organizational frameworks and to map current practices.

It draws a profile of public procurers and compares the current status to MENA countries.

The report proposes ways to address the capacity gap, including a national capacity development strategy.

About Institut des Finances Basil Fuleihan

Established in 1996 to support public finance modernization as the training and documentation center of the Lebanese Ministry of Finance, the Institut des Finances Basil Fuleihan collaborates with public entities in Lebanon and the MENA region in five mission areas:

- Human capital formation in public finance
- Development of partnerships and exchange of good practices
- Inspiring innovation and excellence in the public service
- Facilitating research, publication and access to information
- Promoting economic and financial literacy.

The Institute is a regional training center for the World Customs Organization (WCO).

It hosts the Secretariat of the GIFT-MENA network of civil service training schools.

Message from _____

The Minister of Finance

In the context of the fragile political, institutional, and socio-economic situation in Lebanon, the good management of public money is no doubt an equally important priority as maintaining law and order. Public financial management is indeed key to maintaining government aptitude to efficiently and wisely allocate and manage resources, ensure equal opportunities to citizens in economic growth and sustainable development, in addition to enhancing the effectiveness and transparency of expenditures and increase the confidence of citizens in government's choices.

As key component of the resource management reform, public procurement is considered the specific area where the government could improve service delivery, rationalize public expenditures, maximize the value for money, the "public money", and establish a solid relationship with the international donor community to support national reform agendas and modernization actions towards achieving sustainable change.

The Ministry of Finance has compiled and made available to central and local government entities a National Procurement Manual based on the existing legal framework of public procurement in Lebanon, and a set of Five Standard Bidding Documents reflecting best practices and balanced conditions of contracting. By doing so, the Ministry of Finance has committed to shape public procurement reform, and strongly support capacity building and professionalization initiatives undertaken by the Institute des Finances Basil Fuleihan.

Through this report, the Institute of Finance Basil Fuleihan, helps create a better understanding of procurement as effective tool in PFM reform, based on tangible data and reliable information on public procurement. The relevant analysis demonstrates the Institute's valuable contribution to the process that also benefited from input provided by a wide array of experts and stakeholders, in an efficient participatory approach. It also pinpoints the necessity to push forward the current governmental orientation to "procure better", professionalize the existing knowledge, skills and attitudes, and incite high officials to think procurement strategically.

Such effort would not have been achievable without the support of the Government of Italy, represented by the Embassy of Italy in Beirut, to help create a public understanding that backs up the Ministry of Finance reform plans, not only directed to the public sector, but also the business community, policy makers and the civil society in Lebanon.

Message from _____

The Ambassador of Italy to Lebanon

An active and multicultural democracy requires the modernization of public administration bodies and instruments, through which services are fairly and equally provided to the citizens. Public Procurement is a major component of budget management, and an effective public administration is called to constantly improve its performance in financial management and service delivery, where both transparency and accountability are key elements.

Good public procurement, favoring a proper identification of the needs of public institutions in terms of goods and services demand, as well as competition among bidders, ensures “value for money” in public spending and this in turn improves consideration and trust of citizens towards the action of the public administration. Additionally, tender procedures conducted with consolidated standard procedures and on the basis of transparent and efficient criteria allow the selection of valuable enterprises only, awarding the companies that consider quality as a main concern. On the contrary, a non-standard procurement system that lacks transparency and competition is the ideal breeding ground for corrupt behavior, and leads to the non-efficient allocation of - scarcer and scarcer - public resources.

The potential contribution of an improvement of public procurement procedures to socio-economic development in Lebanon becomes clear when you look at the size of its expenditure in Lebanon. Representing more than 13% of the Lebanese budget and around 4% of Lebanon’s GDP, public procurement is considered as a core component of resource management reform in the country.

Implementing an effective public procurement system based on transparency, competition and integrity is not simple, but there is a widespread consensus that human resources are at the core of the process. The Capacity Building in Public Procurement Program, based on consolidated experiences in Italy and in Europe, is an ambitious initiative launched since 2010 by the Institut des Finances Basil Fuleihan of the Ministry of Finance and entirely funded by the Italian Cooperation for a total amount of around four hundred fifty thousand Euros. It aims at strengthening skills and competences of Lebanese civil servants to better manage, at the operational level, the public procurement functions.

This contribution is part of a wider commitment of the Italian Government to improve the efficiency and effectiveness of the public administration in Lebanon. It has been agreed and implemented in line with the Ministry of Finance’s reform agenda, and in recognition of the key role played by public procurement as engine for socio-economic development.

Today, Italy and Lebanon are particularly proud to see this reform taking shape. The development of a medium term strategy for building the capacities in public procurement is crucial for the achievement of sustainable long-term results. I am deeply convinced that the improvement of public officers’ capacity will have a long-standing impact in terms of reform sustainability, offering a more reliable public administration to all tax-payers. This would not have been possible without the fruitful collaboration between Italian and Lebanese experts and a partnership among the Institut des Finances Basil Fuleihan, the Ministry of Finance and the Italian Development Cooperation, in which the technical approach has been matched by deep and fruitful human relations.

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- Mr. Alain BIFANI, Director General of Finance
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- Mr. Fady BARAKAT, Procurement expert
- Ms. Ghinwa HADDAD, Head of Procurement Department at the Council for Development and Reconstruction
- Ms. Rana RIZKALLAH, Procurement Officer at the Institut des Finances Basil Fuleihan
- Ms. Nancy TYAN, Manager of the Contracts Department at the Council for Development and Reconstruction

The Institute would like to thank in particular Mr. Christian DE CLERCQ, Manager of the UNDP Technical Assistance Fiscal Management and Reform Project at the Ministry of Finance of Lebanon, for his continuous guidance throughout the project implementation as well as for his thorough review of this report.

This report has been compiled and drafted by Ms. Sabine HATEM, Senior Economist at the Institut des Finances Basil Fuleihan, under the supervision of Ms. Lamia MOUBAYED BISSAT, Director of the Institute.

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List of Acronyms

AUB	American University of Beirut
CBPP	Capacity Building in Public Procurement
CDR	Council for Development and Reconstruction
CE	Compensation Expenditure
CIB	Central Inspection Board
CIPS	Chartered Institute of Purchasing and Supply
CRI	Consultation and Research Institute
EDL	Electricité du Liban
FCE	Final Consumption Expenditure
FY	Fiscal Year
GDP	Gross Domestic Product
GFCF	Gross Fixed Capital Formation
IOF	Institut des Finances Basil Fuleihan
KPI	Key Performance Indicators
MENA	Middle East and North Africa
MoF	Ministry of Finance
OECD	Organization for Economic Cooperation and Development
OMSAR	Office of the Minister of State for Administrative Reform
PIU	Project Implementation Unit
SBD	Standard Bidding Documents
TOR	Terms of Reference
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Program

Preface

Today's exercise of public duties is about delivering faster and better, while bringing more value to public spending. It is about managing, but also anticipating, forecasting, planning and managing risk. It is about using the various instruments of business intelligence and establishing strong collaborative arrangements across the public sector and with the private sector.

With globalization, the emergence of new markets and the necessity to act responsibly vis-à-vis the environment and society, public procurement is bringing forward new opportunities and new challenges. For Governments, it remains an efficient instrument to achieve cost-reduction and deliver tangible value. It is also an instrument to enforce sustainable production and consumption.

For Lebanon, challenges are of many folds. Debt servicing takes up one third of public expenditures. With a wage bill estimated at more than 26 percent of public expenditures, rationalizing expenditures to the best value for money is an inevitable choice. The way in which government agencies procure goods, works and services can play a central role in achieving considerable savings while improving at the same time the delivery of quality public services.

This report describes the current situation of public procurement in Lebanon, including an overview of main macroeconomic figures, the legal framework and practices as well as the capacity to procure. It draws the profile of public procurement practitioners and proposes a medium term capacity development strategy focused on training.

The findings made available to the reader are based on the results of a field survey - the first of its kind in Lebanon - undertaken by the Consultation and Research Institute and on subsequent work conducted by the British Chartered Institute for Purchasing and Supply. The elements presented in the report are expected to support the development of evidence-based policies that would professionalize the procurement function and accompany current reform efforts.

One essential pillar of successful reform is undoubtedly the capability of the human capital involved in public procurement, at both the operational and strategic level, in the public as well as the private sector. Upon the procurement community rests the responsibility of raising attention to its strategic importance. Upon us all rests the responsibility of helping public procurers to master a wide array of skills, to be visionary, influential, strategic, ethical, and collaborative.

As a provider of specialized training services in public financial management in Lebanon and the MENA region, the Institut des Finances Basil Fuleihan is striving, in close collaboration with concerned stakeholders, to identify how to meet the needs and demands of public procurement practitioners and equip them with up-to-date knowledge and skills needed to perform and deal with increasingly complex issues. The procurement profession is rising steadily worldwide and the Institut is keeping a close eye on how it can contribute to developing this profession in Lebanon.

Lamia Moubayed Bissat

Director of Institut des Finances Basil Fuleihan

Executive Summary

Public procurement (the purchase by governments - centralized and decentralized¹ - of goods, services and works) is a key policy instrument used by Governments to deliver public services to citizens, from basic infrastructure to health, education and social services.

It centers on a complex and detailed process involving multiple stakeholders and considerable sums of public money. According to OECD data, public procurement accounts, on average, for 12.8% of Gross Domestic Product (GDP) across OECD countries² (Figure 1). Its volume *“reflects the different size of the state, its role in the economy and the existence of big spending projects (e.g. infrastructure investments)”*³. In non-OECD (i.e. developing) countries, public procurement typically constitutes about 4.5 percent of the total GDP (OECD, 2006) where it is still not contributing at its full potential to economic and social development.

Public procurement has received considerable attention in the past decade. Focus has been laid on strategic issues such as the influence of the regulatory environment on economic and social development, on governance systems, on national policy goals, or on particular sectors, such as the environment.

In this context, the paradigm is shifting from a traditional approach towards a more strategic one. A transparent procurement system supported by a clear regulatory framework, strategically positioned within a well-functioning public financial management system is now considered key for competition, sustainability, value for money, and effective oversight. The evolving scope and complexity of public procurement is therefore demanding a more flexible working environment and a broader skill set and differentiated competencies.

The present report, based on a desk review and a field survey conducted in the period 2011-2012, is a first attempt at estimating the weight of public procurement in Lebanon and at identifying its characteristics. It includes an overview of main macroeconomic figures, the legal and organizational framework, the practices and the profile of public procurers.

The report compiles a number of shortcomings in the legislative framework and practices. These weaknesses were divided into two major categories: structural weaknesses in the public procurement function and knowledge and skill weaknesses. The latter is preventing public procurement from producing the expected efficiency gains and tangible benefits at the macroeconomic level; when it could be relaxing the budgetary pressure, creating fiscal space and encouraging private sector participation.

The report showed that, on average, public procurement accounted for 13% of the budget and represented around 4% of GDP (at the central government level). The analysis of procurement trends and types across the various categories of expenditures showed that current public expenditure rose across the studied period (2001-2011). The amounts budgeted for goods witnessed a steady increase from 170 to 538 billion LBP, whereas the procurement of services remained nearly the same. Investment spending fluctuated with noticeable margins between amount budgeted and amount spent pointing to weaknesses in overall budget planning and low spending capacity. The discrepancies between budgeted and actual spending characterized the procurement of equipment and furnishings, posing questions as to the planning and need identification processes. Data also showed that amounts spent on projects under construction consistently fell below targeted budget. The same applied to maintenance activities. Deviation from procurement plans were believed to be frequent, especially in line ministries.

¹In Lebanon, central or centralized government refers to ministries, public administrations, and public institutions. Local or decentralized government refers to municipalities and unions of municipalities.

²OECD, Government at a Glance 2013: Procurement Data, OECD Meeting of Leading Practitioners on Public Procurement, GOV/PGC/ETH(2013)2, 23-Jan-2013.

³OECD, 2011, Government at a Glance 2011 (www.oecd.org/gov/governmentataglance2011.htm).

The legal framework is characterized by the absence of a single unified public procurement law. Procuring entities abide by a set of regulations found in various laws and decrees, namely the Public Accounting Law and the Tender Regulations. Procedures and practices suffer from limited standardization, largely linked to the opacity of the laws applied. This is reflected in a poor government/supplier relationship with local private sector organizations voicing demands for further transparency in national procurement processes.

The structural weaknesses are being addressed through the much awaited adoption of a new Public Procurement law, supported by wide array of measures destined to standardize procurement procedures and enhance practices. Being one of the most important components of public expenditure management, successful public procurement reform is expected to go hand in hand with progress in other areas of reform notably:

- Budget reform and the enactment of a new budget Law: Procurement and budget being both regulated under the Public Accounting Law of 1963. A new Budget Law was recently drafted by the Ministry of Finance.
- Modernization of the oversight and institutional framework: The two main oversight bodies concerned are the Court of Audit and the Parliament.

The survey also highlighted a significant capability gap. It was found that there is no reference to procurement jobs in the Lebanese Civil Service job classification, except in few independent public institutions. Procurement related functions are performed by a variety of personnel ranging from heads of financial and administrative units to head of legal divisions, financial controllers, accountants, internal auditors, etc.

The absence of procurement positions in the Lebanese Civil Service is heightened by the lack of a strategic planning of human resources as well as the lack of coordination between the Civil Service Board and the procurement entities for recruitment and staffing. Though good practices were identified in a number of institutions, the sector as a whole suffers from shortages in technical skills and knowledge, limited availability of professional training opportunities and the absence of job profiles linked to a competency framework. This situation has a negative impact on the levels of capacity, efficiency and satisfaction of the procurement workforce.

This report proposes to address the capacity gap, through a medium-term capacity development strategy targeting the people standing at the core of the procurement process: operational and strategists. As detailed in the relevant chapters, successful capacity building cannot achieve its full potential if civil service recruitment, revision of pay scheme, human resources management and training remain in the current status quo.

Finally, the results presented in this report are indications and trends that deserve to be further analyzed and used to support the development of evidence-based policies in public procurement to accompany current reform efforts towards better value for money and the rationalization of public expenditures. They also provide elements to support and steer the formulation of a national capacity development strategy to professionalize the procurement workforce, as well as a baseline against which the impact of future progress can be measured.

By improving its procurement environment and practices, and strengthening the capabilities of its human resources, it is believed that the Government of Lebanon would be better equipped to address a number of economic and social challenges, to create new business opportunities for the private sector, invigorate public investment at a central and local level and encourage consumption trends that are environmentally and socially responsible. It would also be able to improve the quality of public services, mitigate allegations to corruption and encourage local development. Most importantly, it could improve the exercise of budgeting and cash management which would impact overall public expenditures and the performance of its public finances.

Introduction

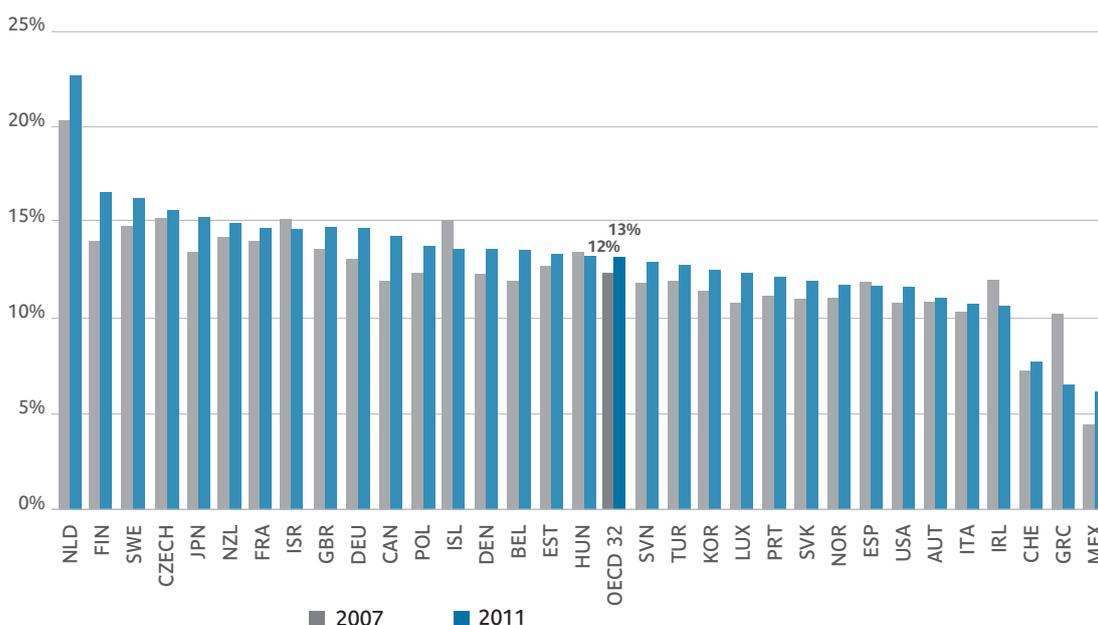
Why Public Procurement Matters Worldwide?

The Organization for Economic Cooperation and Development (OECD) defines procurement as “the process of (1) identifying what is needed; (2) determining who is the best person or organization to supply this need; and (3) ensuring what is needed is delivered to the right place, at the right time, for the best price and that all this is done in a fair and open manner” (OECD, 2006).

Public procurement (the purchase by governments - centralized and decentralized⁴ - of goods, services and works) is a key policy instrument used by Governments to deliver public services to citizens, from basic infrastructure to health, education and other social services. It is a tool for enhancing governance, facilitating reforms, and improving public sector performance.

According to OECD data, public procurement accounts, on average, for 12,8% of Gross Domestic Product (GDP) across OECD countries⁵ (Figure 1) and “variations reflect the different size of the state, its role in the economy and the existence of big spending projects (e.g. infrastructure investments)”⁶. In non-OECD (i.e. developing) countries, public procurement typically constitutes about 4.5 percent of the total GDP (OECD, 2006) where it is still not contributing at its full potential to economic and social development.

Figure 1
Size of general government procurement as percentage of GDP (2007 and 2011)⁷



⁴In Lebanon, central or centralized government refers to ministries, public administrations, and public institutions. Local or decentralized government refers to municipalities and unions of municipalities.

⁵OECD, Government at a Glance 2013: Procurement Data, OECD Meeting of Leading Practitioners on Public Procurement, GOV/PGC/ETH(2013)2, 23-Jan-2013.

⁶OECD, 2011, Government at a Glance 2011 (www.oecd.org/gov/governmentataglance2011.htm).

⁷Source: OECD, Government at a Glance 2013: Procurement Data, OECD Meeting of Leading Practitioners on Public Procurement, GOV/PGC/ETH(2013)2, 23-Jan-2013.

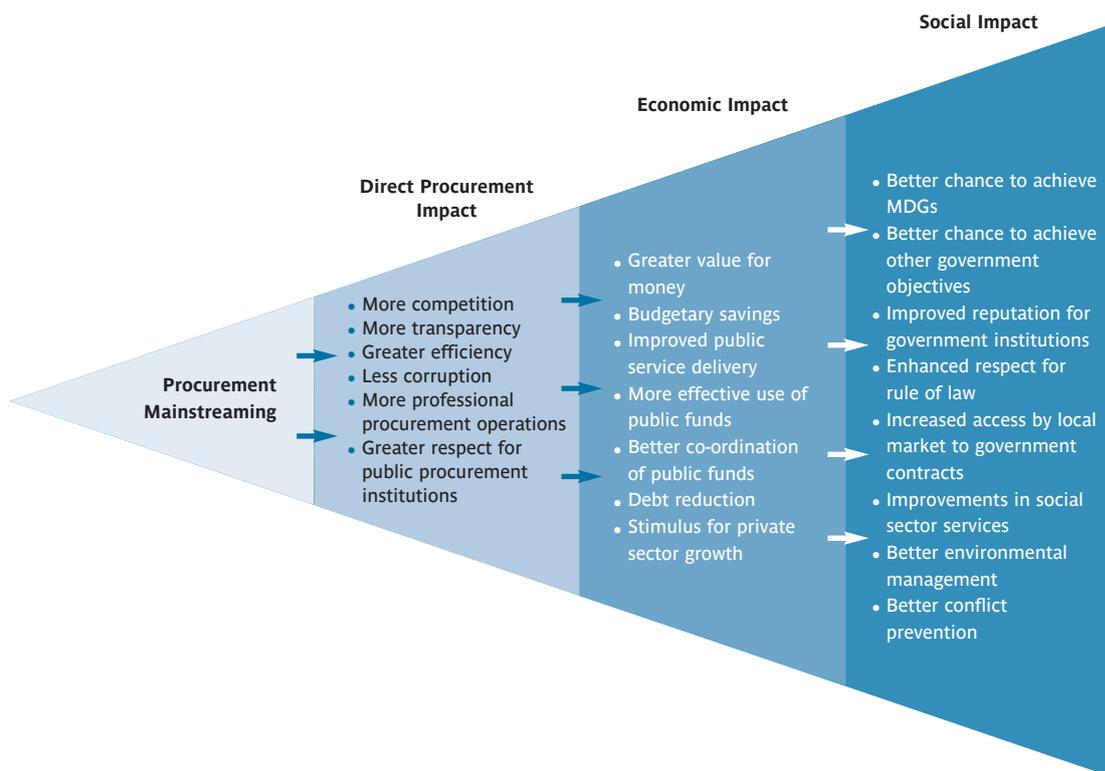
1. From a macroeconomic perspective, well-functioning public procurement systems are able to serve as drivers of economic growth and development to Governments by allowing for:

- Better market competition and equal treatment among economic players: The government being one of the largest investor, purchaser of services and owner of long term business, it is one of the main market players. Its procurement behavior has a direct impact on the private sector competitiveness and innovation.
- Efficiency and Value for Money in governments' purchases.
- More transparent and accountable governments: good procurement practices can ultimately lead to enhanced citizen participation into public life.
- The adoption of production and consumption trends in favor of environmentally friendly, socially responsible and innovative products and services.

Public procurement is therefore a main driver for improving both the strategic as well as operational functions of Governments. Figure 2 provides in a simple snapshot, an overview of the direct impact of public procurement on economic and social development, and links it to the better achievement of the Millennium Development Goals (MDGs) and the enhanced respect of the rule of law especially in developing countries.

Figure 2

The torchlight: impact of public procurement on economic and social development⁸

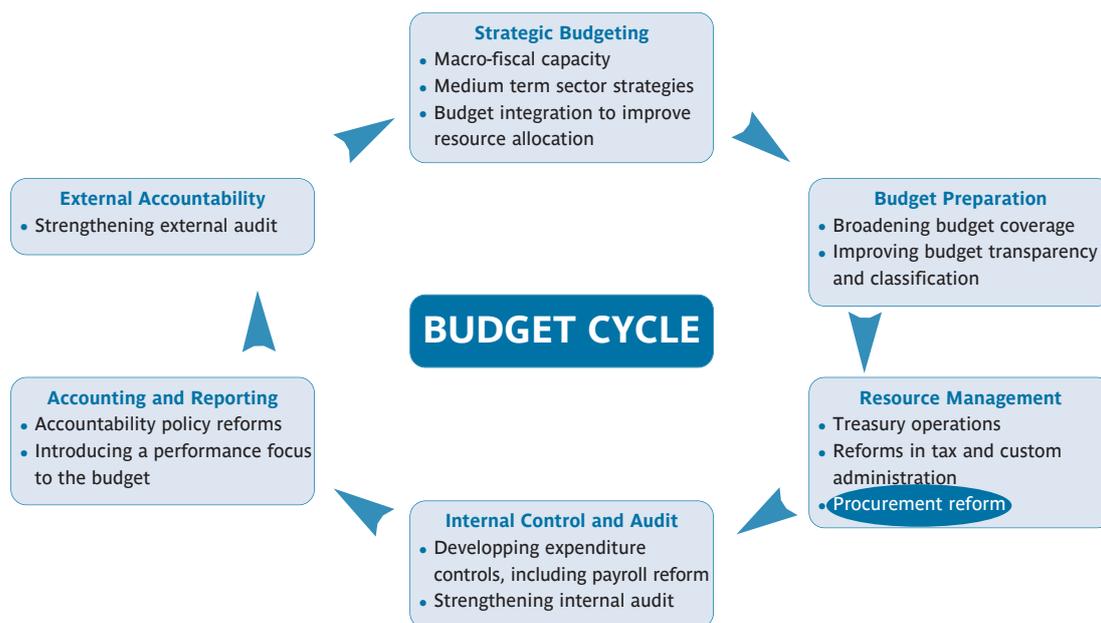


⁸Source: OECD and World Bank, 2005, A DAC Reference Document: Harmonizing Donor Practices for Effective Aid Delivery, Volume 3: Strengthening Procurement Practices in Developing Countries.

2. From a public finance perspective, public procurement is recognized as a core component of resource management reform and a priority area of action to lower the costs of public expenditures. Figure 3 indicates the position of procurement reform in the budget cycle and highlights it as a third priority in resource management reform along with treasury operations and reforms in tax and customs administrations.

Figure 3

Procurement reform at the core of Resource Management Reform⁹



In most developing countries, the public sector wage bill, debt payments and public procurement are often the top three types of government spending. Nonetheless and in the absence of comprehensive data that would allow to chart the overall impact of procurement reform on public spending, a range of country cases both in developed and developing countries provide relevant indications on the positive impact of improving procurement practices:

- The Mexican Federal Electricity Commission has accumulated savings of 9% since 2009 compared to the lowest original prices (savings of more than USD 252 million) when acquiring coal through reversed auctions.¹⁰
- In Scotland, almost £1.2bn savings were achieved across the public sector in the first five years of the Public Procurement Reform Programme (2006-2011), along with the successful delivery of national and sectoral shared services through Scottish Procurement and the Procurement Centers of Expertise.¹¹
- In Tamil Nadu, one of the 28 states of India, expenditure of drugs and supplies were reduced by 40 percent in 15 months when a transparent procurement system was implemented.¹²

⁹Source: The World Bank, 2010, Report No. 55061-MNA, Public Financial Management Reform in the Middle East and North Africa: An Overview of Regional Experience, Part I.

¹⁰OECD, OECD Public Procurement Review of the Electric Utility of Mexico: Towards Procurement Excellence in the Federal Electricity Commission (CFE), 2013, OECD Publishing.

¹¹The Procurement Reform Bill - Consultation, available on: <http://www.scotland.gov.uk/Publications/2012/08/3295/4>, August 2012.

¹²The Rockefeller Foundation - Sponsored Initiative on the Role of the Private Sector in Health Systems in Developing Countries, Technical partner paper 7 on Andhra Pradesh Health Sector Reform - A Narrative Case Study, Ravi Mallipeddi, Hanna Pernefeldt and Sofi Bergkvist, 2009.

By linking three essential pillars of governance reform that are (1) increased value-for-money, (2) improved public sector delivery and (3) private sector-led growth, public procurement becomes an effective public policy instrument.

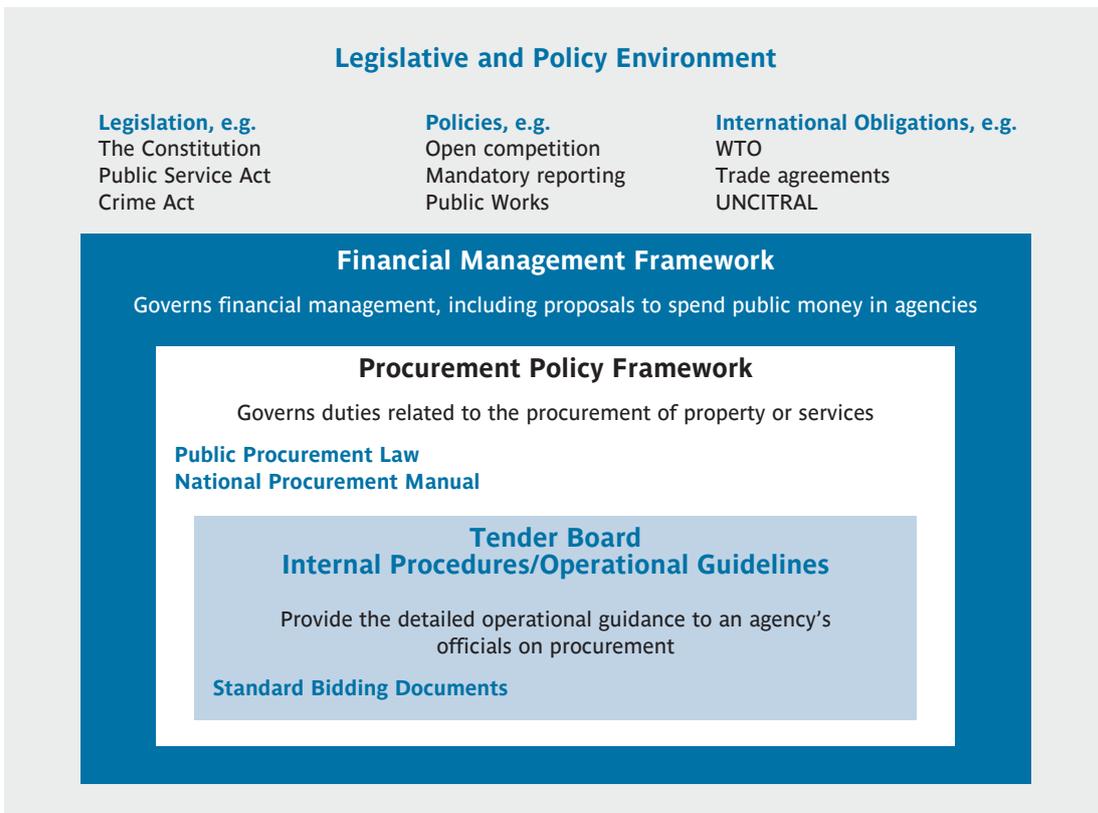
While good procurement systems are prerequisites for economic development, deficient systems can turn public spending into political and economic liabilities, resulting in a waste of public funds and wealth and hinder development goals.

3. From a policy perspective, figure 4 shows that a procurement policy framework is at the heart of any financial management framework which in terms lies at the basis of the legislative and policy environment of any country. This framework is governed by:

- International obligations set in the WTO, UNICITRAL and other trade agreements.
- National policies that are often in line with international obligations such as competition policies, mandatory reporting, etc.
- A number of national legislations pertaining to the rule of law such as the Crime Act and Public Service Act.

Compliance with these sets of rules and regulations is important to ensure fairness, international integration and encourage competition.

Figure 4
Public procurement from a policy perspective



4. Where does Lebanon stand?

Many MENA countries have recently engaged in improving their public procurement systems addressing several areas including modernizing their procurement policy and institutional framework, developing procedural guidelines, and building the needed procurement capacity. Notable progress was achieved, often supported by a significant inflow of technical assistance provided by donors such as the World Bank, the EU, and the OECD.

Tables 1, 2 and 3 below provide an overview of main achievements in the MENA region and allow benchmarking progress achieved in the various countries.

Table 1
Overview of public procurement reform in selected MENA countries¹³

Country	Year	Main areas of progress
Egypt	2010	<ul style="list-style-type: none"> • Launch of an e-procurement portal
	2011	<ul style="list-style-type: none"> • Revision of procurement executive regulations
	2012	<ul style="list-style-type: none"> • Preparation of a Draft Public Procurement Law
Iraq	2005	<ul style="list-style-type: none"> • Review of the public procurement system • Creation of an Inter-Ministerial Work Force to design a roadmap for procurement reform
	2010	<ul style="list-style-type: none"> • Approval of the new procurement law • Development of new standard National Bidding Documents
Jordan	1999	<ul style="list-style-type: none"> • Review of the public procurement system
	2009	<ul style="list-style-type: none"> • Draft of a new Public Procurement Law
Morocco ¹⁴	2007	<ul style="list-style-type: none"> • New Public Procurement Law and Regulations • Update of the National Bidding Documents • Launching of an e-procurement platform
Palestine	2011	<ul style="list-style-type: none"> • Approval of a new Public Procurement Law
		<ul style="list-style-type: none"> • Establishment of an independent Public Procurement Unit: The Higher Council for Public Procurement Policies
		<ul style="list-style-type: none"> • Development of a national training program for the procurement workforce
Tunisia	2011	<ul style="list-style-type: none"> • New public procurement decree
		<ul style="list-style-type: none"> • Self-assessment of the procurement system based on the OECD-DAC methodology
Syria	2009	<ul style="list-style-type: none"> • Discussion of the revised draft Procurement Law
Yemen	2009	<ul style="list-style-type: none"> • Adoption of a new Procurement Law and set of Executive Regulations
		<ul style="list-style-type: none"> • Development of new national Standard Bidding Documents
		<ul style="list-style-type: none"> • Creation of a High Tender Board and a High Authority for Tender Control • Development of a training program specifically addressed to the staff and trainers of the High Tender Board
	2012	<ul style="list-style-type: none"> • New access to information law
Lebanon	2009	<ul style="list-style-type: none"> • Draft Standard Bidding Documents
	2012	<ul style="list-style-type: none"> • Approval of the new Public Procurement Law by Council of Ministers
	2013	<ul style="list-style-type: none"> • Development of certified training in Public procurement in the Arabic language

¹³Information withdrawn from the World Bank page on Public Procurement Reforms in the Middle East and North Africa Region (<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTGC/0,,contentMDK:22880747~menuPK:50003484~pagePK:2865066~piPK:2865079~theSitePK:6130003,00.html>) and the presentation "An update of procurement reforms in the MENA region: A WB perspective", Yolanda Tayler, Regional Procurement Manager- MENA region, The World Bank Group, March 2013.

¹⁴OCDE, Renforcer l'intégrité dans les marchés publics - Étude d'apprentissage mutuel au Maroc, 30 juillet 2009.

Table 2
Procurement legislation: Lebanon in comparison to the Arab World¹⁵

Country	Transparency/Accessibility of Laws and Regulations	Exceptions to Competitive Bidding Explained	Estimated % Procurement Subject to Competitive Bidding	Typical Duration of Procurement
Jordan	Transparent and accessible and rules are simple	Yes	Unavailable	30 days
Lebanon	Old and need amendments (under study); some hinders work	No (Need change)	About 75% of all large procurements	Minimum 30 days
Morocco	Texts are precise but loopholes exist; noticeable progress in the decree on public procurement since 1998	Yes (Follow World Bank and UNCITRAL guidelines)	66% 10 2001	21 days for competitive bidding, 15 for acceptance, 20 for submission of bids
Sudan	Included in financial and Accounting Act of 1977 and regulations of 1978	Yes (Limited direct “non-competitive” purchasing specified in the regulations)	Currently trying to establish the proportion	Regulations specify the process should not exceed 14 days
Tunisia	Decree on public procurement of 2002, modified in 2003	Yes (Specifies the use of sole source contracts)	About 90% of large procurements	60 days (may longer for important bids)
Yemen	Transparency exists in texts but not followed	No	About 90%	30 days

The Lebanese Government suffers from parallel weaknesses in the area of procurement regulated by a legal framework that is over 40 years old with little connection to the way procurement is currently conducted¹⁶. As such, procurement reform needs to be addressed with urgency and commitment at the financial management level. In the short-term, simplified procurement procedures used by implementing agencies are worthwhile, to be then anchored in a modern instrument. In the medium-term, establishing a regulatory body for maintaining, monitoring and updating the public procurement system is necessary.

Table 3
Overall procurement system: % of respondents indicating “Always” and “Frequently” practiced¹⁷

Practice	Jordan	Lebanon	Morocco	Sudan	Tunisia	Yemen
Staff with adequate experience and skills	78	25	36	55	58	45
Standardized documents	94	45	51	65	64	60
Contracts awarded by public competitive bidding	94	60	76	70	58	66
Sufficient time allowed to prepare bids	89	50	72	70	52	63
Contracts awarded to the responsive and qualified bidder with the lowest cost and without negotiation	89	25	48	19	37	39

Obtaining accurate and comprehensive information about the size of public procurement, as well as analyzing policies and procedures governing it and practices in place, is a welcomed foundation work that would allow further evidence-based analysis to guide public procurement reform and ultimately hope to improve the quality of government services, provide greater value for taxpayers’ money and improve citizens’ well-being, especially in a country like Lebanon that faces a structural fiscal deficit and a high debt/GDP ratio.

¹⁵United Nations, 2004, Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices.

¹⁶World Bank. 2007. Lebanon - Economic and social impact assessment from recovery to sustainable growth. Washington D.C. - The World Bank. <http://documents.worldbank.org/curated/en/2007/01/7510994/lebanon-economic-social-impact-assessment-recovery-sustainable-growth>.

¹⁷United Nations, 2004, Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices.

Chapter One

Review of Public Procurement Environment and Practices in Lebanon

The present chapter outlines the findings of the Situational Survey conducted in 2011 and proceeds to assess the various dimensions of public procurement:

- **Section 1** proposes a macroeconomic overview of public procurement in Lebanon and provides estimates of the weight, characteristics and trends of procurement in the public sector.
- **Section 2** lays out the limits imposed by the current legal and institutional framework which governs public procurement and assesses the scope for improvements.
- **Section 3** presents the survey findings in terms of public procurement practices throughout the procurement cycle.
- **Section 4** analyzes the relationships and interaction between the public and private sectors.

Section 1

Macroeconomic overview of public procurement in Lebanon

For comparative purposes and with consideration to OECD standards¹⁸, the survey used the following definition of public procurement:

“Government procurement consists of investment expenditure also known as Gross Fixed Capital Formation (GFCF) and current expenditure measured as Final Consumption Expenditure (FCE) less Compensation Expenditure (CE)”.

$$\text{Total Procurement} = \text{GFCF} + \text{FCE} - \text{CE}$$

Thus, and for the purpose of this study, the definition of public procurement excluded debt service, salaries and wages, subsidies and transfers, other expenses, and general reserves. The reason behind excluding subsidies and transfers is that they relate to transfers and expenses to entities such as the Council for the South or the Council for Development and Reconstruction (CDR), which include among other expenditures for procurement, compensation or others.

Based on the data obtained from the Ministry of Finance, the survey team was able to measure FCE and CE for the period 2001-2006. Current expenditures were aggregated from the following budget categories:

1. Materials and Supplies
2. External Services

¹⁸OECD, 2002, The size of government procurement markets.

The GFCF was calculated based on the figures made available by the Ministry of Finance and the CDR, the latter being responsible for most of the investment expenditures. Therefore, having the cumulative amount spent on completed contracts over 17 years, from 1993 until 2009, the yearly average was calculated and added to on-budget procurement compared to other countries¹⁹.

Were aggregated under investment expenditures:

1. Acquisition, including acquisitions of land, acquisitions of buildings, acquisitions for the construction of roads, ports and airports, acquisitions for the construction of water networks and acquisitions for the construction of electricity networks
2. Equipment
3. Construction in progress
4. Maintenance and
5. Other expenditures related to fixed capital assets

A. Share of public procurement in the Lebanese economy

Based on the definition above and taking into account the years for which actual expenditure data is available in Lebanon (2001 to 2006), it is believed that, on average, public procurement accounts for 13% of the Lebanese budget (excluding debt service and reserves) (Figure 5) and represents, at a central level, around 4% of Lebanon's GDP (taking into account both budgetary and CDR expenditures) (Table 4).

Table 4
Size of public procurement in Lebanon between 2001 and 2006 (million LBP)

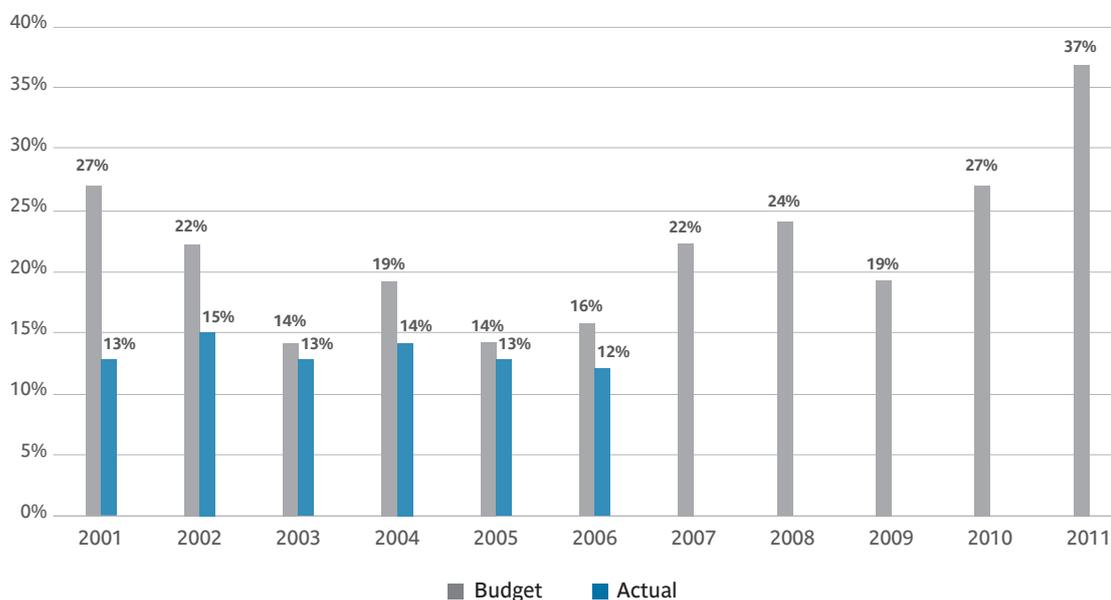
	2001	2002	2003	2004	2005	2006
Procurement under the Lebanese budget ²⁰	519,699	668,008	612,222	702,275	631,614	574,173
CDR procurement (average) ²¹	590,478	590,478	590,478	590,478	590,478	590,478
Total Procurement	1,110,177	1,258,486	1,202,700	1,292,753	1,222,092	1,164,651
GDP	25,941,000	28,234,000	30,276,000	32,848,000	32,955,000	33,826,000
Share of GDP	4%	4%	4%	4%	4%	3%

¹⁹The Council for Development and Reconstruction Progress Report of October 2010 (refer to footnote no.10).

²⁰Source: Ministry of Finance of Lebanon, The Financial Accounts of the Lebanese Government 1993-2006, 2007.

²¹Source: Yearly average calculated based on the numbers made available in the Council for Development and Reconstruction Progress Report of October 2010 (refer to footnote no.10).

Figure 5
Estimated share of procurement in the Lebanese budget (2001 - 2011)



This calculated 4 percent share of public procurement from GDP for the period 2001-2006 and that corresponding to procurement purchases made by central government agencies, is typical of developing countries²². It is however important to note that this share does not include the procurement made at a decentralized level. However, in the case of Lebanon, the latter is considered marginal due to the limited spending capacity.

For comparison purposes, it is worth noting that public procurement represents on average 29 percent of total government expenditure in OECD countries, ranging in 2011 from 12 percent in Greece to 45 percent in the Netherlands, marking a slight decrease compared to the 2007 OECD average of 30 percent²³.

B. Types of procurement

Going more in-depth, the survey tried to analyze the trends of public procurement in Lebanon according to the various categories of expenditures.

Goods

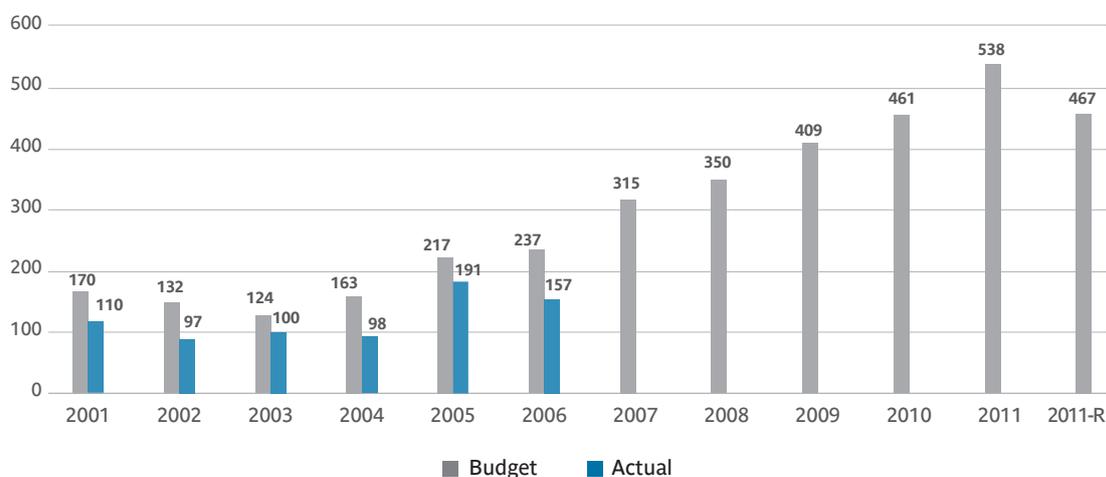
The analysis shows that current public expenditure rose across the study period. The amount spent on goods witnessed a steady increase (40 percent over six years, from 2001 to 2006).

²²Woolcock Stephen, 2008, Public Procurement and the Economic Partnership Agreements: assessing the potential impact on ACP procurement policies, London, LSE.

²³OECD, Government at a Glance 2013: Procurement Data, OECD Meeting of Leading Practitioners on Public Procurement, GOV/PGC/ETH(2013)2, 23-Jan-2013.

Figure 6

Procurement of goods based on budget and current expenditures (billion LBP)

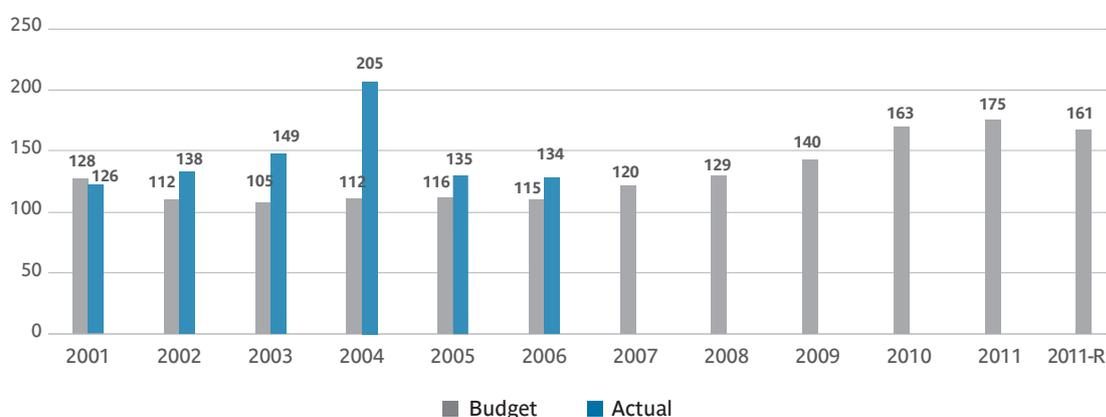


Services

The budget allocated to the procurement of services was much smaller, averaging 127 billion LBP and increasing only 26% between 2001 and 2011.

Figure 7

Procurement of services based on budget and current expenditures (billion LBP)



Investment spending

Over the period, investment spending fluctuated and showed noticeable discrepancies between the amount budgeted and the amount spent. This is explained by the failure to adopt medium or long term development plans and by inconsistent spending on construction projects which consistently fell below the budgeted amount. In other words, many projects were included in the budget of a certain fiscal year, but never implemented during that same year.

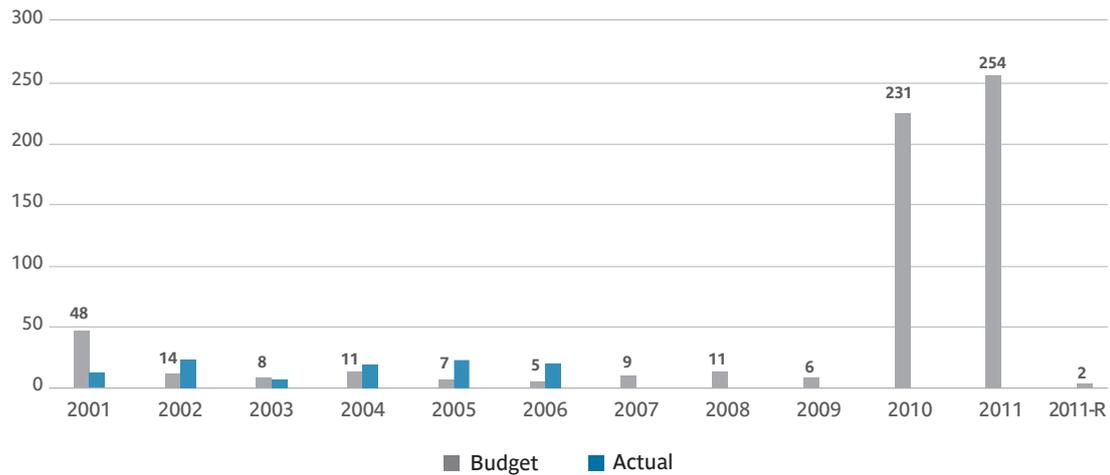
The study identified and analyzed five main categories of investment procurement:

1. Acquisitions

Refer to real estate purchases made by the government in view of implementing projects targeting basic infrastructure such as roads, ports, electricity, or water. Until 2009, **acquisitions account for a marginal share of the yearly budget (around 1%) and of expenditures (around 3%)**.

Figure 8

Size of acquisitions based on budget and current expenditures (billion LBP)



The surge in the budgeted amounts for acquisitions (Figure 8), equipment and furnishing (Figure 9) and projects under construction (Figure 10) for the years 2010 and 2011 are associated to the draft budget laws of 2010 and 2011 that were foreseeing higher government spending on capital spending (from a low level of 1.6% of GDP in Budget 2009 to 5.44% of GDP in Budget 2010 and 5.17% of GDP in 2011²⁴) and infrastructure to boost economic growth. Whether these budgeted figures were spent is doubtful given the low spending capacity available.

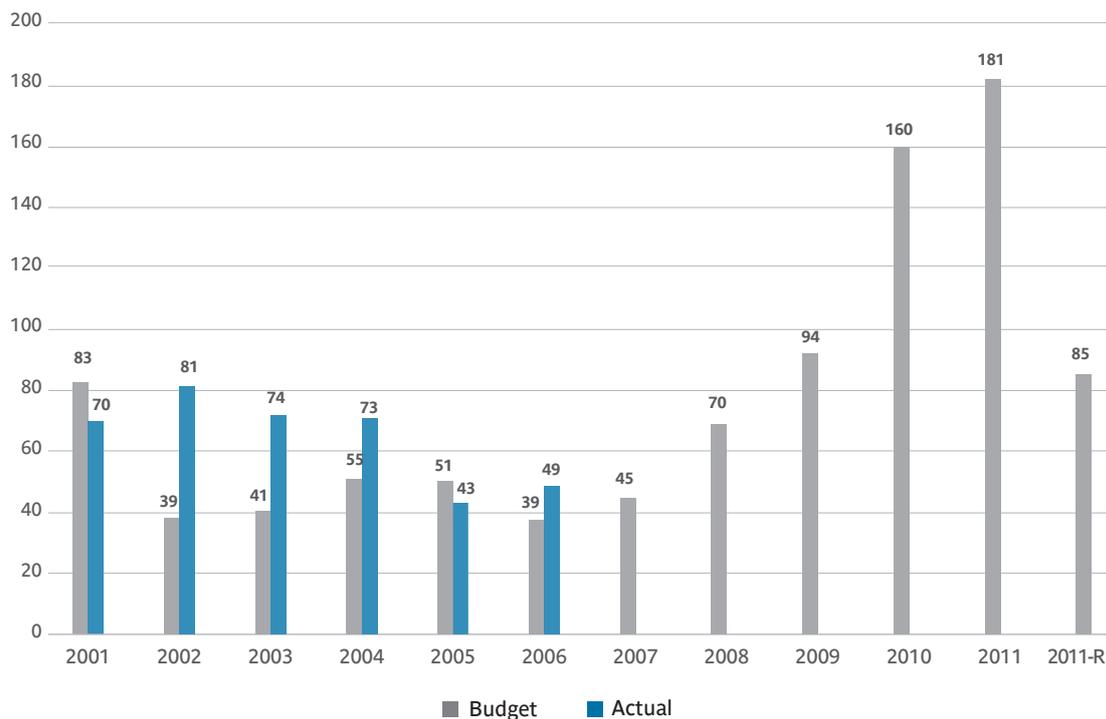
2. Equipment and furnishing

Fluctuations in this category appear as relatively limited as equipment needs are anticipated with relative ease. The various public entities are able to some extent to determine furnishings in need of replacement. A calendar based on a number of depreciation years per type of equipment/furniture allow oversight agencies to allocate approve or disapprove procurement requests. Nevertheless, discrepancies between budgeted and actual spending as well as the sudden increase in budgeted figures in 2010 and 2011 poses the questions as to the planning and the real needs identification processes.

²⁴Ministry of Finance, The Lebanon Business and Investment Summit - Talking points for Minister Haffar, September 28, 2010

Figure 9

Procurement of equipment and furnishings based on budget and current expenditures (billion LBP)

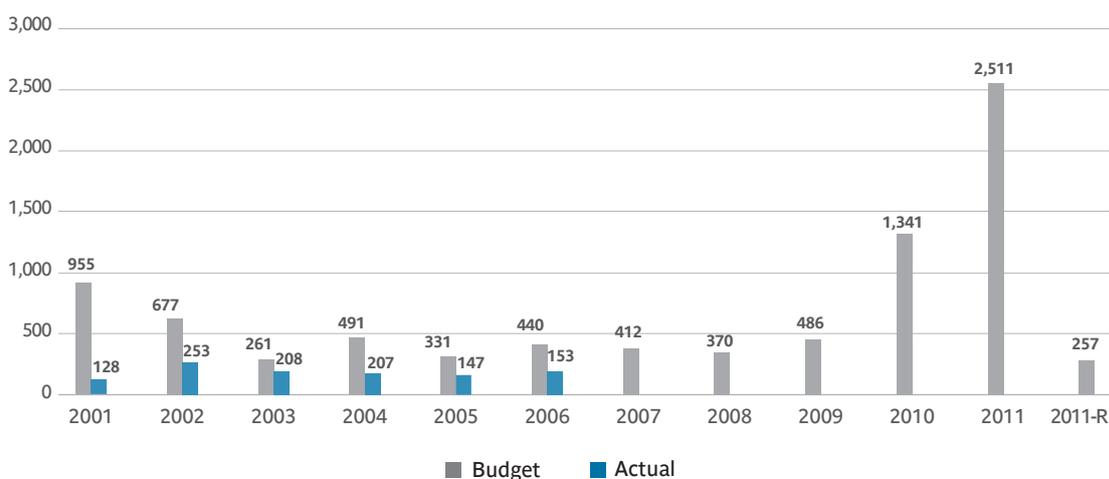


3. Projects under construction

The comparison between budgeted and spent amounts showed a significant discrepancy as spent amounts consistently fall below budgeted amounts. Deviations from procurement plans were frequent and coupled to low spending capacity.

Figure 10

Amounts allocated to projects under construction based on budget and current expenditures (billion LBP)



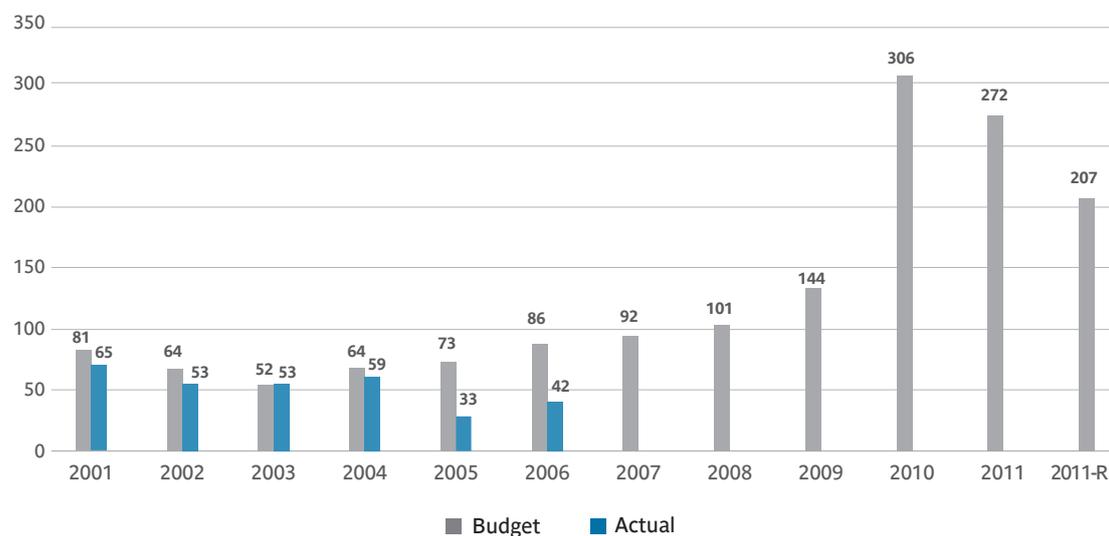
However, the amounts mentioned in Figure 10 do not include most of the procurement implemented through the CDR at the centralized level (yearly average of 590 billion LBP -eq. to USD 390,000-, around half of which was financed through the national budget and the other half through foreign funding).

4. Maintenance

The amounts spent on maintenance activities were almost always below the budgeted amounts for the whole period between 2001 and 2006.

Figure 11

Amounts allocated to maintenance based on budget and current expenditures (billion LBP)

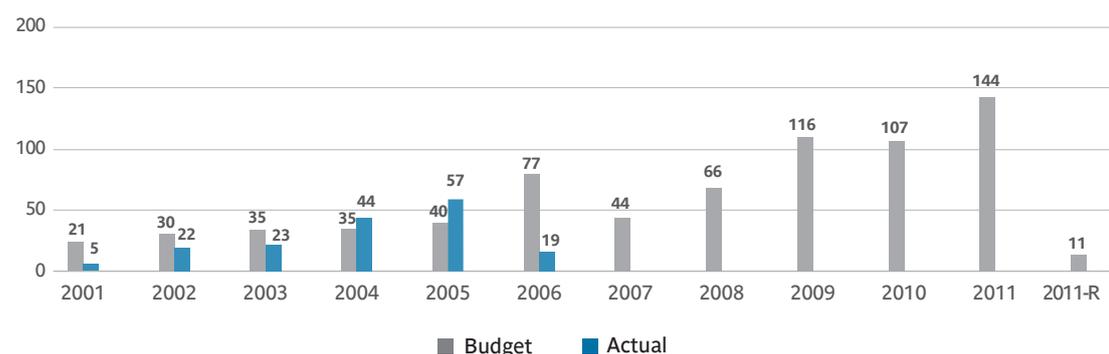


5. Fixed asset expenditures

This category includes consultancies related to the preparation of tender documents as well as supervision and contract administration of infrastructure projects. As for the amounts budgeted and spent, the discrepancies between planned and executed projects fluctuate to a lesser extent than in other categories of spending, except for the year 2006 that witnessed a war on Lebanon.

Figure 12

Amounts allocated to fixed asset expenditures based on budget and current expenditures (billion LBP)



In conclusion, and due to the absence of budgets voted since 2006 and thus of clear data on spending, it was difficult to draw a clearer picture on the size and nature of public procurement in Lebanon. However, the figures and trends provided by the survey allow us to say that public procurement in Lebanon is still not achieving its prospective economic and social gains and that the Government has a lot to earn by improving the procurement environment, practices and capabilities. A good starting point would eventually be to reinforce procurement planning and set clear priorities on the categories of spending to boost.

Section 2

Limitations of the Lebanese legal and institutional framework regulating public procurement

The poor management of the procurement function in Lebanon is partly attributed to the absence of a modern regulatory framework. The present section highlights the major deficiencies of the current legal and institutional framework and governing public procurement in Lebanon and scopes for improvement.

A. A closer look at the current laws

The legislative framework of public procurement in Lebanon is characterized by the absence of a public procurement law and of modern procurement procedures. Public administration and institutions actually abide by a set of regulations found in various Lebanese laws and decrees, mainly the Public Accounting Law of 1963 and the Tender Regulations of 1959, in addition to special provisions proper to specific public agencies.

The following are the main conclusions drawn from the analysis of the current laws. These could serve as a starting point to a common understanding of the current status and a consultation process that seeks to address the gaps in current regulations.

A fragmented legal framework

There is no public procurement law in Lebanon but a set of regulations found in various Lebanese laws.

The **Public Accounting Law (Decree 14969 of December 30, 1963)**, complemented by several decrees, constitutes the foundation of Lebanon's organizational and institutional framework for public procurement and provides for a system that is mostly centralized.

Other laws and decrees regulate the various phases of the public procurement cycle, such as:

- The General Terms of Reference for Public Works Contractors (Decree of May 20, 1942)
- The Penal Code (Legislative Decree 340/NI of March 1, 1943)
- **The Bidding System (Decree 2866 of December 16, 1959)**
- The Regulations of the Central Inspection Board (Decree 2460 of November 9, 1959)
- The publication of the Annual Procurement Plan (Decree 13221 of June 28, 1963)
- The Prequalification of Contractors (Decree 3688 of January 25, 1966)
- Stamp Duty (Legislative Decree 67 of August 5, 1967)
- The Disbarment from Participating in Public Bids (Decree 8117 of August 29, 1967)
- The Terms for Acceptance of Completed Public Works with Some Minor Flaws or Defects (Decree 14601 of May 30, 1970)
- The State Consultative Council (Decree 10434 of June 14, 1975)
- The financial guidelines for municipalities and public institutions (e.g. Decree 5595 of September 22, 1982)
- The Legislative Decree on the organization of the Court of Audit (Decree 82 of September 16, 1983)
- The General Budget and Annexed Budgets of 2001 (Article 73 of Law 326 of June 28, 2001)
- The Classification of Contractors and Consultants (Decree 9333 of December 26, 2002)
- The Identification of National Goods Benefiting from Preference in Public Tenders (Decree 10515 of July 23, 2003).

In addition, the Ministry of Defense, Internal Security Forces and General Security are expressly excluded from the procurement regulations of the Decree of 1959. As such, they apply:

- The Administrative Terms of Reference for Army Works (Decree 11573 of December 30, 1963)
- The Administrative Terms of Reference for Army Supplies (Decree 11574 of December 30, 1968)
- The Administrative Terms of Reference for Internal Security Forces Supplies (Decree 2868 of April 16, 1980).

The fragmentation of the legislative framework has created loopholes that have given a number of public entities, especially public institutions, the opportunity to develop and follow their own set of procurement rules. Article 2 of the Public Accounting Law allows municipalities, public enterprises and autonomous agencies to follow their own regulations in a number of cases. Moreover, the Army has the right to follow a set of special rules for procurement in the case of Arm Secrecy that applies under necessary and exceptional reasons (Articles 145 and 147 of the Public Accounting Law). Also, public institutions and municipalities (other than large municipalities) are given a larger margin of discretion in choosing methods other than public bidding (e.g. Shopping or Invoice Purchasing for municipalities and Contracting by Mutual Consent or Direct Contracting for public institutions).

In the case of loans and grants, the laws also allow for the application of donor agencies' guidelines and regulations in the case of procurement that is partially or fully funded by donors.

B. A law that does not foster innovation...

The laws dating from 1959 and 1963 are obsolete and **do not accommodate for new procurement trends** such as electronic procurement (E-procurement) or sustainable public procurement or life cycle costing. When they do explicitly prohibit the use of these techniques, they do not encourage or allow for integration of modern ways.

C. ...Nor improve practices

In practice, the current laws exclude **requirements for good public procurement practices** such as market studies or procurement plans, part of the budget preparation exercise. They do not specify nor recommend the process to identify, assess, and classify needs nor the links with the budget preparation and execution processes. In fact, needs assessment is rarely mentioned in the regulations, to the exception of a number of public institutions such as the CDR.

When it comes to procurement methods, open competitive bidding ("Public Tender") is the recommended method by default. However, for specific cases, other methods may apply, among which:

- "Restricted Tender" which means that the bidding opportunity is limited to a specific list of bidders depending on the nature and type of goods or works.
- A "Request for Offers" or "Request for Proposals" or "Invitation to Bids" whereby a list of bidders is set by the contracting authority (no specific guidelines) and the request invitation is sent to the list. This method is usually limited to a ceiling of LBP 100.000.000. Above this threshold, the procurement decision is subject to the discretion of the concerned Minister.
- "Contracting by Mutual Consent or Direct Contracting" or the use of negotiated agreements that require the approval of the Council of Ministers (Method used for the procurement of Goods and Works).
- And finally, "Shopping" or "Invoice Purchasing", for a value less than LBP 3.000.000.

The various procurement methods and thresholds are summarized in the below table:

Table 5
Procurement methods used under the Lebanese PAL

	Invoice Purchasing or Shopping	RFO	Public Tender
Works	< LBP 3,000,000 (eq. to USD 2,000)	LBP 3,000,000 < LBP 100,000,000 (eq. to USD 2,000 < USD 66,666)	> LBP 100,000,000 (eq. to 66,666)
Goods	< LBP 3,000,000 (eq. to USD 2,000)	LBP 3,000,000 < LBP 100,000,000 (eq. to USD 2,000 < USD 66,666)	> LBP 100,000,000 (eq. to 66,666)
Services	No thresholds		

D. Organizational aspects and roles need to be clarified

The responsibilities of bid evaluation committees are not clearly specified in the law, especially in the case of non-Public Tenders, which results in significant practical difficulties. The law (in this case, the Tender Regulation Law) only describes the way these committees are formed. Their scopes of work and evaluation methods are determined by interpretation or practice. Their roles are often restricted to matching the contract’s clauses with the best offer (mostly considered as lowest price), strictly according to the conditions and letter of the contract.

E. And competition further encouraged

Though the law provides for principles such as **transparency (through advertisement), equality, and competition**, it sometimes remains ambiguous as to their application, which has provided for many exceptions such as the authorization of Direct Contracting under a Council of Ministers decision. Unfortunately, this loophole has been repeatedly abused by many public entities over the years.

F. Procurement is not recognized as a “Profession”

The Lebanese Civil Service does not recognize public procurement as a profession. Accordingly, there are **no specific job profiles and descriptions, definition of responsibilities or qualifications, competencies framework and training, available for this position and that would eventually allow for efficient human resources management**. Public procurement departments can be found, though rarely, in public institutions across Lebanon. However, when found, the procurement position maintains weak within the organization and has vague job descriptions.

A substantive step forward would be to recognize public procurement practitioners as a core group of professionals, key to the management of the organization, and provide them with clear job descriptions and reporting frames, a competencies framework, up-to-date curricula and integrity guidelines that would enable them to successfully perform their tasks.

G. Oversight remains weak: many players, limited results

In practice, oversight is still weak, especially when it comes to contract execution or the preparation of supervision reports. Internal auditors are appointed within each administration by the Ministry of Finance. External audit, when conducted, is performed by certified accounting professionals (as per the provisions of the Public Budget Law Article 326). Finally, the Court of Audit is responsible for ex-ante controls and post audit.

The Court of Audit, being one of the main institutions in charge of overseeing public procurement contracts and transactions, exercises four types of oversight:

- Ex-ante control over ministries and public administrations (However, a large number of public institutions and municipalities fall outside the scope of this type of control): A compliance control is performed on the procurement transaction prior to the commitment of public funds. It concerns the sales of assets and properties above LBP 5.000.000 as well as contracts for goods and works exceeding LBP 75.000.000. Approximately only 3,000 transactions (out of 50,000 estimated procurement transactions per year) are submitted to the ex-ante control of the Court of Audit per year.
- Post audit: Estimations reveal that not more than 100 projects per year are subject to the ex-post oversight of the Court of Audit. However, these types of audit may include public institutions that are not subject to the ex-ante audit of the Court such as the CDR, the EDL, etc.
- Control of Accounts.
- Evaluation/Oversight of Civil Servants, that allows for the legal pursuit of any civil servant that violates the laws and regulations of public procurement.

Nevertheless, it remains that the non-availability of sectorial experts, the limited automation of procedures and files, and the absence of Standard Bidding Documents are rendering audit operations performed by the Court of Audit lengthy and are hindering any steps forward towards the adoption of performance based audits.

Other types of administrative oversight are exercised by:

- Expenditure auditors: They perform ex-ante control over budgeted/planned expenditures, prior to their commitment, to ensure the availability of funds, the proper classification of the transaction and its compliance with laws and regulations.
- The Central Inspection Board.
- Financial Auditors assigned by the Ministry of Finance.
- Certified Auditors hired on a contractual basis or Auditing Firms.
- The Parliament during public hearings or through the work of parliament committees.

H. There are no specific complaint mechanisms

There is **no official separately dedicated provision concerning official complaint mechanisms.** However, there is an indication on how the Suppliers and Contractors can file complaints at the Central Inspection Board, Court of Audit or at the Tender Board.

An attempt at standardizing Bidding Documents

In 2008, the Ministry of Finance, with the assistance of the World Bank, compiled a **National Procurement Manual** based on the existing legal framework, and produced a set of **5 Standard Bidding Documents (SBDs)** reflecting best practices and balanced conditions of contracting.

The SBDs addressed the procurement of goods, works and services in the Lebanese public sector. Three documents tackled large contracts and two were simplified and dealt with smaller contracts.

The SBDs were reviewed by practitioners at various ministries and public institutions and were disseminated across the public sector during awareness-raising and benchmarking workshops carried out by the Institut des Finances Basil Fuleihan.

The SBDs and the National Procurement Manual are still in a draft version pending the official approval of the Council of Ministers. To date, their use is not mandatory.



I. A new public procurement law on the way?

In an attempt to modernize the current framework, the Office of the Minister of State for Administrative Reform (OMSAR²⁵) chaired a National Committee for drafting a new Public Procurement Law.

The Draft Law was reviewed by experts from EU-SIGMA²⁶.

It was approved by the Council of Ministers and sent to the Parliament in October 2012 and is now being scrutinized by the relevant Parliamentary Commissions.

The ratification process at the Parliament may take some time and the Draft Law may still be subject to amendments before it is approved in a final format.

What is expected by all procurement stakeholders, including the private sector, is for the new legislative framework to provide enhanced guidance on the proper implementation of public procurement so that the efficiency of the system is not measured only by formal compliance of procedures with the law but also by its contribution to achieving national goals.

It is also expected that the new legislative framework offers consolidated regulations, through the adoption of Standard Bidding Documents and General Conditions of Contracts, in addition to building a body of knowledge and a community of practice.

²⁵www.omsar.gov.lb

²⁶www.oecd.org/site/sigma

The 4C rule for a comprehensive public procurement legal framework

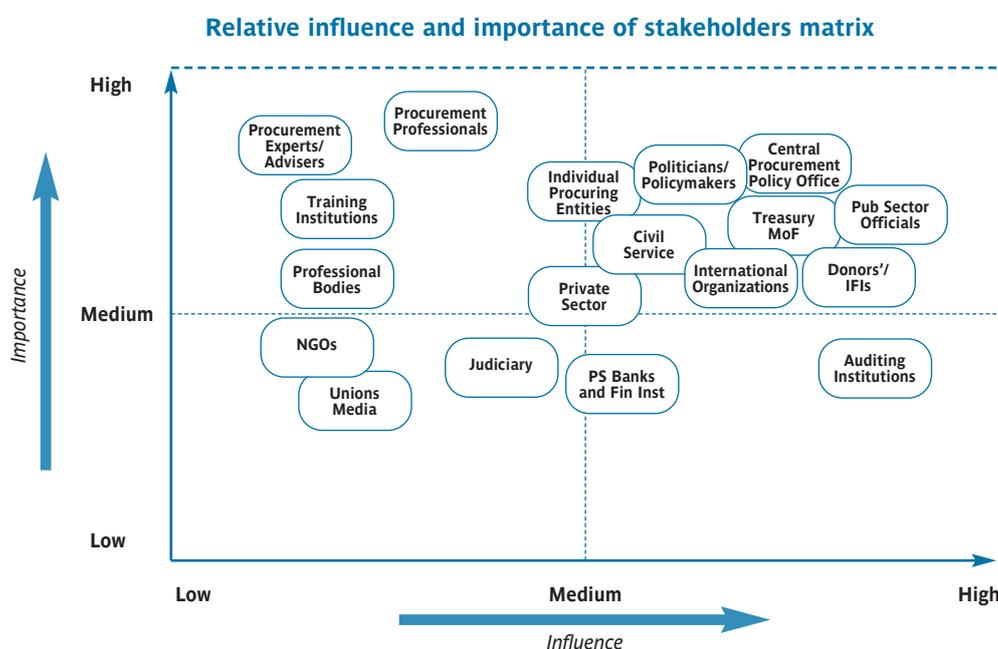
A modern legal framework that would provide an enabling environment for public procurement to fulfill its economic and social potential is expected to be:

1. Clear (in its drafting)
2. Complete (in terms of scope, procedures, etc.)
3. Consolidated
4. Contemporary

J. Procurement stakeholders - Who are the main players?

Though a major player, public procurement is not only about the public sector. It is an activity that puts at play governments, private companies, and individuals. The influence and importance of each player is determined by the volume and value of its procurement operations. It is also dependent on its contribution to modernizing the system itself. The generic public procurement stakeholders' matrix, provided in Figure 13, illustrates well the relative influence and importance of each stakeholder including judiciary, media and civil society. It also illustrates the high importance of training and creating professional bodies though their influence on the overall process of reform is believed to be rather medium-low.

Figure 13
Public procurement stakeholders matrix²⁷



²⁷The OECD/DAC - World Bank 3rd Joint Roundtable on Strengthening Procurement Capacities in Developing Countries, 2004, Good Practice Paper on Procurement Capacity Development.

In the Lebanese context, six institutions are involved in advancing the public procurement reform agenda. These are:

The Tender Board

Created in 1959, the Tender Board, operating under the tutelage of the Central Inspection Board (CIB), is in charge of centralizing and carrying out the necessary procurement processes for goods and works on behalf of ministries, for amounts exceeding LBP 100,000,000 and based on the General Schedule of Tenders approved annually with the budget. The Tender Board is also responsible for reviewing tender documents, bid openings and evaluations.

However, over the years, the Tender Board has suffered from a lack of political support, funding and competent staffing, which has repeatedly held it up from undertaking even routine tasks in an efficient way, such as the review of TORs or to conduct market intelligence and publish official statistics. Since 2012, with the appointment of a new Director General, the Tender Board is striving to rebuild its capacities and regain its position at the core of the national procurement framework.

The Office of Minister of State for Administrative Reform (OMSAR)

OMSAR was established in the 1990s and is in charge of conducting administrative reform in the Lebanese public sector to improve public sector management. As of 1998, OMSAR was given the responsibility to explore procurement reform. It has drafted a new public procurement law that was submitted to the review of EU-SIGMA experts and to some consultations. The draft law was referred from the Council of Ministers to Parliament in October 2012 and is now pending Parliament's vote.

In August 2012, OMSAR also launched a Service Procurement Notice for the provision of technical support for the modernization of public procurement in Lebanon - a project of 1.7 Million Euros, financed by the EU over 30 months. The project aims to contribute to the development and implementation of a sound and efficient legal, institutional and operational foundation for the effective functioning of the public procurement system in Lebanon, in accordance with international legal and institutional models and practices.

The Ministry of Finance (MoF)

The Ministry regards public procurement as a core component of resource management reform and a priority area of action to lower the costs of public expenditures and ensure Value for Money, in a country facing a structural fiscal deficit and a debt/GDP ratio of approximately 140%. The MoF has backed-up the reform of the legal framework by a series of initiatives that aimed at improving procurement noteworthy of which is the publication of draft standard bidding documents and the creation of high quality specialized training modules for civil servants including certified training in public procurement.

The Council for Development and Reconstruction (CDR)

The CDR is a public establishment reporting to the Council of Ministers. It was designated since 1977 as the agency responsible for preparing a program for reconstruction and development and for implementing related economic, financial and social policies, in cooperation with various ministries, public interest institutions and concerned municipalities. In practice, since the end of the civil war in 1990, the CDR has been in charge of large infrastructure and reconstruction projects and has been managing a large share of international aid projects to Lebanon, and in particular their procurement components. The foreign-financed portion of the public investments executed by the CDR and ministries are included in the 19% of public spending that are outside the regular budget.²⁸

²⁸World Bank. 2007. Lebanon - Economic and social impact assessment from recovery to sustainable growth. Washington D.C. - The World Bank, p.12 (<http://documents.worldbank.org/curated/en/2007/01/7510994/lebanon-economic-social-impact-assessment-recovery-sustainable-growth>).

The Court of Audit

The Court of Audit was established in 1951 to oversee the management of public funds. It is composed of judges (around 24), controllers (around 40) and account auditors (around 26). It includes administrative employees and an independent Public Prosecution. The Court of Audit performs several types of control:

- Administrative controls, mainly ex-ante control to ascertain the validity of transactions and their conformity with the budget, and with established laws and regulations; and a posteriori (ex-post) control to evaluate financial transactions and their overall results.
- Judicial controls that consist of control over the accounts and control of officials who manage or use public funds.

The Court of Audit also issues authoritative interpretations and advisory opinions.

Institutions that are subject to the oversight of the Court of Audit are: Central government agencies, selected municipalities (usually large municipalities, 70 of a total of more than 1,000 municipalities across Lebanon), selected public institutions/enterprises.

Introducing changes in the Public Accounting Law would help reform the Court of Accounts that is currently operating outside the scope of modern internal controls for Governments developed over the last 20 years.²⁹

Institut des Finances Basil Fuleihan

Established in 1996 to support public finance modernization as the training and documentation center of the Lebanese Ministry of Finance, the Institut des Finances Basil Fuleihan collaborates with public entities in Lebanon and the MENA region in five mission areas:

- Human capital formation in public finance
- Development of partnerships and exchange of good practices
- Inspiring innovation and excellence in the public service
- Facilitating research, publication and access to information
- Promoting economic and financial literacy.

The Institute is a regional training center for the World Customs Organization (WCO).

It hosts the Secretariat of the GIFT-MENA network of civil service training schools.

²⁹World Bank. 2007. Lebanon - Economic and social impact assessment from recovery to sustainable growth. Washington D.C. - The World Bank. <http://documents.worldbank.org/curated/en/2007/01/7510994/lebanon-economic-social-impact-assessment-recovery-sustainable-growth>.

Section 3

Public procurement practices in Lebanon

The following section describes the main conclusions of the survey on public procurement practices. They are presented throughout the various phases of the procurement cycle. It is important to note that these findings are indicative of current trends and hope to pave the way for a more in-depth statistical survey and analysis.

The below graph provides an illustration of the public procurement market structure in Lebanon and is intended to help the reader better understand the various practices.

Figure 14

Lebanon's market structure for public procurement contracts per type of contracts

Average value of contracts	High	Low
High	CDR Ministry of Public Works	Tender Board Line Ministries
Low	State Owned Enterprises (e.g. EDL)	Municipalities Public hospitals Small Ministries

A. Pre-contracting phase

- **Needs assessment**

Despite the crucial importance of the needs assessment phase in any procurement process, very few public entities perform this task according to internationally approved standards. Ministries and public institutions proceed to their needs assessment based on the Budget Circular issued in April of each year by the Minister of Finance. The identified needs are presented in a report entitled General Schedule of Tenders which only includes the bids to be undertaken via the Tender Board, for contracts exceeding LBP 100,000,000. Accordingly, not all procurement operations are performed by the Tender Board.

- **On average, institutions reported relying on the Tender Board for only 24% of their procurement**

This indicates the need to conduct further analysis of the role played by the Tender Board and the reasons behind this rather restricted reliance on its services. In 2011, the estimated amount of contracts procured by the Tender Board did not exceed USD 200 million.³⁰

- **Only 50% of the sampled respondents reported preparing an annual procurement plan; a share that goes up to 78% among donor-funded projects**

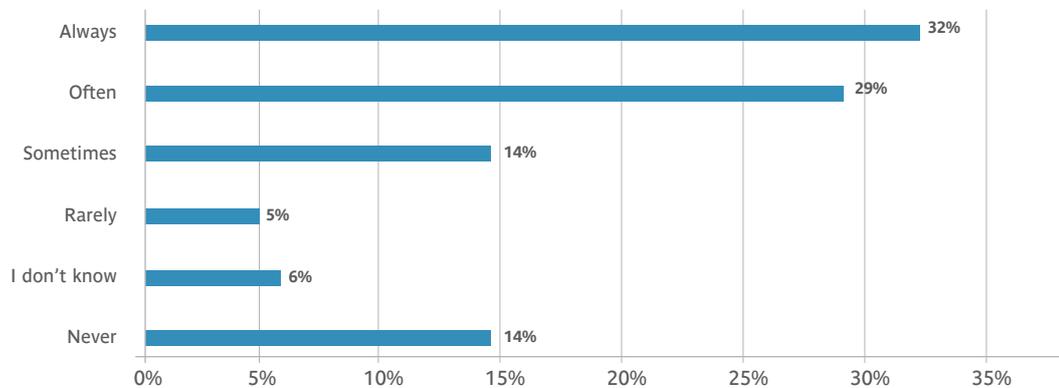
In addition, 80% of those who do prepare an annual procurement plan admit modifying it in response to emerging needs.

³⁰Le Commerce du Levant No. 5636, Janvier 2013, Lucien Chardon, Dossier «Les mauvais comptes font les bons amis», PP.49-51.

- There are no unified procedures for the development of technical specifications**
 The approach is selected on a case by case basis. Procurement officials develop technical specifications either based on previous files, or by relying on the technical knowledge of specific employees within the administration, or on internet search, or by hiring consultants. They may even ask for the help of the suppliers themselves.
- Procurement trends**
 There is an almost unanimous lack of awareness of new procurement trends such as green procurement, e-procurement, and sustainable procurement. **Only 30% of respondents acknowledge taking into consideration environmental concerns when setting the technical specifications of the bid.** For instance, specifications for public works typically omit any reference to energy-saving measures. A car is described in terms of its year of manufacture, its power engine, its passenger capacity but without paying consideration to any environmental criteria such as fuel efficiency or carbon dioxide emissions. Social concerns such as the promotion of small businesses or the protection of employees' rights are seldom incorporated. Public entities usually require bidders to submit an affidavit (quittance) certifying their registration at the National Social Security Fund and many require the implementation of public safety measures in works contracts.
- In preparation of bids, **60% of respondents reported conducting market studies either always or often (Figure 15).**

Figure 15

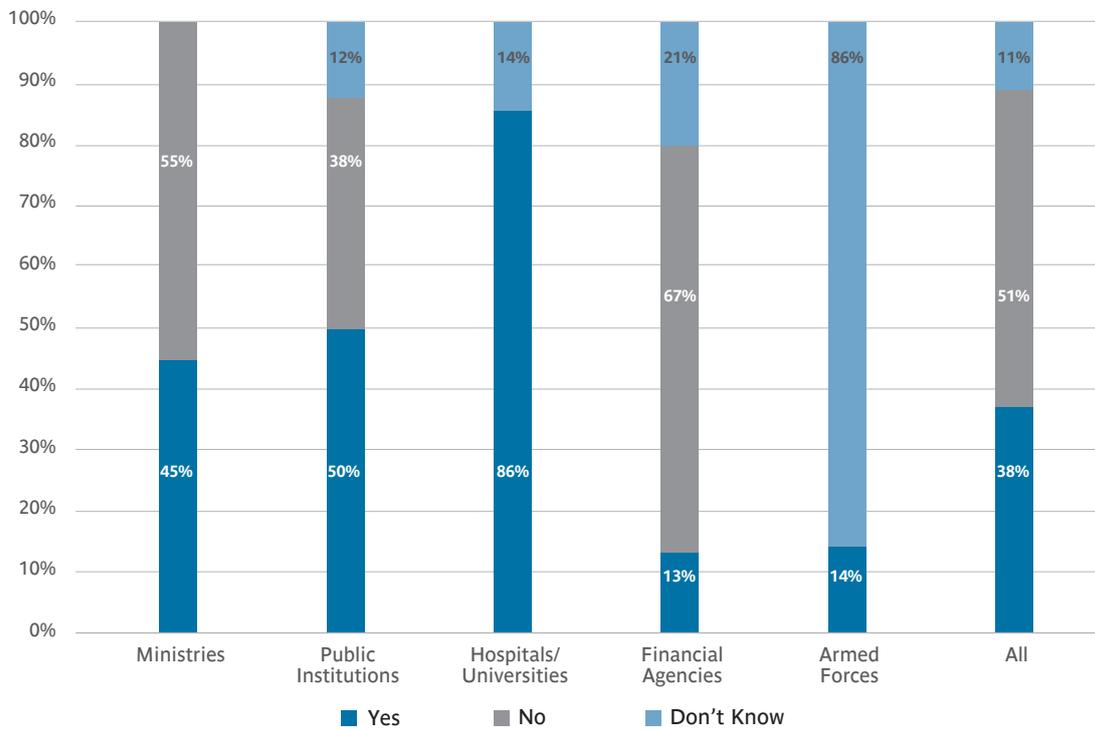
Do you conduct market studies to ensure the availability of the required goods and services?



- Around 50% reported having price estimates in preparation for the procurement process and only 38% of the respondents reported having a price database (Figure 16)**
 A percentage that drops to 13 and 14% respectively in the case of oversight agencies and armed forces.

Figure 16

Do you have a price database for goods and services?



- A significant lack of familiarity with pre-qualification procedures was noted, since the Public Accounting Law does not regulate the issue of pre-qualification and the creation of suppliers' lists. Pre-qualification procedures appear to be restricted to institutions which undertake large projects, such as the Ministry of Public Works, the CDR and Electricité du Liban (EDL). Only 37% of public administrations rely on pre-qualification. And 25% find that the pre-qualification process is undertaken transparently and based on equal opportunity.
- Around 58% of the respondents reported having a mechanism for registering suppliers in the case of goods, a share that increases to 68% in the case of works
 This practice would benefit from being transferred to other procuring entities. Moreover, in some institutions that do perform registration and classification (such as the Ministry of Public Works and the Ministry of Energy and Water Resources), the process needs to be modernized.

In many instances, public entities and municipalities which do not have a registration process rely on the lists developed by the CDR and the Ministry of Public Works.

Contractors classification and registration

The classification of contractors is currently conducted based on Decree 3688 of January 25, 1966, that determines the conditions and qualifications of candidates wishing to bid for public works.

Candidates are classified according to the type of work: roads, public works, public buildings, water projects and energy projects.

The contractors are sorted by type, volume and value of contracts. Their qualifications are assessed based on their performance under previous projects, their assets, years of experience and field of specialization. Successful applicants are classified in Grades 1, 2 and 3.

This classification qualifies them to participate at their grade level. Contractors can be blacklisted, upon unsatisfactory performance, but this practice remains rare.

If well managed and continuously updated, this registration process can become a very useful tool to all procuring entities and to suppliers wishing to do business with the Government. It has to:

1. Provide equal opportunity and access to authorized suppliers to all government procurement opportunities
2. Track suppliers' activity and performance and blacklist non performing suppliers
3. Rate suppliers on their performance
4. Publish an electronic catalogue and price list

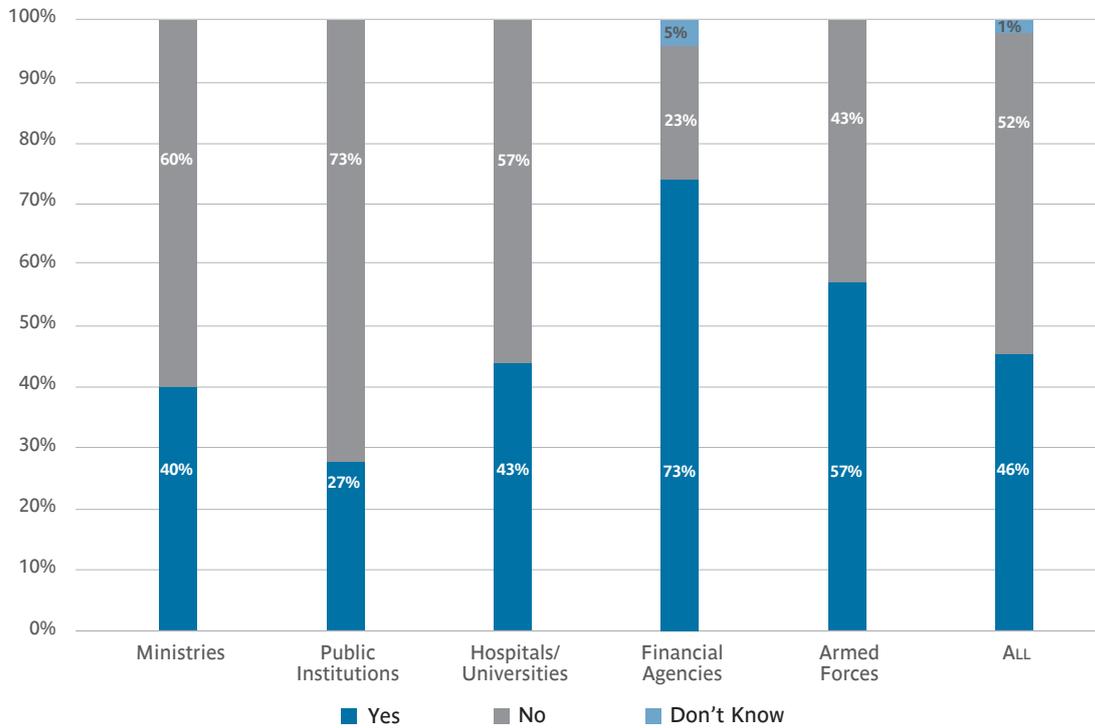
- **More than 80% of the respondents reported using standardized terms of reference (TOR) or Standard Bidding Documents (SBDs)**

This response designates the practice within the institution itself. However, despite some similarities, the Terms of Reference vary from one institution to another and may even vary from one project to another. The variety of documents used complicates the procurement procedure from the supplier's point of view and leads to inefficiencies that are costly in time and money. While the administrative terms are often simple and straightforward, the technical terms are viewed as complex and often detailed in a foreign language for ease of use and understanding.

- Most of the respondents said that the TORs do specify the conditions for participation in the bid as well as the required working language, the currency and deadlines. **However, only 64% of the respondents reported including evaluation criteria as most often the criteria are restricted to the lowest price.** This happens to be one of the most frequent complaints voiced by respondents who stated that relying on the lowest price as a sole criterion of selection prevented them from being able to control the quality of the procured goods. These results show an obvious need to adopt better criteria such as best value for money, whole life cycle cost, etc.
- Meanwhile, **around 50%** of the respondents declared having **seen or being aware of the Standard Bidding Documents developed by the Ministry of Finance and the Institute of Finance (Figure 17).**

Figure 17

Have you seen the SBD developed by the Ministry and Institute of Finance?

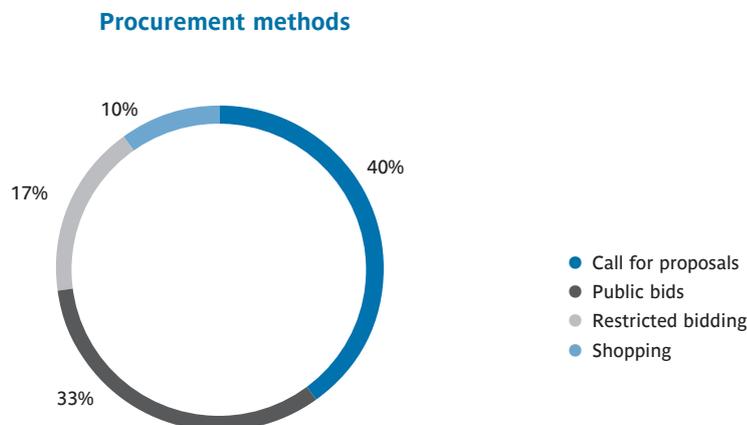


B. Evaluation and contract/bid award

- As highlighted in the legal review, the laws offer procurement entities a wide array of procurement methods. The survey revealed that **the most commonly used procurement method is the Request for Offers (40%), followed by public tenders (33%) and finally shopping (10%). Restricted bidding is seldom used (17%)** (Figure 18).

Figure 18

What is the most commonly used procurement method?



- Contracting by Mutual Consent or Direct Contracting is also a method used and abused by ministries and public institutions for the procurement of goods and works. Though the use of this method is restricted by the law to particular cases and emergencies, and subject to the discretion of the concerned Minister, it can be legalized by a Decision of the Council of Ministers. In the past few years, and in the absence of a voted budget, many ministries and public institutions have relied on Direct Contracting. The table below draws upon information made available through the Minutes of Meeting issued by the Council of Ministers and provides evidence of the excessive use of Direct Contracting in the year 2012.

Table 6

Direct contracting requests approved by the Council of Ministers in 2012

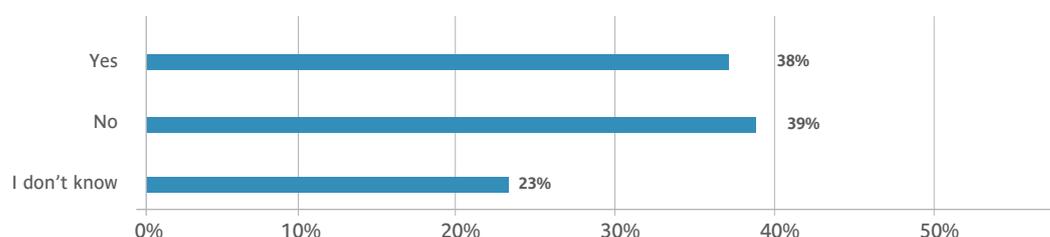
Organization	Type of Procurement	Date of the COM Meeting
Ministry of Public Works	Direct contracting by the Railway and Public Transport Unit for the purchase of 15 buses	10 January 2012
Ministry of Finance	Direct contracting for purchasing supplies and equipment until the end of the year 2012	1 February 2012
Ministry of Finance	Direct contracting by the General Directorate of Land Registry, based on price inquiry, for the procurement of goods, works and services until the end of the year 2012	1 February 2012
Ministry of Education and Higher Education	Direct contracting by the Lebanese University for the purchase of a touristic car	29 February 2012
Ministry of Agriculture	Direct contracting (not specified)	7 March 2012
Ministry of Education and Higher Education	Direct contracting by the Directorate General of Education for the purchase of supplies, equipment, maintenance services, software and automation works until the end of 2012	14 March 2012
Ministry of Public Works	Direct contracting of the Maritime Training and Consultation Company	2 May 2012
Ministry of Tourism	One-Year contracting with the Euro-Sport TV Network for advertisement	9 May 2012
Ministry of Agriculture	Direct contracting of factories providing animal feeds	29 May 2012
Ministry of Industry	Purchase of equipment, furniture and office supplies for the Minister's office and other related offices	12 June 2012
Ministry of Education and Higher Education	Renewal of a direct contract between the Lebanese University and Prestige Management Company for managing and operating students units at the Hadath Campus for 3 months (Conditions and rates remained unchanged)	27 June 2012
Ministry of Agriculture	Equipment of the "Salon for Lebanon" at the International Fund for Agricultural Development (IFAD)-Rome, Italy	12 July 2012
Ministry of Telecommunications	Direct contracting of Booz and Co to prepare a study on the telecommunications sector	18 July 2012
Ministry of Justice	Direct contracting for cleaning services, transportation of furniture and archiving (based on the transfer of 150 million L.L from the treasury reserve allocated to the Ministry of Finance by decree No. 8345 dated 15/06/2012 to the Ministry of Justice)	8 August 2012
Ministry of Justice	Direct contracting by the Directorate of Roads and Buildings at the Ministry of Public Works for the rehabilitation of the Ministry of Justice, including rooms and floors damaged by a fire	8 August 2012
Ministry of Interior and Municipalities	Direct contracting by the General Directorate of General Security of private health and medical companies for the year 2013	5 September 2012

Organization	Type of Procurement	Date of the COM Meeting
Ministry of Public Works	Purchase of machinery and equipment for snow	16 October 2012
Ministry of Finance	Direct contracting of Deloitte and Touch for the provision of consultancy services related to tax reform	31 October 2012
Ministry of Public Health	Renewal of the Ministry's license to purchase medicine as well as medical, laboratory and pharmaceutical supplies (within the budget ceiling available in the Budget Proposal of 2013)	31 October 2012
Ministry of Defense	Army procurement of supplies for the year 2013 as follows: a- direct contracting for weapons and munitions b- direct contracting based on request for offers/quotations for other supplies	14 November 2012
Ministry of Interior and Municipalities	Direct contracting by the General Directorate of General Security of Caritas to provide meals for prisoners (upon demand)	14 November 2012
Ministry of Tourism	Construction of an office on the Lebanese-Syrian borders at Masnaa	14 November 2012
Ministry of Agriculture	Direct contracting for the organization of the 7 th Session of the Alimentary Constitution Committee held in Beirut on 21-25 January 2013	12 December 2013
Ministry of Social Affairs	Purchase of medicine	19 December 2012
Dar Al Fatwa	Purchase of furniture goods	27 December 2012
Ministry of Finance	Purchase of goods, equipment, maintenance services and automation (extension of the COM Decision No.1 dated 9/3/2012, until the end of the year 2013, allowing direct contracting based on a price inquiry)	27 December 2012
Ministry of Finance/ Customs Administration	Purchase of goods, equipment, maintenance services and automation (extension of the COM Decision No.66 dated 15/11/2011 until the end of the year 2013, allowing direct contracting based on a price inquiry)	27 December 2012

- When asked about the selling or leasing of government properties, most of respondents were not able to answer the question. This option, widely used worldwide, can be used under the current laws.
- Procurement methods differ when the source of funding is a foreign entity (donors such as the World Bank, the EU, or the UNDP, etc.), an issue which is common for certain institutions such as the CDR and completely unfamiliar to others: The survey reveals that **the rules that apply under foreign funding are unknown to 54% of public procurement practitioners** (Figure 19).

Figure 19

Are procurement rules different in case of foreign funding?



Procurement under foreign funding - The role of Project Implementation Units

The establishment of Project Implementation Units (PIU) at line ministries to manage donor-funded projects is a common practice of the donor community, mainly of international organizations such as the World Bank, the UNDP, the EU and others.

The capacity of the PIU staff is intended to compensate for the lack of capacity in sector ministries, especially in specialized areas of project implementation. PIUs staff are highly skilled Lebanese, hired and paid as consultants, usually under fixed-term contracts, that can be financed either through donor-project funds or through the Lebanese budget.

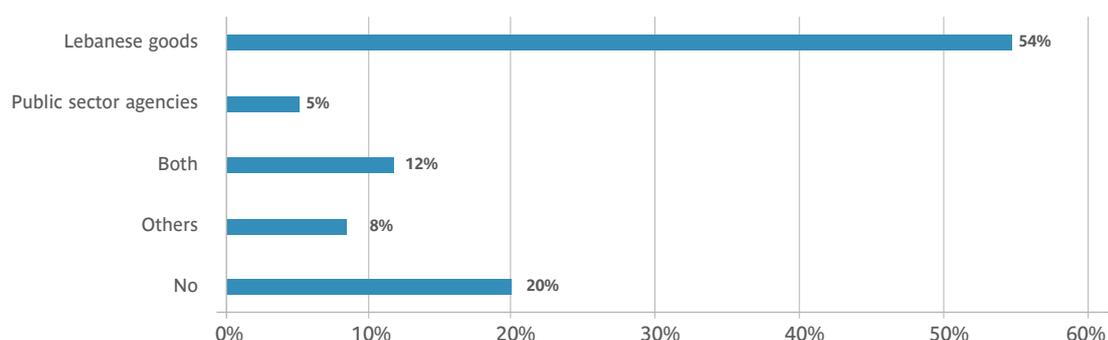
The existence of PIUs poses a number of challenges among which the incapacity of ministries to retain PIUs staff after the project is completed, due to the old civil service recruitment processes. This situation poses real risks to the sustainability of projects achieved through donor-funded assistance.

- **Invitations to tender are often announced through traditional means such as public announcements and advertisements in newspapers with very few exceptions.** Ministries advertise their needs mainly in the official gazette and at least in three other local newspapers selected by the Ministry of Information. Survey results show that advertisements are sometimes placed in low-circulation newspapers which decrease the effectiveness of the procurement process; and that little effort is made to exceed the minimum required by law in terms of the number of newspapers or in using media or electronic advertisement (to the exception of a number of public institutions). Municipalities and public hospitals post their advertisements on their own billboards. **The content of the notice is limited to basic information and tells very little about the nature of the contract.** Furthermore, the notification of unsuccessful bidders is not systematic.
- **The timeframe of advertisement legally varies between 5 (in case of emergency) and 15 days (as minimum required period in case of normal situations), prior to bid submission.**
- **In the case of requests for offers, there is a noticeable absence of any predetermined lists of potential suppliers.** There are no legal requirements (except if specified in the TOR) for the timeframe between the submission of proposals and the notification of contract award.
- **In the case of direct contracting and shopping, there are no predetermined rules of selection set by the law.** The contracting institution is given full discretion to determine whether the contracted party fulfills the required qualifications or not. Quotations from several suppliers may be requested by certain institutions. **Only 53% of the respondents report using standardized templates for shopping or invoice purchasing.**
- **In the bid evaluation process, 70 to 80% of the respondents report following best practices,** with no particular details provided on the way international standards are applied.
- **66% of the respondents report issuing evaluation reports,** noting that the level of detail and accuracy of these reports can vary from one committee to the other.

- **In the case of Request for Offers for the procurement of goods, 54% of respondents give preference to Lebanese goods.** It is worth to mention that by law, bids offering goods made in Lebanon are accorded a ten percent (10%) preferential treatment over foreign-made goods; however, the conditions for determining the origin of the goods are not specified (Figure 20).

Figure 20

Do you give preference to particular suppliers/contractors?



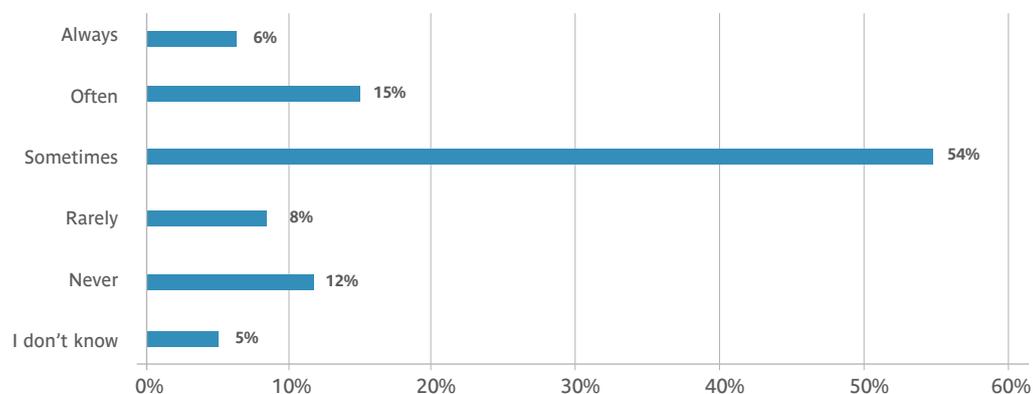
- Evaluation Committees seem to often face complex problems which they are unable to solve. In such cases, they usually turn to administrative officials and legal experts for help. Moreover, some evaluation committee members admit being reluctant to fulfill their duties due to the high level of liability and responsibility and the lack of commensurate compensation.
- **The law remains silent on the need to disclose bid evaluation criteria in the bidding documents** Accordingly, any procuring entity that does not wish to commit itself to the lowest price submitted can set specific evaluation criteria (such as life-cycle-cost analysis, value-for-money or green procurement) and related scores, without specific guidance from the law or the scrutiny of an oversight authority.
- **58% of respondents declared having limited knowledge in negotiation skills** They admitted that in **88% of the cases, negotiations focused mainly on price.** In 34% of the cases, negotiations on technical specifications and scope of work take place before the bidding process is over. However, they may take place after the supplier's selection.
- **Around 33% of the respondents reported being pressured to deal with specific suppliers. Around 12% reported that a contract could be awarded to a supplier other than the one selected by the evaluation committee.** There are also cases when the recommendations of the evaluation committees are ignored and the bid is reissued. Among the respondents, oversight and international agencies were more likely to report significant collusion and interference in procurement decisions.

C. Contract execution

- When it comes to project implementation, the survey results showed that deadlines were extended repeatedly and projects' completion took twice as long as originally planned, especially in works contracts, bringing up questions as to the monitoring of work progress and the procedures adopted to prevent contract violations.
- Around 76% of the respondents reported requesting additional tasks (outside the scope of the initial contract) or variation orders during contract execution with varying frequencies. These activities are usually contracted based on mutual agreement (Figure 21).

Figure 21

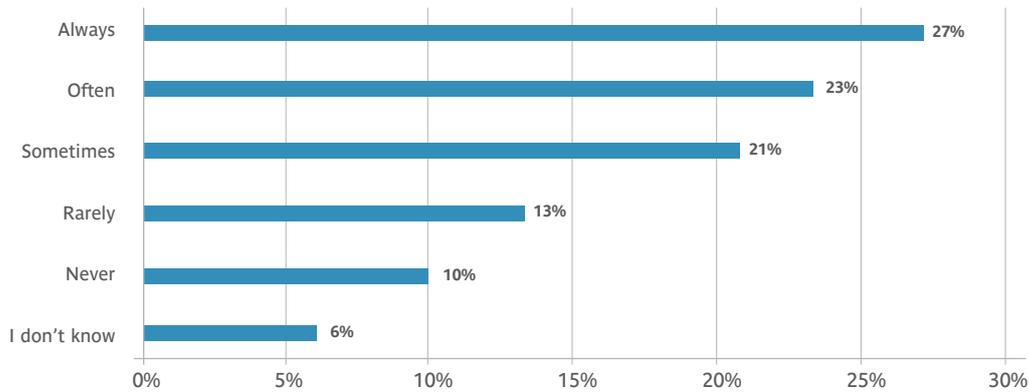
Are there additional tasks requested during contract execution?



- Only 50% of the respondents acknowledged inspecting a sample of the procured goods and around 25% conducting on-site inspections.
- Around 38% of the respondents reported dealing with price amendments (overpricing of projects either in the bid or through variation orders) during contract execution. These amendments -which occur based either on clauses in the TOR or on a decision by the Council of Ministers - may lead to large price increases throughout the lifetime of the project. They were practices acknowledged by several contractors.
- Timely payment of suppliers was reported by only 50% of the respondents (Figure 22). This situation reflects badly on the credibility of the government as a counterpart and almost certainly applies an upward pressure on the prices submitted in government tenders. As for the reasons behind these delays, contractors mentioned three factors: 1) bureaucracy and lengthy administrative procedures; 2) lack of sufficient knowledge about payments processes at the Ministry of Finance; and 3) funds carry-overs from one year's budget to the next.

Figure 22

Are suppliers generally paid on time?



- **Contract termination**

Rarely a decision is taken to terminate a contract, blacklist a supplier, or contract a new supplier at the expense of the excluded contractor. This is mainly due to the absence of a single authority whose responsibility is to collect blacklisting decisions and inform public administrations to take the necessary measures. Even in procurement operations managed by international organizations such as the World Bank, EU, or the UNDP, there is a significant reluctance to blacklist suppliers. For instance, the UNDP requires a written negative evaluation signed by the supplier in order to allow the blacklisting.

D. Oversight and audit

- **Oversight of the Court of Audit**

When it comes to the pre-audit function, the Court of Audit is perceived as effective in monitoring the manner in which contracts are engaged in and executed. On a yearly basis, approximately 3,000 transactions (out of an estimated 50,000 procurement transactions per year) are submitted to the ex-ante control of the Court of Audit. The limited technical and human capacity and the quasi-absence of automation pose real challenges to the ex-ante control. The Court of Audit can in no way fully exercise its ex-ante control functions in a timely manner which creates bottlenecks to budget execution and smooth implementation of activities. More importantly, it draws all the audit resources away from post-audit and severely restricts the Court of Audit from conducting audit during contract execution.

- **Oversight of the Central Inspection Board (CIB)**

The Tender Board falls under the tutelage of the CIB. **However, the survey revealed a low level of reliance of the public sector on the CIB.**

- **The ex-ante oversight exercised by the Ministry of Finance (MoF) financial controllers/auditors** within the various ministries is assessed as relatively effective. It is linked to their presence within the ministries and to their significant expertise in procurement issues. Nevertheless, a number of limitations remain:

- Their oversight is limited to ensuring the “compliance” of the expenditure with the law and the availability of funds. They have no authority to evaluate other contract terms.

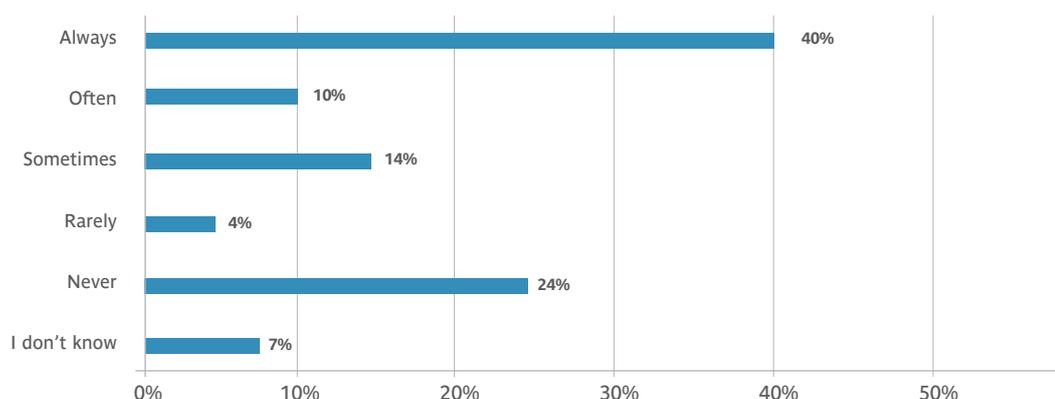
- In terms of scope, their oversight is similar to the pre-audit performed by the Court of Audit, with the difference that the Court of Audit may have a say on the price.
- Finally, in practice, the financial controller cannot terminate or halt a contract. In case a violation is detected, he/she may only raise the issue to the Minister of Finance, who in turn, can bring it up to the Council of Ministers.

- **Internal audit**

Around 50% of the respondents reported having their procurement operations audited either always or often, and 24% did not know whether any audit was performed (Figure 23). This lack of internal audit practices was one of the main criticisms voiced by international organizations against procurement processes in the Lebanese public sector.

Figure 23

Are procurement accounts subjected to regular auditing?



- **Anti-corruption measures**

Anti-corruption measures are still weak in Lebanon. When it comes to practices, **50% of respondents reported the presence of rules to prevent conflicts of interest and only 28% stated that bidding documents and contracts contain anti-bribery and anti-corruption clauses.** In practice, a growing number of donors are encouraging the introduction of mandatory anti-corruption clauses in international aid contracts. The country is currently undertaking the necessary procedure to adhere to the UN Convention Against Corruption after Parliament has ratified the law in April 2009. However, Lebanon is still not a signatory of the OECD Convention on Combating Bribery.

- **Only 30% reported abiding by a code of ethics** in public procurement.
- **When taking a look at the international data available, the Corruption Perception Index of 2012 published by Transparency International ranks Lebanon as number 128 of 176 countries;** and the World Bank Governance Indicators (2011) indicate that Lebanon lags behind the average for its income category in all measures of governance, including the control of corruption, with practices ranging from a small “facilitation fee” to substantial payoffs for contract award or final payment clearance.

Table 7

Selected WB Governance Indicators (2011) for the category “Control of Corruption” for the MENA region

Country/Territory	Estimate of governance for the year 2011 ³¹
ALGERIA	- 0.57
BAHRAIN	0.23
DJIBOUTI	- 0.30
EGYPT, ARAB REP.	- 0.68
IRAQ	- 1.22
JORDAN	0.04
KUWAIT	0.07
LEBANON	- 0.91
LIBYA	- 1.31
MAURITANIA	- 0.57
MOROCCO	- 0.26
OMAN	0.08
QATAR	1.02
SAUDI ARABIA	- 0.29
SUDAN	- 1.30
SYRIAN ARAB REPUBLIC	- 0.97
TUNISIA	- 0.21
UNITED ARAB EMIRATES	1.08
YEMEN, REP.	- 1.18

E. Automation and electronic advertisement

- **Automation of the procurement process remains limited to 20% of the cases**, which represents a serious impediment to any foreseen institutional reforms targeting the procurement function. It represents a major obstacle to the development of suppliers and prices databases, to effective procurement planning and to the exchange of information among government agencies.
- As such, e-procurement is still inexistent in Lebanon. Many **public administrations do not advertise their procurement notice electronically in a systematic way**, with exceptions of few institutions such as OMSAR, the CDR, etc.

F. Documentation and archiving

- Almost **50% of the respondents** rely solely on **paper archiving** and around **20%** use **both electronic and paper archiving**. The reliance on paper documents remains a major impediment to information availability and sharing.
- **Less than 40% of the respondents prepare reports on procurement activities.**
- Although almost 90% reported that procurement followed the principles of transparency and competition either always or often, **only 33% reported publishing and disseminating reports on their procurement activities, with the highest percentage of reporting being done in public hospitals**. Unfortunately, whenever prepared and shared, these reports remain procedural and rarely contain relevant information.

³¹The estimate provides ranges from approximately -2.5 (weak) to 2.5 (strong) on governance performance.

G. Complaints mechanism and conflict resolution

- **The PAL does not provide for any specific protest or complaint mechanism for unsuccessful bidders in the country's framework for procurement.**
- Bidders may file complaints or objections with the Court of Audit and other oversight agencies (State Council, etc.), though existing procedures are complex and costly (*for instance, when submitting a complaint at the State Council, the complainant is requested to pay a fee of 1% of the transaction upon submission of the complaint, in addition to a fee of 4% to be paid by the winning party at the end of the procedure*). These complaints are investigated and when proven legitimate, the appropriate measures are taken, leading eventually to contract termination/cancellation. However, bidders are sometimes reluctant to file a complaint for fear of being excluded from future bids. The Court of Audit may also take protests into account in its prior review of large contracts.
- Only a few administrations give the opportunity to bidders to file comments during the bidding process and objections on the TOR or contest procurement decisions, according to the provisions of the Administrative Procedure Law. However, **there is no provision for the independent review of decisions and the requests for clarifications are rarely answered in writing or shared with other bidders.**
- Conflicts are usually resolved in administrative courts which have a large backlog of cases against the government and public entities. Cases usually involve objections to rejection decisions made by Inspection and Acceptance Committees, decisions to exclude suppliers from participation in bids as well as demands for compensation due to the cancelation of a contract or damage to public works.
- **Arbitration (Law No. 440 of July 29, 2002) may be adopted in certain cases based on an authorization from the Council of Ministers upon the recommendation of the Ministry of Justice.** However, in certain cases, the Director General is appointed as the arbitrator which creates a conflict of interest as the institution he/she represents is a party in the conflict.

Section 4

Relationship with suppliers

Maintaining a trustful dialogue with suppliers' organizations can help governments encourage the participation of SMEs and foster the development of the domestic marketplace to improve value-for-money in the delivery of public services.

Unfortunately, in the Lebanese case, the results of the survey and in-depth interviews indicate considerable scope to improve the relationship between the public and private sectors in regard to public procurement. Findings are categorized into three sections: the government/supplier relationship, collusion practices and challenges faced by private sector organizations.

A. Government-supplier relation

- **Image of public procurement**

Only 50% of surveyed procurement officials reported a relatively positive image of public procurement among their suppliers. On another hand, complaints voiced by local private sector organizations indicate a low level of confidence in the fairness and efficiency of national public procurement processes.

- **Collaboration with the private sector**

Collaboration between civil servants and the private sector is currently minimal and in critical need of improvement. **Only 34% of respondents actually collaborate** to setting specifications and prices, and **14% participate in workshops to discuss procurement mechanisms and conflict resolution methods.**

- **Communication with suppliers**

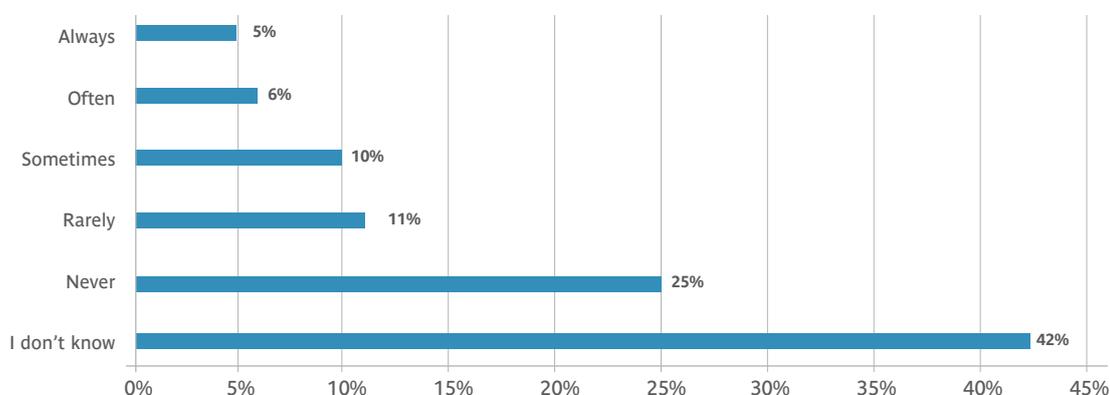
42% of the respondents reported never communicating with bidders outside the scope of the requests for clarifications handled by the evaluation committee. However, answers give the impression that procurement officials lack clarity and guidance as to the limits of allowed and even desirable communication with suppliers and the point at which the absence of communication becomes a threat to transparency. **Only 28% of respondents reported holding pre-bidding conferences** to facilitate the suppliers' understanding of the TOR requirements, especially in the case of technical tenders. The absence of this practice in many public institutions often leads to amendments in the TORs and/or in variation orders during contract implementation. Finally, when it comes to answering bid clarification requests, **44% of the respondents acknowledge giving prompt and written clarifications to bidders and only 43% systematically inform all bidders** of these clarifications and of any amendments made to the bidding documents.

- **Evaluation of suppliers**

Only 13% of procurement practitioners use Key Performance Indicators (KPI) to evaluate the performance of suppliers and contractors.

Figure 24

Do you have any communications with bidders outside the scope of clarifications requested by the evaluation committee?



B. Collusion practices

• Detection of collusion

Collusion among suppliers was a concern voiced by most respondents, who complained of their inability to detect collusion.

- **The current legal framework in which prevail contract award based on the lowest price (and not on a quality/cost analysis) is encouraging collusion practices.** Since technical and financial proposals are submitted in two separate envelopes, a common practice for bidders is to meet prior to the bid opening and assign the bidder that will submit the lowest price. Upon contract award, the selected bidder either reimburses a percentage of the contract amount to the “unsuccessful” competitors or commits to let them win future contracts. This type of collusion behavior is common when the number of bidders is limited.
- Collusion practices have a direct impact on prices’ increase up to **20-25% above real market price.**³²

C. Challenges faced by private sector organizations

- A quick look at the market reveals that local contractors, suppliers and consultants do have sufficient capacity to meet any public sector procurement requirements.
- However, local suppliers and contractors **have expressed several complaints related to the lack of clarity in the technical specifications** of requested products and services and admit facing significant difficulties in preparing acceptable and legally compliant bids either in English or in Arabic. This is mostly due to the complexity and non-uniformity of bidding documents. They also expressed their interest in participating in workshops and discussions on public procurement related issues to enhance their knowledge of public procurement procedures.
- The low level of trust in the national procurement system can also explain the preference of foreign bidders to often bid through their local agents. The names of bidders tend to be almost exclusively Lebanese, even when the goods being offered are international brands. Similarly, expressions of interest in consulting assignments tend to come predominantly from consortiums between Lebanese and international firms.

³²Le Commerce du Levant No. 5636, Janvier 2013, Lucien Chardon, Dossier “Les mauvais comptes font les bons amis”, PP.49-51.

Chapter Two

Building Public Procurement Capability - A Vision for Lebanon

“Good procurement is essential to delivering good quality public services and we will only achieve good procurement across government if we know we have the right skills and capability in place.”

(John Healy, Financial Secretary to the Treasury, OGC, 2007)

The OECD defines capacity as *“the ability of people, organizations/institutions and society as a whole to successfully manage their affairs. Capacity development is the process of unleashing, conserving, creating, strengthening, adapting and maintaining capacity over time.”* (OECD/DAC Task Force developing a generic Good Practice Paper on Capacity Development, November 2004).

To develop and professionalize the Lebanese public procurement practices, the modernization of the law and the enhancement of operational efficiency through procedural guidelines need to go hand-in-hand with a comprehensive capacity-building strategy at three levels:

1. Develop individual skills and knowledge
2. Support organizational capacity of all stakeholders (procurement officers, their line managers, external and internal auditors, the private sector, NGOs, etc.)
3. Create an enabling environment that would promote procurement beyond its view as clerical and administrative

In Lebanon, knowledge and skills deficiencies are hindering the development of an efficient and effective procurement function. While a new public procurement law is under review by Parliament, further attention needs to be directed to the procurement professionals.

The survey results presented further in this chapter reveal the need for an intensive and comprehensive capacity-building program to raise the profile of the procurement profession and instill more professional practices, adapted to the complex evolution of the procurement environment.

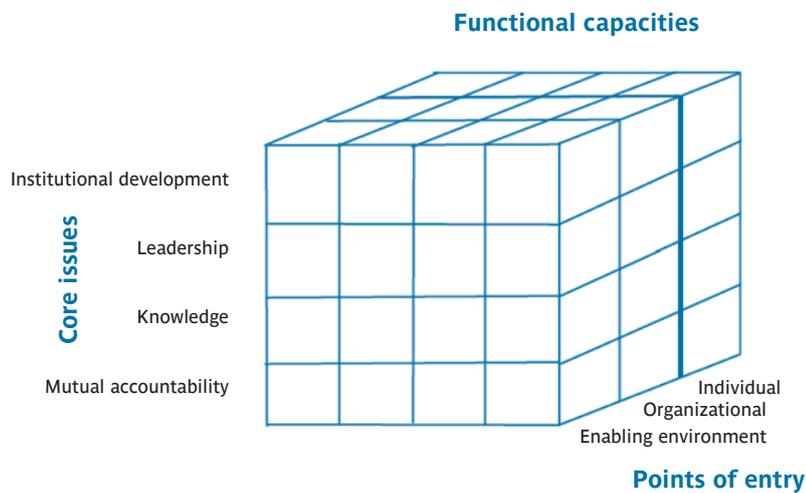
In addition to providing a good understanding of the existing capacity in the procurement system, the findings of the situation assessment provided elements to support and steer the formulation of a strategy to strengthen the capacities of all procurement stakeholders. It also provides a baseline against which the impact of any capacity development initiative or future progress can be measured.

Methodology

The Institut des Finances Basil Fuleihan has commissioned the Chartered Institute of Purchasing and Supply (CIPS) to develop a medium-term capacity development strategy for the public sector in Lebanon, making use of extensive consultation with procurement stakeholders.

Based theoretically on the assessment of the overall Public Procurement Framework (the individual, the organization and the enabling environment), according to international standards (Figure 25), the proposed strategy and tools focused primarily on building the capabilities of public procurement human resources in Lebanon.

Figure 25
UNDP Procurement Capacity Assessment Framework³³



The strategy development included:

- An assessment of the strengths and weaknesses of the Lebanese procurement system, based on the Diagnosis survey provided by CRI and on a series of face-to-face meetings with national stakeholders.
- The identification of local practices and success stories in public procurement that could be replicated or disseminated to the other national procurement entities.
- The formulation of a medium term capacity development strategy for human resources involved in public procurement (over 3 years): The strategy was based on the assumption that the delivery of better procurement outcomes in the public sector relies on the enhancement of not only the working environment (that may require lengthy structural reforms) but also the skills and knowledge of procurement stakeholders. The recommended list of items followed in formulating the strategy are presented in the following checklist.
- The development of curricula and knowledge-sharing tools.
- Recommendations for a long term strategy for capacity development.

³³Kirsten R. Ejlskov Jensen and Marie-Louise Refsgaard, 2008, Procurement Capacity Development : From Theory to Practice, 3rd International Public Procurement Conference Proceedings.

A checklist to develop national public procurement training programs³⁴

1. Define competency baseline
2. Conduct training needs assessment
3. Identify training priorities
4. Develop competency-based training curricula
5. Train the trainers and select national training institutions
6. Develop annual national training plans
7. Deliver training and evaluate impact
8. Certify procurement professionals

As any reform process involves change, the move from the formulation to the implementation of the capacity development strategy was overseen by an advisory board composed of:

- The Director General of the Tender Board
- A judge from the Court of Audit
- A judge from the State Council

The guidance provided by the advisory board demonstrated stakeholders' commitment to reform and change and helped establishing effective coordination mechanisms across the procurement community.

The present chapter moves on from public procurement assessment to the elaboration of a public procurement strategy and approach to capacity-building focusing on the development of capabilities of human resources and addressing the needs of the various stakeholders:

- **Section 1** draws the profile of public procurement officials and identifies training needs.
- **Section 2** sets the stage for capacity development through an analysis of the current situation, strengths, good practices and capacity gaps to be filled; and
- **Section 3** develops strategies for capacity development and proposes a set of development tools.

³⁴The World Bank, 2012, Why Reform Public Procurement, pp.15.

Section 1

Profile of procurement personnel and training needs

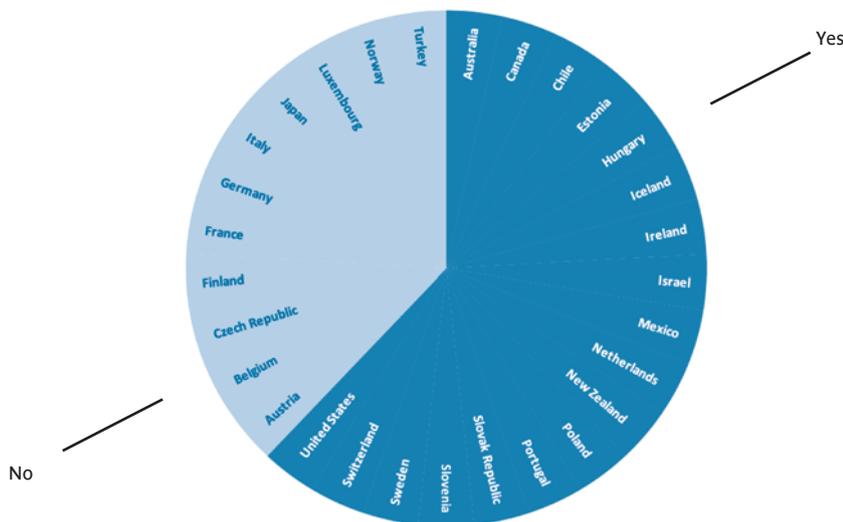
In the Lebanese Civil Service, there is no “Procurement” professional category

The survey revealed that procurement related functions are performed by a variety of jobs and categories in the civil service framework: from heads of financial and administrative units and departments, and head of legal divisions, to financial controllers, accountants, and internal auditors and others. For comparison purposes, Figure 26 provides an overview of international trends in selected OECD countries where “public procurement is still handled as an administrative function in many countries, with over a third of countries reporting that it is not even recognized as a specific profession. Out of the 18 OECD countries that recognize procurement as a specific profession, 61% have a formal job description for procurement officials and 44% have specific certification or licensing programs in place (e.g. Australia, Canada, Chile, Ireland, New Zealand, Slovak Republic, Switzerland and the United States)”³⁵

The professional profile of survey respondents is characterized mainly by the absence of an official job description for public procurement officers. Ad hoc job description exists in a number of public administrations and institutions, resulting in various definitions of tasks and responsibilities for civil servants performing financial and administrative operations related to the procurement cycle.

Figure 26

In OECD countries, are procurement officials recognized as a specific profession?³⁶



³⁵Source: OECD (2011) Survey on Reporting Back on progress made since the 2008 Procurement Recommendation.

³⁶Source: OECD (2011) Survey on Reporting Back on progress made since the 2008 Procurement Recommendation.

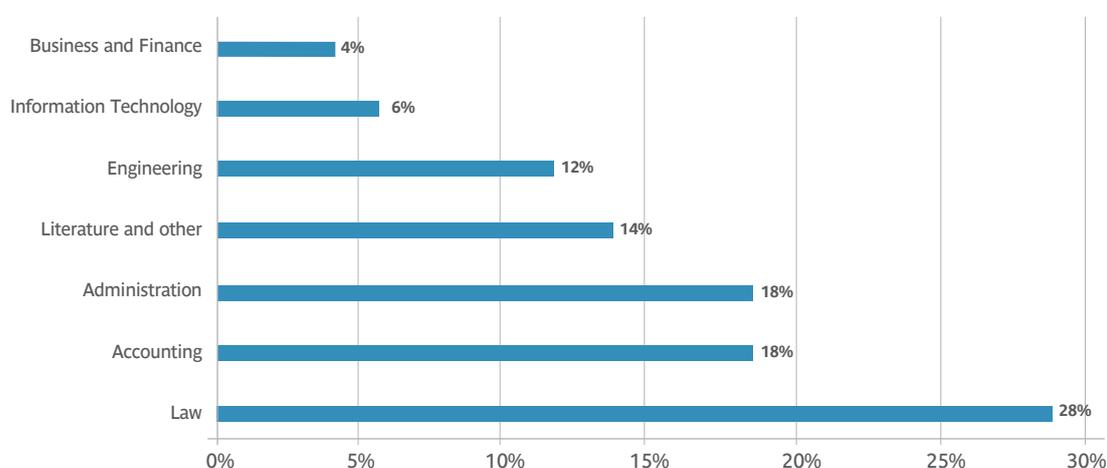
A. Profile of procurement personnel

The survey findings allowed to drawing the profile of procurement personnel in the Lebanese public sector:

- **Demographic profile:** The average age of respondents is 45 years, with a considerable length of service in the public sector, on average 18 years (11 years when considering only their current position). The male to female ratio of 1.4.
- **Educational background (Figure 27):** 86% of the respondents have a graduate or post-graduate degree. Around 60% have degrees in law, arts and humanities and the remaining 40% have degrees in accounting, engineering, IT and finance.

Figure 27

Distribution of respondents as per educational background



- **Job description**

Public procurement practitioners are predominantly civil servants whose job titles do not reflect procurement per se. Though there is no job description for procurement officials, around 78% of respondents stated that their functions are specified clearly. The results also show that **48% of respondents have functions that cover the entire procurement process, 12% engage in specific functions such as receiving deliverables or preparing TORs, and 40% undertake financial and oversight functions related to procurement, such as law and accounting.**

- **Work conditions**

The majority of the respondents (83%) are civil servants hired through the Civil Service Board or permanent employees and 26% of them hold their current position on an interim basis. Sixty-two percent of the respondents are category three civil servants. It has been pointed out that the technical expertise and complexity of decision making involved in procurement decisions (especially in large institutions) warrants assigning the function to higher category officials.

- **Turnover and shortages**

More than a third of the respondents (34%) said they were suffering from a significant turnover in their procurement staff and 65% of the respondents stated that they lacked adequate number of qualified procurement officials, mainly technical and sectorial experts. That

employees do not have relevant degrees and basically learn the procurement profession on the job amplifies the impact of staff turnover and contributes to losing institutional knowledge and memory.

- **Training**

Procurement practitioners seem to receive on-the-job training that exposes them to new skills and developments on the variety of topics related to their function. **Indeed, seventy-three percent of the respondents reported receiving on the job-training. Around 26% were sent outside the country for training.**

- Upon recruitment, **procurement officers learn by observation and are coached by other employees (87%). Training sessions are conducted inside their organization (41%) and some training sessions outside their organization (36%).³⁷ Only 25% of the respondents declared using procurement manuals.**

- **About 73% of the sample reported having received continuous training and 58% reported a frequency of one to two courses per year.** Eighty-one percent reported receiving continuous training outside their organization and 43% inside their organization.

- **As to the national providers of training, the Institute of Finance Basil Fuleihan was mentioned as the primary provider of training services to public officials,** in public financial management in general, and public procurement in particular (81%). Other training providers include OMSAR and AUB.

B. Training needs

Training needs assessment was part of the survey objectives with a view to providing specific insights on the needs for capacity development.

The identified training needs were grouped into to five main categories:

- **Legal knowledge**

The survey showed that **most public procurement officials need basic legal training** on the laws that govern public procurement and related technical and implementation aspects such as the preferred method of procurement or the boundaries between desirable and inappropriate communication with suppliers. Respondents gave confused responses when asked about basic subjects such as procurement regulations, ceilings, and communication with suppliers. For instance, sixty percent of respondents did not know if procurement rules differ in case of foreign funding.

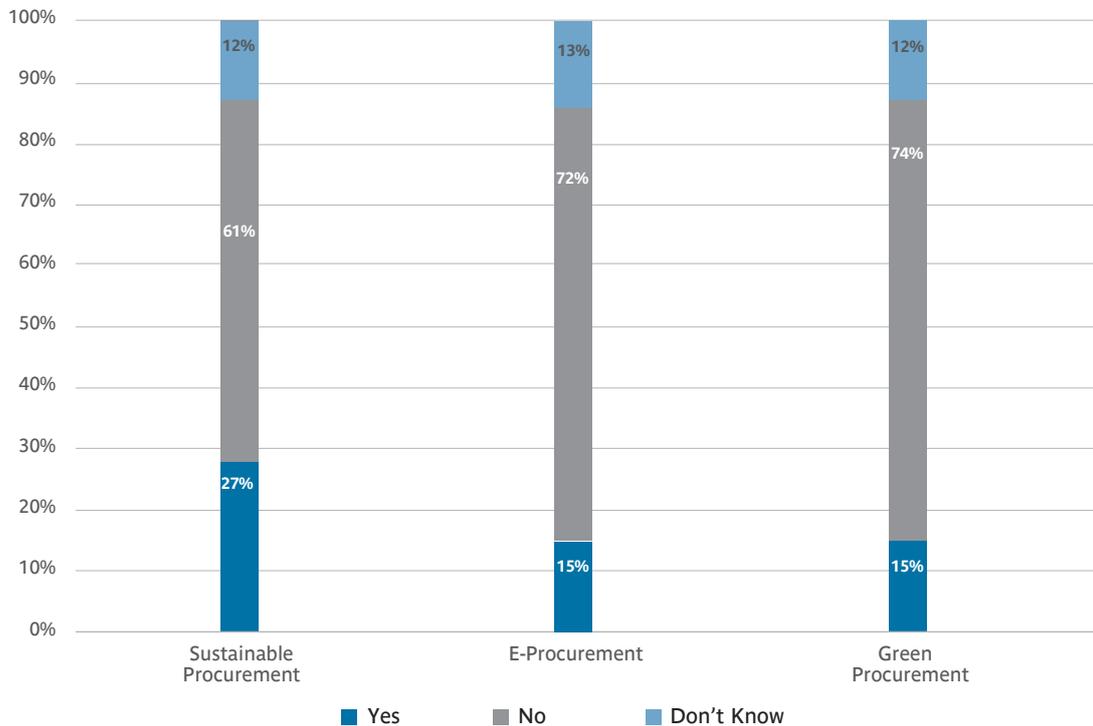
- **Knowledge of new procurement trends**

Despite evidence for continuous training, the survey showed the respondents had very limited **awareness of new trends such as e-procurement, green procurement, and sustainable procurement** and the implications of these trends on the effectiveness of public procurement as a tool for social and economic development (Figure 28). Only 27% of the respondents said they were familiar with sustainable procurement and 15% of respondents with green or electronic procurement.

³⁷The percentages add up to more than 100% as this was a multiple response question.

Figure 28

Are you familiar with the following procurement best practices?



- **Planning skills**

The survey revealed that most staff needed training on basic skills such as the development of procurement plans, procurement risk assessment and market and feasibility studies.

- **Communication skills**

Respondents expressed the need for acquiring communication and negotiation skills that would allow them to entertain beneficial cooperation with the private sector while avoiding contacts that infringes on transparency and ethics. Training is needed on the legal basis for proper and permissible negotiations and on negotiation techniques. Training on the monitoring of suppliers' performance, the evaluation and acceptance of deliverables and the proper ways to detect and address collusion.

- **Documentation and archiving skills/Access to information**

The survey showed that most institutions did not have a proper archiving policy and the practice of preparing and sharing reports on the results of procurement processes. The procurement process is automated in only 20% of the cases and procurement reports are published in only 33% of the cases. These are substantive indicators of the government-wide need for awareness training on the *public* nature of governmental information and for training on the culture of transparency and information sharing.

Section 2

Characteristics of procurement workforce

A quick assessment following the diagnostic report reveals that:

- The procurement workforce is relatively young.
- The procurement workforce is well educated, though sometimes specialized in fields not specifically related to procurement. This can partly be attributed to the absence of any academic diploma in public procurement or supply chain management.
- The Civil Service jobs lists do not include procurement nor procurement related jobs. Procurement functions and operations are performed by staff with other administrative, financial or legal functions.
- Most of the procurement personnel hold operational positions. Only a few hold managerial or leadership positions.
- There is a lack of capacity at many stages of the procurement chain and a significant staff turnover.
- Training is mostly on-the-job. No initial training is proposed to new comers.

The assessment of practices highlighted the difficulties faced in procurement planning, conducting market research, performing suppliers' evaluation, conducting negotiations, or even contract management, etc. This is mainly due to significant skills' gaps.

One of the main conclusions of the survey is that can procurement officers need to reinforce their technical skills and also their soft skills, such as: decision-making, leadership and team building, strategic planning and project management, communication and negotiation skills, IT and financial skills.

The survey shows that procuring entities suffer from an insufficient number of employees which severely impacts efficiency. Capacity development is therefore dependent on increasing the size of the workforce and professionalizing it.

As part of the assessment phase, local practices and success stories that could be replicated or disseminated to other national procurement entities were identified. The various expertise that were found of interest are presented in Table 8:

Table 8
Possible transfers of know-how³⁸

Institution	Area of expertise
Council for Development and Reconstruction (CDR)	Project management: Capability to handle large and complex projects and to expedite donor-funded procurement.
Central Bank of Lebanon (BDL)	<ul style="list-style-type: none"> • Automated procurement system linked to budget controls • Existence of procurement position and job description • Positive experiment with sustainable public procurement and the introduction of sustainable and green criteria in selected purchases
Lebanese Army	Expertise in setting technical specifications
Lebanese University	<p>Good practice in undertaking comprehensive market studies, project price estimation which is later used as benchmark for the financial offers made by bidders.</p> <p>This practice is efficient in preventing and/or restricting suppliers' collusion and internal corruption.</p>

³⁸Information withdrawn from the Inception Report prepared by the Chartered Institute for Purchasing and Supplies and based on the outcomes of the Inception Mission to Lebanon from 8th to 17th August 2012.

Section 3

A strategy for capacity development

A meaningful and efficient response to the gaps and needs identified in the first section of this chapter would require an overall capacity building framework that associates training to an overall competency frame and a strategic workforce planning. Accordingly, three strategic objectives are identified as the main drivers to a successful capacity-building strategy:

1. To develop public procurement as a profession
2. To enable the transfer of information and know-how inter- and intra-organizationally
3. To provide high-quality specialized training

These objectives are hoped to help raising the profile and credibility of the procurement function and to position procurement strategically at a national level.

The goal is to develop the human capital capable to deliver procurement with due regard to the trade-off between requirements for transparency, value-for-money and the achievement of public policy objectives linked to improved economic and social welfare. Such strategy implies to recognize the practitioners who work in the area of public procurement as a core group of professionals, equip them with the necessary set of knowledge and skills through well-structured curricula, specialized knowledge, professional certifications and integrity guidelines, in addition to creating an enabling environment for them to perform and progress. This would be reached through, for example:

- Creating, within the official public service jobs framework, standard job descriptions and job profiles for senior and junior procurement officials.
- Creating a competencies framework for each job family laying down strategic, management and technical competencies needed.
- Providing initial training for newly recruited procurement officers.
- Offering a certified training path (in cooperation with leading international institutions) that allows procurement personnel to progress in skill and build their capacities in light of international good practices.
- Providing continuous training that guarantees updating of information and staying abreast of development in the profession.
- Organizing Train the Trainers programs that would allow creating a pool of expert trainers able to deliver the newly designed courses and ensure the sustainability of the courses' delivery.
- Encouraging higher education establishments in Lebanon to integrate procurement teaching within their curriculum and eventually create master's degrees in logistics and procurement.

A. Medium-term strategy (3 years)

A medium-term strategy would focus on actions that could be implemented with moderate resources while contributing to improvements in procurement capacities and preparing the ground for more complex actions such as organizational and institutional reforms that would eventually be induced by the adoption of the new procurement law.

The strategy would include immediate actions targeting procurement practitioners at the central and local levels, in response to the results of the training needs assessment. It would take into consideration existing training offer, provided by the Institute of Finance and other stakeholders induce the development of new programs to complement existing training offer, and build on existing local expertise as well as international trends. It would focus on the importance of procurement capacity development for improved job performance, independent of the legislative framework in place. It would seek to improve practices whether approval of the new law is achieved or not.

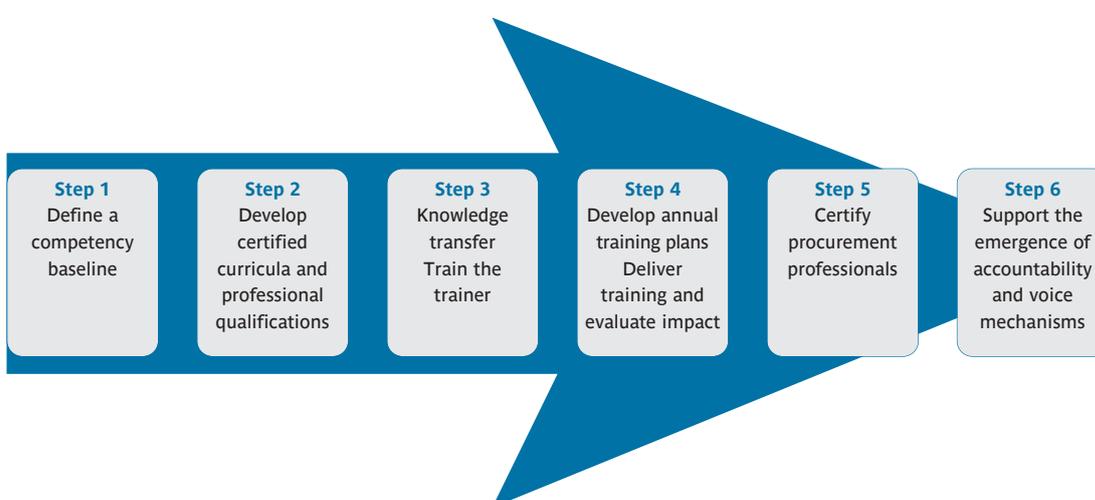
Based on our assessment, the medium-term strategy benefits three groups of direct beneficiaries:

- **Procurement practitioners:** These would be provided with the needed technical skills to help apply good practices and to comply efficiently with the current and the new prospected legal and institutional framework for procurement.
- **Senior public officials and procurement strategists from the public and private sectors:** Whose understanding of procurement strategy-related issues and project management approaches would be enhanced, to help them better conceptualize, design and implement procurement strategies in their respective administrations, transfer their know-how to subordinates and raise the profile of procurement at the national level.
- **Decision and policy makers:** Who would be convinced through awareness and bench learning to view public procurement as an instrument of public policy and sustainable development and would thus support lobbying towards the enactment of a new procurement law and the positioning of the procurement function in a strategic location.

The medium-term strategy lays down a six-phased approach, as exhibited in Figure 29

Figure 29

A six-phased approach to capacity development on the medium-term



Step 1 - Define a competency baseline

The initial step in identifying key personnel to benefit from the training is to develop job descriptions for procurement positions within a competency framework. For this purpose, we have attempted in this report to design a competency framework -see Table 9-, standard job profile for decision makers and model Job Descriptions (JDs) for senior and junior procurement staff in Lebanon. Competency framework for the strategic, management and technical levels describe respectively 18, 21 and 25 competency areas, knowledge outcome and measurable achievement criteria for each level.

The design was based on job descriptions for procurement positions provided by the Banque du Liban and the United Nations Development Programme (UNDP) Beirut office and was adapted to reflect international trends across the public sector. They were also aligned to a job description for Expenditure Controller at the Ministry of Finance provided for reference by the Office of the Minister of State for Administrative Reform (OMSAR).

The job profiles (detailed in Annex 5) specify what any procurement official should bring in terms of skills, experience and behavior and provide a basis for setting performance objective and indicators. When coupled to a competency framework, these tools are used for assessing the staff training needs and provide systematic training. They can also be used at a later stage for workforce planning, talent management and to support potential procurement staffing reform.

Table 9

Proposed procurement competency framework for the Government of Lebanon

Strategic

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
1 Setting Direction	Creates purpose and direction to procurement	Empowerment, trust and accountability to deliver procurement. Confidence to make procurement decisions
2 Managing People and Resources	Identification and management of procurement talent	Notable improvements, confidence and progression of procurement team members
3 Communicating and Influencing	Engages others and collaborates successfully with others	Influences others and ability to support/defend procurement decisions linked to policy and objectives
4 Leadership	Inspires team and others to improved performance and ability to manage stakeholders	Supports and promotes government objectives through models of good commitment and leadership
5 Change	Provision of new thought processes into the approach to public procurement	Introduction of new ideas into public procurement that builds commitment and momentum towards change
6 Legal Knowledge	Understanding of: <ul style="list-style-type: none"> ● Contracts & Models ● Terms & Conditions of Contract ● Contract Management ● Contract Policy ● Local and International Procurement Law 	Ability to interpret, evaluate, challenge or approve the legal basis for procurement contracts

Strategic

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
7 Knowledge of Procurement Trends	Understanding of up to date global trends in procurement developments including: <ul style="list-style-type: none"> • E-procurement • Sustainable Procurement • Green Procurement 	Access to knowledge share information (stored in GoL)
8 Needs Assessment and Planning Skills	Match procurement plans to Value for Money, Government Policy and Objectives	Each Procurement linked to specific budget plans and Government Policies/objectives
9 Commercial Acumen	Links procurement evaluations to the social, economic and financial needs of Lebanon	Translation of these needs into the procurement delivery outcome
10 Decision Making	Speed and confidence in decision making	Decision making linked to the achievement of strategic outcomes for Lebanon
11 Analysis	Ability to analysis business, financial and economic data to support key strategic decisions	Extensive knowledge about local and global supply markets and how they affect price availability and logistics
12 Risk Assessment and Risk Management	Ability to interpret potential risk in supply chain	Inclusion of risk contingencies in procurement strategies
13 Project Management	Ability to lead and build a project related culture within own department	Development of project strategies for own department and to identify, manage and mitigate risks accordingly
14 Monitoring and Reviewing Procurement Projects	Development of key project monitoring and control mechanisms	Monitoring and review reports including the impact of change assessments
15 Measuring Procurement Performance	Able to introduce a motivational results driven culture	Reports on continuous improvements
16 Measuring Quality as an Output of Performance	Ability to lead on the importance of quality management and compliance	Development of quality processes and plans in own department
17 Setting and Managing Key Performance Indicators for Department	Development of Strategic and Operational Key Performance Indicators (KPIs)for own department procurement	Management of any disputes relating to interpretation of KPIs for own department
18 Finance in the Supply Chain	Ability to identify elements of procurement costs directly affecting budget	Direct linkage of procurement cost and outcomes to department budgets and communicate accordingly

Management

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
1 Setting Direction	Confidently makes medium term decisions and supports senior decision making	Procurement outcomes clearly linked to procurement plans
2 Managing People and Resources	Maximizes the potential of all resources to deliver successful performance and capability	Sustainable improvement in departmental and individual performance
3 Communicating and Influencing	Gains the commitment of stakeholders and colleagues to implement strategy and objectives	Communication methods within the organization are used effectively and all relevant people are kept informed of developments in the strategy
4 Leadership	Actively aligns behind the delivery of the business plan	Supports and promotes government objectives through models of good commitment and leadership
5 Change	Drives new thinking in procurement process and seeks continuous improvement	Introduction of new ideas into public procurement and anticipates the effect of change
6 Legal Knowledge	Understanding of: <ul style="list-style-type: none"> • Contracts & Models • Terms & Conditions of Contract • Contract Management • Contract Policy • Local and International Procurement Law 	Ability to interpret, evaluate, challenge or approve the legal basis for procurement contracts
7 Knowledge of Procurement Trends	Understanding of up to date global trends in procurement developments including: <ul style="list-style-type: none"> • E-procurement • Sustainable Procurement • Social, Economic and Environmental 	Knowledge harvesting of procurement trends and ensuring shared access for Public Sector (stored in GoL)
8 Needs Assessment and Planning Skills	Match procurement delivery that can be measured against procurement plans	Procurement outcomes that match procurement plans
9 Commercial Acumen	Links procurement evaluations to the social, economic and financial needs of Lebanon	Translation of these needs into the procurement delivery outcome
10 Decision Making	Speed and confidence in decision making	Decision making linked to the achievement of strategic outcomes for Lebanon
11 Analysis	Ability to analysis business, financial and economic data to support key strategic decisions	Use of complex data to support decision making within departments which effect procurement policy
12 Risk Assessment and Risk Management	Ability to interpret potential risk in supply chain	Inclusion of risk contingencies in procurement strategies
13 Project Management	Ability to lead and build a project related culture within own department to improve performance within procurement	Is able to implement project strategies and plans for own department and to identify, manage and mitigate risks accordingly
14 Monitoring and Reviewing Procurement Projects	Ability to measure key project control mechanisms	Management of monitoring and review reports including the impact of change assessments

Management

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
15 Measuring Procurement Performance	Able to evaluate procurement information to achieve tangible performance improvements	Reports on continuous improvements through examination of the current operation and practices to opportunities for improvement
16 Measuring Quality as an Output of Performance	Ability to manage the delivery of quality management and compliance	Procurement compliant with quality process and procurement plans
17 Setting and Managing Key Performance Indicators for Department	Development of Strategic and Operational Key Performance Indicators (KPIs) for own department procurement	Management of any disputes relating to interpretation of KPIs for own department
18 Finance in the Supply Chain	Ability to identify elements of procurement costs directly affecting budget	Management of procurement cost and outcomes to department budgets and communicate accordingly
19 Contracts and Models	Ensure departments have a clear understanding of governance of contracts	Development of clear and effective contracts that deliver government drivers Ensuring all contracts awarded are aligned to The Lebanese rules and regulations
20 Contract Management	Develop post contract management approaches for department in line with government regulations	Ability to implement post contract management strategies and plans to ensure in line with contract deliverables
21 Stakeholder Management	Able to operate at a strategic level with key internal and external stakeholders, to leverage the benefits of relationships	Development of relationship approaches for key stakeholders given their relative importance to The Lebanon and the department, at a strategic and non-strategic level

Technical

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
1 Setting Direction	Makes short term decisions (up to 12 Months) based on procurement plans and demand analysis	Manages day to day activities to a high standard, in line with procurement plans
2 Managing People and Resources	Understanding performance management to deliver improved results	Uses performance management to improve procurement results
3 Communicating and Influencing	Maintain and improve current operational relationships within the internal and external stakeholders	Communications are maintained and improved and options to improve procurement processes are clearly identified
4 Change	Responsive to change in procurement process	Open to implementing new ideas and demonstrating their application
5 Legal Knowledge	Understanding of: <ul style="list-style-type: none"> • Contracts & Models • Terms & Conditions of Contract • Contract Management • Contract Policy • Local and International Procurement Law 	Ability to comply with the legal basis of procurement contracts
6 Knowledge of Procurement Trends	Understanding of up to date global trends in procurement developments including: <ul style="list-style-type: none"> • E-procurement • Sustainable Procurement • Social, Economic and Environmental 	Ability to access and review information (stored in GoL)
7 Needs Assessment and Planning Skills	Match procurement delivery that can be measured against procurement plans	Procurement outcomes that match procurement plans
8 Commercial Acumen	Maximize all opportunities to drive financial improvement in procurement	Managing the financial needs of the department
9 Decision Making	Use information to support decision making	Influences day to day impact decision making
10 Analysis	Ability to collect information recognizing its potential to influence a range of financial decisions	Use of data to support the achievement of department procurement plans and budgets
11 Risk Assessment and Risk Management	Ability to interpret potential risk in supply chain	Ensuring the procurement process matches the risk contingencies as per the procurement strategy
12 Project Management	Ability to manage the project tasks to ensure completed deliverables within own department to improve procurement performance	Is able to monitor projects effectively so that problems are identified and addressed promptly and mitigate risks accordingly
13 Monitoring and Reviewing Procurement Projects	Ability to implement key project control mechanisms	Provision of procurement reports for ease monitoring and review
14 Measuring Procurement Performance	Capability to collate and prepare data for analysis to support improved procurement performance	Reports on continuous improvements through examination of the current projects to support opportunities for procurement improvement

Technical

Competency Area	Knowledge Outcome	Measurable Achievement Criteria
15 Measuring Quality as an Output of Performance	Ability to comply with processes of quality management and compliance	Procurement compliant with departmental quality procedures
16 Setting and Managing Key Performance Indicators for Department	Ensuring performance targets are met for own department procurement	Management of KPI's for own department
17 Finance in the Supply Chain	Ability to demonstrate an understanding of financial information relevant to job role	Ability to use financial tools such as tender evaluation, budgets and forecasts
18 Contracts and Models	Ensure department teams and related functions have a clear understanding of governance of contracts	Preparation of contracts aligned to the legislative and policy environment of The Lebanon
19 Contract Management	Ability to apply post contract management approaches, including managing the relationship to maximize the value for money component of the contract, whilst managing risk and potential breach of contract	Working with suppliers to ensure the contract is delivered in line with contract deliverables, terms and conditions of contract
20 Stakeholder Management	Able to operate at a technical level with internal and external stakeholders, to leverage the benefits of relationships	Development of relationship management with stakeholders for each contract
21 Material Management	Ability to evaluate the requirements for effective storage of supplies and inventory management	All procurements include the principles of storage, including the effective, secure and accessible storage
22 Monitoring and Reviewing projects	Able to contribute to the monitoring and review process	Uses relevant data to support the project review with clear recommendations on areas for improvement and change
23 Developing specifications	Ability to contribute to the development of specifications	Departmental specifications include organizational procedures, Lebanon policy requirements, and alignment with supply and demand requirements
24 Sourcing and tendering	Able to engage in tendering at a tactical level (ensuring the tactics in place will lead to strategic delivery)	Procurement processes include the need for sourcing and tendering in the context of procurement planning
25 Supplier development	Is able to demonstrate an understanding of the importance of supplier development (and relationships) and contribute ideas accordingly	Engaged in working with suppliers and development ideas, including some aspects of the commercial focus

Step 2 - Develop certified curricula and professional qualifications

The strategy proposed a three-level training approach that would lay the foundation for a professional path for procurement stakeholders in Lebanon (see Figure 30):

Level 1

The Certified Course in Public Procurement (CCPP) would be the first professional and internationally recognized certification program delivered solely to the public sector in Lebanon. The primary objective of the certificate course would be to provide in-depth training on public procurement at a basic unified level. As such, the program could be designed to meet the needs of Lebanese public sector procurement practitioners and build their capacities in light of international good practices. The completion of this course would lead to the award of a certificate and would provide for the opportunity to enrol in the Strategic Procurement Programme (SPP).

Level 2

The Strategic Procurement Programme (SPP) would aim to create a core group of procurement strategists, from the public and private sectors, able to conceptualize and design future procurement strategies within their respective institutions and transfer procurement knowledge and know-how to their peers/subordinates. The program would cover strategy in the public sector in-depth, examining the trade-offs between transparency, value for money, and public policy. It would offer participants a platform to learn how to manage public sector procurement projects effectively, taking into account the complexities of managing significant resources, stakeholders and activities, using communication and conflict management techniques and to critically evaluate strategies and agendas, as well as governance processes and stakeholders' accountability.

Level 3

The Senior Leadership Public Procurement Think Tank (SLPPTT) would be addressed to policy and decision makers such as Ministers and Parliamentarians, Directors General and Senior Advisors, to promote procurement at a strategic level and as a mechanism to deliver public policies and achieve socio-economic objectives and to lobby for procurement reform.

It is recommended that the three courses would be developed in the Arabic language and that they be peer reviewed by Lebanese public procurement experts.

In addition to training and skills development through the provision of professional and hands-on training programs, the set of courses above would be complemented by:

1. The publication of a procedural guide and a user-friendly toolbox addressed to public procurement practitioners that would facilitate at least routine procurement operations.
2. Communication efforts and the creation of learning tools such as training manuals, awareness guides and a web interface.
3. Networking efforts, through the organization, for instance, of joint annual seminars bringing together the graduates of the various cohorts, in an effort to create a public procurement community of practice. International and regional experts could join such events, noting that international mix will favor additional networking and innovation in procurement change.

Figure 30
Procurement training structure



Step 3 - Knowledge transfer - Train the trainer

It is recommended that training of Trainers programs be prepared and delivered to a pool of selected procurement experts from the Lebanese public administrations. These programs would be designed to ensure the transfer of knowledge between the international consultants having worked on modules development and the Lebanese experts that will be entrusted with the mission of delivering the training and to train future trainers in the years to come. It would facilitate the appropriation of the training methodology by the team of local trainers and prepare them to deliver the programs at a high level to the highest professional standards, using active learning techniques, contents and methods; a mechanism that is crucial to ensure the sustainability of the initiative.

By the end of the programs, participants would be assessed based on an evaluation grid including criteria related to their procurement expertise and training skills.

Prospective trainers would need to be classified into three groups:

1. Lead trainers that are capable of delivering the SPP/CCPP material without further support
2. Trainers that could act as co-trainer with someone from the top category as a lead trainer
3. Trainers that require further self-development in terms of skills and experiences and could play a supportive role with a lead trainer

In a period of three years, lead trainers would be expected to deliver the developed curricula to Lebanese public procurement practitioners and to provide further trainings to their peers. A capacity-building plan would reinforce the skills of trainers classified in groups 2 and 3, including the participation to programs in Lebanon and abroad, according to their needs.

Step 4 - Develop annual training plans, deliver training and evaluate impact

The courses would be made available to the Lebanese public procurement community. They would be integrated in the annual offering of the Institut des Finances Basil Fuleihan and made available to all concerned stakeholders. A pilot phase would be planned. Both courses would be delivered twice a year. They could also be provided on-demand if the request is formulated by a specific institution.

The target would be to train around 125 public procurement practitioners and 50 public procurement strategists, from the public and private sectors.

Immediate evaluation would be foreseen upon completion of each training program, either under the form of an examination or of word-based assessments.

An impact evaluation mechanism could be designed in a two years period to assess knowledge gained and progress achieved by the beneficiaries.

Step 5 - Certify procurement professionals

Trainees having successfully completed the CCPP would be awarded a certificate. This certificate would serve as a pathway to the CIPS Foundation diploma in purchasing and supply (CIPS level 4 Qualification).

Trainees having successfully completed the SPPP course would receive a Certificate of Recognition jointly issued by CIPS and the Institut des Finances Basil Fuleihan that would constitute an accelerated learning pathway to take part in the CIPS Level 6 Graduate Diploma (MCIPS) which is recognized worldwide as the global standard for top quality procurement professionals.

Step 6 - Support the emergence of accountability and voice mechanisms

For the strategy to reach out to all stakeholders and bridge existing gaps at all levels, it is essential to think of ways and mechanisms to involve the private sector and civil society organizations.

Potential activities in this respect may encompass:

1. Facilitate the access to information on public procurement (through an interactive web page for instance) and conduct awareness/information campaigns to enhance the public acknowledgment of procurement.
2. Foster dialogue between the government and the private sector in the area of public procurement.
3. Contribute to strengthening the capacity of oversight bodies such as the Court of Audit or the Parliament.
4. Encourage cross-functioning and sectoral NGOs (performing in health, education, etc.) to monitor procurement operations in their areas of expertise.

B. Long-term strategy (more than 3 years)

Long-term strategies usually propose complex, time and resource-intensive actions as well as close coordination among several stakeholders.

They focus on recruitment and talent management, trying to manage inflated wage bills and strained budgets and to ensure more efficiency in the delivery of public services.

In the case of Lebanon, a series of recommendations are made to build on the milestones of the medium term strategy and help advance procurement modernization. More specifically, a series of initiatives are identified as blueprint for action in the area of public procurement capacity development in the long term:

Pillar 1 - Attract, recruit and empower talents

- **Attract ambitious and highly skilled staff to the profession**

This reform, expected to be led by the Civil Service Board, will necessitate establishing continuous dialogue and close collaboration with all concerned stakeholders to develop joint plans for making the profession more attractive. A first step forward would be the creation of a “**Public Procurement**” job category within the civil service jobs framework; to be followed by the design of a recruitment system that is based on competencies, skills, equity and merit.

- **Build leadership capacities**

Leadership building is an essential pillar of procurement change. Leadership is in need of visibility and vision, to achieve concrete results and inspire confidence and trust to all concerned stakeholders and the public at large. Building on the outcomes of the medium-term strategy, one way forward would be to put together in small teams middle management attendees and specialists of the Strategic Procurement Program so that in each procuring entity, a manager and his or her high level decision-maker could maximize gained knowledge and work together with the experts on improving value for money, transparency and efficiency in public procurement planning and delivery.

- **Establish fast track programs for talented youth**

The new generations are sensitive to environmental and social issues. Linking procurement to both dimensions would be a powerful pull. For the public sector, this may entail developing and implementing fast track programs for talents newly recruited and their placement on high potential career paths.

Pillar 2 - Enhance education, training and learning

- **Develop monitoring and evaluation mechanisms that are able to measure the impact of the medium term strategy**

This could include undertaking a second survey to measure the progress achieved since the first diagnosis exercise conducted in 2011. Internationally recognized assessment tools could be adopted such as the OECD/DAC “Methodology for Assessment of National Procurement Systems”.³⁹ The community of procurement specialists having successfully passed the SPP could contribute to the elaboration of the assessment tool.

- **Open existing certification programs to a regional audience from MENA countries** to foster the exchange of experiences and successful practices among countries facing similar challenges. This could culminate in the establishment of a regional public procurement training center in Lebanon, delivering professional certification to the region, or in holding regional or international conferences on Public Procurement with the cooperation of international organizations/institutions.
- **Put in place coaching and mentoring mechanisms** that can further reinforce the impact of training programs.
- **Integrate public procurement in the academic curricula** with the creation of a Masters Program in Public Procurement at renowned Lebanese universities. Existing course content could also be adapted and integrated to the academic curricula of a business or management degree proposed to civil servants looking for a career in public procurement and to members of the private sector seeking a specialization in procurement or purchasing.
- **Expand and diversify the training offer** by proposing new training programs or a set of professional qualifications reflecting international best practice in procurement; or by developing e-learning modules for instance.

³⁹For more information, refer to the Common Benchmarking and Assessment Methodology for Public Procurement Systems (Version 4) available on: <http://www.oecd.org/development/effectiveness/commonbenchmarkingandassessmentmethodologyfor-publicprocurementsystems/version4.htm>.

Challenges, risks and mitigation

The elaboration of a capacity development strategy is not free from challenges. The main risks identified and ways to address them are:

The transfer of knowledge to Lebanese trainers

- The training material developed under the three courses requires a fair amount of time to allow local trainers to well assimilate the information and letting the learning process take place.
- Additional Train the Trainers programs and/or very close follow-up and monitoring of trainers in charge of delivering the courses are advised to ascertain that knowledge has been well understood by the community of trainers and that knowledge can be transferred.

Procurement staff turnover

- In the absence of a clear human resources management policy, the strategy runs the risk of high turnover of competent staff and trained procurement staff not staying in relevant positions (being replaced by new untrained staff, leaving the civil service, etc.).
- Indeed, the survey showed that 34% of the respondents indicated a significant turnover in their procurement staff. However, this risk is evaluated as of medium occurrence since the survey also revealed that most of procurement staff has been in position for an average of 11 years.
- The continuous offering of training courses and the institutionalization of the capacity-building process can help efficiently mitigate this risk; this will require efforts, ample budgets and a financing strategy.
- The technical and financial assistance of international organizations involved in procurement reform can help speed up the process, provided investments are made in existing training structures and not assigned to new projects.
- Better trained personnel may be tempted to leave the public sector for better opportunities outside. Well-designed incentives could be foreseen as part of an overall Human Resources strategy to maintain qualified staff in place.

Extensive delays in the enactment of the new Public Procurement Law

There is no definite timeframe for the new Public Procurement Law to be enacted by the Lebanese Parliament. However, the developed capacity will be helpful in enabling the public sector to achieve better value for money and transparency within the framework of the current law in place, as all trainees appreciate the importance of good practices.

Keys to Successful Public Procurement Reform

1. Strategy and vision
2. Sponsorship
3. Support (technical, financial, etc.)
4. Stellar implementation (through intensive capacity-building)

The Way Forward

The Lebanese experience points towards a number of lessons:

- **Procurement reform is not an isolated area of reform**
Weaknesses in the procurement system are sometimes found in other public core functions such as budgeting and civil service. Serious awareness-raising among policy-makers and close collaboration among stakeholders involved facilitate the design of sustainable strategies that are able to address identified gaps and create significant change within the public sector.
- **The legislative reform shall provide a framework for better procurement planning and execution**
Supporting the new legislative framework by the adoption of SBDs and comprehensive guidelines would help consolidate regulations and encourage public entities to adopt best practices and balanced conditions for contracting in their procurement operations.
- **All stakeholders should be involved throughout the modernization process**
The involvement of a large number of procurement stakeholders and of representatives of private sector organizations during the assessment phase and beyond (through formal and information meetings, seminars, consultations, etc.) has helped the survey team collect valuable information, clarify roles and responsibilities, build consensus and understanding around the later proposed capacity development strategy and build commitment to a long term reform agenda.
- **The role of the procurement authority, namely the Tender Board, needs to be strengthened**
Aside from modernizing the legal environment, it is important to strengthen the role and capacities of the Tender Board. This authority is to be viewed as a body providing policy guidance and leadership on matters related to public procurement, monitoring and evaluating compliance and designing tools that help achieve efficiency, accountability and value for money.
- **Civil service recruitment has a role to play**
This would include the review of pay schemes and the institutionalization of human resources management to mitigate a high risk of competent and trained procurement staff turnover.
- **Capacity-building and change management go hand in hand**
No reform can succeed unless accompanied by substantive capacity-building that addresses both the technical and soft skills to prepare the ground for change and modernization. It is also to be acknowledged that procurement reform is a long process that may face strong resistance to change. Such barriers can only be tackled through the adequate capacity development strategies.
- **Maintain a permanent dialogue with the private sector**
This dialogue would help building consensus and commitment to a long term reform agenda while reinforcing accountability and trust in government.

- **Mobilize funding and encourage the donor community to harmonize provided assistance**
Many players, both local and foreigners, are contributing to the advancement of the procurement reform agenda in Lebanon. However, their actions and support are not always well coordinated. Harmonization as well as better coordination with the Government of Lebanon can contribute to achieve better results and increase the performance of international aid granted to Lebanon. The donor community is also expected to benefit from improved capacity as the recipients of international aid are local government agencies that remain, in 54% of the cases, unfamiliar with donors' guidelines. Appropriate mechanisms put in place would help mobilize, manage and monitor significant increases in donor financing and ensure that these funds are effectively used.

Annexes

1- Survey methodology

To gather accurate information about the size and characteristics of Public Procurement in Lebanon, the Institut des Finances Basil Fuleihan commissioned the Consultation and Research Institute (referred to CRI) to conduct a survey tackling the legal framework and practices in public procurement in Lebanon, at the centralized and decentralized levels. The survey was conducted between May and December 2011.

The survey methodology combined a quantitative and a qualitative approach.

A. Quantitative approach

A desktop review of national and international reports and studies (A list of the reports and references used are available in Annex 3) preceded the development of the quantitative assessment and was instrumental in developing the survey questionnaire and design the field work.

The questionnaire aimed to assess practices along the various phases of the procurement cycle and gauge the knowledge of current procurement laws and international practices among the procurement community in Lebanon. It was prepared by legal and capacity-building experts, based on the review of several procurement assessment questionnaires developed by international organizations such as the World Bank, the OECD and the UNDESA, and Lebanese relevant laws.

Public procurement survey questionnaire structure

The questionnaire was composed of 129 questions divided into 10 sections as follows:

- **General Questions (Biographical Information)** - 8 questions
- **Legal Framework** - 17 questions
Current laws and procedures and their hierarchy, procurement methods, legal advice, centralized/ decentralized procurement
- **Pre-Bidding Stage** - 17 questions
Needs Assessment: *procurement plan, risk assessment, technical and financial planning, price estimation, market surveys, computerized database, challenges faced during needs assessment*
Preparation of Procurement Documents: *SBDs and TOR templates, preparation of technical specifications, purchase orders, advertisement*
- **Bidding Stage** - 15 questions
Communication between Bidders and the Procuring Entity: *communication mechanisms with bidders, request for clarifications*
Bid Opening: *procedures, technical and financial offers*
Bid Evaluation: *criteria for contract award, evaluation reports, bidders' qualifications*
- **Contract Award** - 5 questions
Possibilities of negotiation, negotiation type
- **Contract Execution** - 7 questions
Contract management, performance, quality control, price amendments, inspection, evaluation

- **Procurement Files Management** - 9 questions
Computerization, archiving policy, availability of periodic reports, maintenance of databases
- **Transparency** - 17 questions
Principles of transparency and competition, publication of information related to bids and contracts, existence of rules for the prevention of conflicts of interest, anti-corruption measures, audit of procurement accounts
- **Public Sector - Supplier Relationship** - 16 questions
Pre and Post qualification, use of pre-qualification documents, database of qualified suppliers, evaluation of suppliers performance, dealing with supplier collusion
- **Human Resources and Training** - 18 questions
Capabilities of procurement staff, qualifications and experiences of procurement staff, training needs, capacity shortages, selection and recruitment of procurement staff, impact of training on performance and productivity, existence of a code of ethics.

The questionnaire was disseminated to a **sample of 146 randomly selected public procurement practitioners** (out of a population of public procurement practitioners estimated at 200 individuals in the Lebanese Public sector) and **filled in two separate waves:**

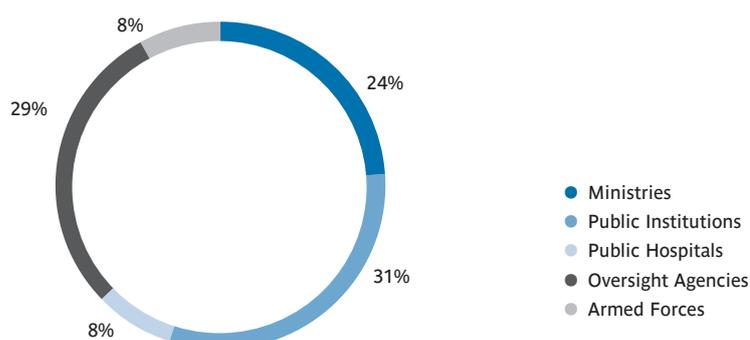
- **During a face-to-face workshop** (56 questionnaires distributed; 56 questionnaires completed) and
- **Via email** (90 questionnaires distributed; 28 questionnaires completed).

The selected sample included representatives of ministries, public institutions, municipalities, municipal unions, oversight bodies and donor agencies operating in Lebanon. In all, **84 professionals filled in the questionnaire (equivalent to a response rate of approximately 57.5%)**. The results were keyed-in using a statistical package and exported to SPSS.

The data was analyzed in two stages:

- Simple univariate analysis that computes the answers of the respondents to each of the questionnaire's questions, and
- Bivariate analysis of the answers according to three selected variables:
 1. The institution: Five separate groups were identified for the analysis: Ministries, public institutions, public hospitals, oversight agencies and armed forces.
 2. The academic background, assigned to seven different categories: accounting, management, economics and finance, information technology (IT), law, engineering, humanities and other unrelated fields.
 3. The procurement responsibilities, grouped into three categories: overall procurement functions, specific procurement functions, legal and accounting functions.

Distribution of respondents by type of institution



B. Qualitative approach

The field work was complemented by:

- A series of in-depth interviews with 10 stakeholders from the private and public sectors, and international organizations, in an attempt to obtain data on the size of public procurement in the Lebanese economy, extract benchmarks for major practices and collect their opinion on needed reforms. (*The list of stakeholders that were interviewed is available in Annex 4*).
- The organization of an Expert Group Meeting during which the results of the survey were shared and discussed. A set of recommendations were raised by the experts.

C. Data sources and assumptions

In the absence of national statistics and official data pertaining to public procurement, four data sources were used by CRI to estimate the weight of public procurement in the Lebanese economy. These sources were:

- The Lebanese Budget Law and budget proposal documents covering the years 2001 to 2011, obtained from the website of the Ministry of Finance.
- The 2007 Ministry of Finance report entitled “The Financial Accounts of the Lebanese Government 1993-2006” used to extract and aggregate, to the proper level for comparative analysis, the budget expenditures of the 2001-2006 period.
- The data provided by the Ministry of Finance during the interview phase, pertaining to the budgeted and yearly amounts of the various government entities subdivided by large categories of expenditures. It is important to note that budget data was available for the entire period of interest (2001-2011), whereas expenditure data was available only up to the year 2006.
- The Council for Development and Reconstruction (CDR) 2010 Progress report⁴⁰ which provides the cumulative amount spent on completed contracts from 1993 until 2009. For the purpose of the survey, CRI calculated the yearly average and added it to on-budget procurement to avoid significant underestimation of the size of public procurement in Lebanon compared to other countries. It is worth to mention that in Lebanon, the CDR is responsible for most of the investment expenditures.

For the period 2001-2006, final results were drawn based on the integration of both budget and expenditure data. Calculations were based on the assumption that budgets are the government’s procurement plans and therefore provide useful information on the government’s intentions and priorities, whereas expenditure data provides insight on the extent to which these plans were translated into reality.

It is worth to note that in the case of Lebanon, no budget law was ratified by Parliament since 2006. For the eight following years, the rule of the provisional twelfth was applied. This rule stipulates that if parliament fails to ratify a budget draft according to the constitutional deadline, then, as a rule - the provisional twelfth - of the budget of the previous year is adopted as a basis for budgeting and a ceiling is set on expenditures. Since budget proposals are based on the needs of the various government units and their planned projects, the comparison remains useful and informative.

Moreover, the survey team was able to obtain from the Ministry of Finance the budgeted figures for FY2011 according to the provisional twelfth rule. For comparison purposes, these figures were added as 2011-R. They correspond to revised budgeted figures that were actually approved under the provisional twelfth rule for the FY2011.

⁴⁰The Council for Development and Reconstruction Progress Report of October 2010, available at http://www.cdr.gov.lb/eng/progress_reports/pr102010/index.asp

D. Challenges and recommendations

The first challenge was associated to the **difficult access to data and the quasi-absence of official statistics on public procurement activities**. A cross-examination and analysis of available data and figures on budget plans and expenditures at a central government level was undertaken to obtain desired results.

The second challenge was linked to **the absence of the “Procurement Profession” in the Lebanese Civil Service** which made the sample selection and size of the questionnaire’s respondents more complex. The survey revealed that in Lebanon, procurement related functions are performed by a variety of jobs and categories in the administrative and legal civil service framework: From heads of financial and administrative units and departments, head of legal divisions, to financial controllers, accountants, internal auditors and others.

The Expert Group Meeting gathered 31 procurement practitioners and experts from various public administrations and institutions such as Ministries of Public Health, Energy and Water, Public Works, Defence, Finance, Education, Telecommunications, the Higher Council for Privatization, the Internal Security Forces, the Electricite du Liban, the Higher Council for Privatization, the Civil Service Board, in addition to international organizations namely the World Bank and the UNDP.

The main outputs/recommendations highlighted:

- The role and importance of **procurement planning**.
- The need to improve **oversight of procurement activities** by strengthening the capacities of the Court of Audit.
- The importance of **information sharing to increase transparency** and mitigate resistance to change.
- The need to create unified **databases for specifications, prices and suppliers** to foster competition and improve the quality of public procurement. It was also proposed to create a help desk.
- **The practical support provided by procurement manuals and SBDs, when available**, to procurement personnel in performing daily operations, and allowing for the dissemination of good practices.
- The need to **structure and regulate the dialogue with suppliers**.
- The necessity to **recognize procurement as a profession** and create **specialized procurement units**, staffed with qualified and trained personnel.
- The need to build capacities through **training, prior to the enactment of the new public procurement law**. It was acknowledged that training has to be precursor and concomitant to any successful reform initiative. It was also recommended to provide training on international guidelines to allow for a better understanding of procedures related to donor-funded projects; and to train other public procurement stakeholders such as CSOs.
- The importance of organizing wide **consultation** around the new law.
- Modernize current laws to **include new and innovative dimensions of procurement** such as sustainable public procurement, green procurement, etc.

2- The team

Listed by institution and alphabetical order

From the Institut des Finances Basil Fuleihan - Lebanon

Ms. Lamia Moubayed Bissat	Director
Ms. Rola Darwish	Director of External Relations
Ms. Jinane Doueihy	Director of Training
Ms. Sabine Hatem	Economist
Ms. Basma Abdel Khalek	Program Coordinator
Ms. Rana Rizkallah	Procurement Officer

From the Chartered Institute of Purchasing and Supply - United Kingdom

Mr. Richard Anstis	Expert in Procurement and Supply Chain Management
Ms. Glynis Davies	Senior Expert in Public Procurement
Mr. Peter James	Project Director and Head of Global Public Sector
Mr. Jeremy Johnson	Senior Training Expert
Ms. Paula Steele	Global Public Sector Manager

From the Consultation and Research Institute - Lebanon

Ms. Lea Bou Khater	Social and Economic Development Researcher
Mr. Kamal Hamdan	Managing Director
Mr. Elie Maalouf	Consultant and Judge at the Court of Audit
Ms. Rania Nader	Public Administration and Finance Consultant
Mr. Khaled Tayyara	Consultant and Human Resource Specialist

3- Desk review: List of national and international reports

National Reports/References

Abu Saad Wassim	<i>Post-audit functions of the Court of Accounts: a comparative study.</i>
Council for Development and Reconstruction	Council for Development and Reconstruction Progress Report of October 2010, available at http://www.cdr.gov.lb/eng/progress_reports/pr102010/index.asp
Institut des Finances Basil Fuleihan, World Bank - 2009	<i>MENA Region Training Needs in Public Financial Management: Developing Capacity Building Tools for Sustainable Governance.</i>
Institut des Finances Basil Fuleihan - 2011	<i>Towards Sound Public Procurement: Ministry of Finance Strategy 2008-2012.</i>
Institut des Finances Basil Fuleihan - 2010	<i>Public Procurement Training Sessions: Evaluation and Training Needs.</i>
Jadayel Fida - 2010	<i>Public procurement in Rafic Hariri General Hospital.</i>
Ministry of Finance - 2007 Ministry of Finance	<i>The Financial Accounts of the Lebanese Government 1993-2006. Budget law document (2005) and budget proposal documents (2001-2004; 2006-2011). Available at: http://www.finance.gov.lb/en-US/finance/BudgetInformation/Pages/AnnualBudgetDocumentsandProcess.aspx.</i>
Ministry of Finance	<i>Public Procurement Manual and national bidding documents.</i>
Saad Youssef - 2010	<i>Public Procurement Reform: Tensions, Challenges and the Road Ahead: The Case of Lebanon. OMSAR.</i>

International Reports/References

- Blaževi Zoran - 2010** *Setting up a functioning review system - main institutional and legal provisions.*
- European Union - 2007** *Sustainable Public Procurement in EU Member States: Overview of government initiatives and selected cases.*
- ILO** *International Labor Standards In Procurement: Integrating The Social Dimension Into Procurement Policies and Practices.*
- OECD - 2007** *Integrity in Public Procurement: Good practice from A to Z (2007).*
- OECD - 2002** *The size of government procurement markets. Paris, OECD.*
- Piasta Dariusz - 2010** *Setting up independent public procurement policy institutions and their roles - variants, benefits and risks.*
- Terje Tessem - 2002** *Incorporating Social Criteria in Public Procurement. Presentation by an ILO Senior Investment Policy Adviser at UNDESA Expert Meeting on Sustainable Public Procurement on December 3 2002.*
- UNDP, UNDESA - 2004** *Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices.*
- UNEP - 2009** *Capacity Building for Sustainable Public Procurement.*
- UNEP, UNDESA - 2008** *1st Roundtable meeting of experts on sustainable consumption and production in the Arab region: Overview of the Marrakech Process and Guidelines for the Working Groups.*
- Woolcock Stephen - 2008** *Public Procurement and the Economic Partnership Agreements: asses-sing the potential impact on ACP procurement policies. London, LSE.*

4- List of interviewed stakeholders

List of stakeholders who took part to the face-to-face interviews

Name	Position	Institution
Public Sector		
Ms. Nisrine Mashmouhi	Senior Controller at the Employee Department	Civil Service Board
Mr. Moukalled Moukalled	Head of the accounting department	Civil Service Board
Ms. Josiane Saad	Department Head	Directorate of Budget Ministry of Finance
Ms. Fatmeh Faqih	Head of Expenditure Control Bureau	Directorate of Budget Ministry of Finance
Mr. Charbel Hage	Accountant	General Directorate of Education Ministry of Education and Higher Education
Ms. Ghinwa Haddad	Engineer Procurement Department	Council for Development and Reconstruction (CDR)
Private Sector		
Mr. Abdo Sekarieh	Chairman	Lemaco
Mr. Rabih Sabra	Director General	Chamber of Commerce and Industry of Beirut and Mount Lebanon - CCIB
International Organizations		
Ms. Lina Fares	Senior Procurement Specialist	World Bank
Ms. Mirvat Hammoud	Head of Procurement Unit	United Nations Development Program
Ms. Laurette Said	Operations Manager	United Nations Development Program

5- Model job descriptions for public procurement officials

Decision maker

Public Policy and Decision Makers such as Minister and Parliamentarians, Directors General, Court of Audit Judges, Senior Advisors, etc.

A. Knowledge profile

- Creation of purpose and direction for public procurement
- Identification and management of procurement talent
- Engages others and collaborates successfully with others
- Inspires team and others to improved performance and ability to manage stakeholders
- Provision of new thought processes into the approach to public procurement
- Understanding of:
 1. Contracts and Models
 2. Terms and Conditions of Contract
 3. Contract Management
 4. Contract Policy
 5. Local and International Procurement Law
- Understanding of up to date global trends in procurement developments including:
 1. E-procurement
 2. Sustainable Procurement
 3. Green Procurement
- Matches procurement plans to Value for Money, Government Policy and Objectives
- Links procurement evaluations to the social, economic and financial needs of Lebanon
- Speed and confidence in decision making
- Ability to analysis business, financial and economic data to support key strategic decisions
- Ability to interpret potential risk in supply chain
- Ability to lead and build a project related culture within own department
- Able to introduce a motivational results driven culture
- Ability to lead on the importance of quality management and compliance
- Ability to identify elements of procurement costs directly affecting budget.

Job description for senior procurement officials and professional procurement practitioners

A. Purpose, duties and responsibilities

Purpose

Supervises and leads the support and professional staff of the department. Participates in and implements senior strategies and policy, in close collaboration with the Management Support and Business Development, Operations, Program and project teams in the department to successfully deliver procurement services.

Competency matrix

Duties & responsibilities	Competency Area	Knowledge Outcome	Measurable Achievement Criteria
Creates overall purpose and direction to procurement department	Setting direction	Confidently makes medium term decisions and supports senior decision making	Procurement outcomes clearly linked to procurement plans
	Managing Change	Drives new thinking in procurement and seeks continuous improvement	Introduction of new ideas into public procurement and anticipates the effect of change
	Commercial Awareness	Links procurement evaluations to the social, economic and financial needs of Lebanon	Translation of these needs into the procurement delivery outcome
Maximizes the potential of all resources to deliver successful performance aligned to objectives	Measuring procurement performance	Able to evaluate procurement information to achieve tangible performance improvements	Reports on continuous improvements through examination of the current operation and practices opportunities for improvement
Ability to understand procurement contracts and full legal knowledge	Contracts	Ensure Departments have a clear understanding of government contracts	Development of clear and effective contracts that deliver government drivers. Ensuring all contracts awarded are aligned to the Lebanese rules and regulations
Matching procurement plans to Value for Money, Government Policy and Objectives	Managing people and resources	Maximises the potential of all resources to deliver successful performance and capability	Sustainable improvement in departmental and individual performance
	Needs assessment and planning	Procurement delivery that can be measured against procurement plans	Procurement plans that match procurement plans
	Measuring Quality as an output of Performance	Ability to manage the delivery of quality management and compliance	Procurement compliant with quality process and procurement plans
	Risk assessment and risk management	Ability to interpret potential risk in the supply chain	Inclusion of risk contingencies in procurement strategies

Competency matrix

Duties & responsibilities	Competency Area	Knowledge Outcome	Measurable Achievement Criteria
Ability to identify elements of procurement costs directly affecting budget	Finance in the supply chain	Ability to identify elements of procurement costs directly affecting budget	Management of procurement cost and outcomes to department budgets and communicate accordingly
Development of relationship approaches for key stakeholders	Stakeholder management	Able to operate at a strategic level with key internal and external stakeholders, to leverage the benefits of relationships	Development of relationship approaches for key stakeholders given their relative importance to Lebanon and the department at a non-strategic and strategic level
	Contract management	Develop post contract management approaches for departments in line with Government regulations	Ability to implement post contract management strategies and plans to ensure in line with contract deliverables
Influence to support/defend procurement decisions linked to policy and objectives	Communicating and influencing	Gains the commitment of stakeholders and colleagues to implement strategy and objectives	Communication methods within the organization are used effectively and all relevant people are kept informed of developments in the strategy

B. Knowledge and skills requirements

- **Education:** Master's Degree or equivalent in Business Administration, Public Administration, Finance, Economics or related field
- **Preferable Training:** IoF & OMSAR training courses, in addition to training abroad
- **Membership:** Professional bodies
- **Length and type of practical experience required:** 5 years of relevant experience at the national or international level in procurement management
- **Knowledge of language(s) and other specialized requirement:** Fluent Arabic and in another foreign language.

Should be also conversant in government policies, rules and regulations.

Advance knowledge of web based management information systems.

C. Complexity of work

(Describe the intricacy of tasks, steps, processes or methods involved in work, difficulty and originality involved in work):

Strategic approach to complex issues related to procurement and the role is governed by the procurement rules and regulations of Lebanon.

D. Scope and effect of work

(Describe the breadth of work performance, and the effect the work has on the work of others or the functions of the organization):

Strategic approach to procurement, timely and appropriate delivery of services, through full contract management. Introduction of new relationship management strategies and processes to ensure stakeholder management and overall timely delivery of department programmes and projects.

E. Instructions and guidelines available

Instructions (Describe controls exercised over the work by the Superior; how work is assigned, reviewed and evaluated).

Guidelines (Indicate which written or unwritten guidelines are available, and the extent to which the employees may interpret, adapt or devise new guidelines):

1. The Government of Lebanon Rules and Regulations
2. International rules and regulations especially for donor financed projects
3. The Public Accounting Law (PAL)
4. Procurement Manual (goods & Services) and National Bidding Documents
5. Policy and Strategy documents
6. Institutional work plan document

F. Work relationships

(Indicate the frequency, nature and purpose of contacts with others within and outside the assigned organization (other than contacts with superiors):

The role requires engagement with internal and external stakeholders, key suppliers, and policy influencers.

G. Supervision over others

(Describe responsibility this position has for supervision of other employees, including the nature of supervisory responsibilities and categories and number of subordinates, both directly and indirectly supervised):

The role requires strategic overview of departments.

Job description for junior and middle level public procurement practitioners

A. Purpose, duties and responsibilities

Purpose

To manage the procurement process successfully ensuring strong stakeholder and supplier relationships, value for money and high quality deliverables on behalf of Lebanese Government.

Competency matrix

Duties & responsibilities	Competency Area	Knowledge Outcome	Measurable Achievement Criteria
Preparation of tender specific contractual compliance	Developing specifications	Ability to contribute to the development of specifications	Departmental specifications include organisational procedures, Lebanon policy requirements, and alignment with supply and demand requirements
Prepare and issue PQQ and Requests for proposals (RFQ), purchase orders to external suppliers in accordance with Departmental operating procedures	Sourcing and tendering	Able to engage in tendering at a tactical level (ensuring the tactics in place will lead to strategic delivery)	Procurement processes include the need for sourcing and tendering in the context of procurement planning
Maintaining effective and efficient supplier relationships post contract and in developing relationships	Supplier relationships	Is able to demonstrate an understanding of the importance of supplier development, negotiation skills and contribute ideas accordingly	Engaged in working with suppliers and development ideas, including aspects of negotiation to secure Value For Money
Manages the delivery of goods or services against contract, monitoring supplier and government responsibilities	Monitoring and reviewing procurement projects Contracts and Models	Ability to implement key project control mechanisms Ensure department teams and related functions have a clear understanding of governance of contracts	Provision of procurement reports for effective monitoring and review Preparation of contracts aligned to the legislative and policy environment of Lebanon
Responsibility for managing contract variations and breach of contract for relevant contracts	Legal Knowledge	Understanding of: Contracts & Models Terms & Conditions of Contract Contract Policy Local and International Procurement Law	Ability to comply with the legal basis of procurement contracts

Competency matrix

Duties & responsibilities	Competency Area	Knowledge Outcome	Measurable Achievement Criteria
Conduct regular reviews with suppliers to monitor, identify and report on issues as required to ensure that contractual requirements are completed	Contract management	Ability to apply post contract management approaches, including managing the relationship to maximise the Value For Money component of the contract, whilst managing risk and potential breach of contract	Working with suppliers to ensure the contract is delivering in line with contract deliverables, terms and conditions of the contract
	Project Management	Ability to manage the project tasks to ensure completed deliverables within own department to improve procurement performance	Is able to monitor projects effectively so that problems are identified and addressed promptly and mitigate risks accordingly
	Stakeholder Management	Able to operate at a technical level with internal and external stakeholders, to leverage the benefits of relationships	Development of relationship management with stakeholders for each contract
Manages day to day activities to a high standard, in line with procurement plans	Needs Assessment and Planning Skills	Match procurement delivery that can be measured against procurement plans	Procurement outcomes that match procurement plans
	Risk Assessment and Risk Management	Ability to interpret potential risk in supply chain	Ensuring the procurement process matches the risk contingencies as per the procurement strategy
	Storage	Ability to evaluate the requirements for effective storage of supplies	All procurements include the principles of storage, including the effective, secure and accessible storage
Ensures financial best practice and transparency	Commercial awareness	Maximise all opportunities to drive financial improvement in procurement	Managing the financial needs of the department. Ability to use financial tools such as tender evaluation, budgets and forecasts
	Measuring Procurement Performance	Capability to collate and prepare data for analysis to support improved procurement performance	Reports on continuous improvements through examination of the current projects to support opportunities for procurement improvement
Use of data to support the achievement of department procurement plans and budgets	Analysis	Ability to collect information recognizing its potential to influence a range of financial decisions	
Ensuring departmental compliance across the procurement process	Measuring Quality as an Output of Performance	Ability to comply with processes of quality management and compliance	Procurement compliant with departmental quality procedures
	Storage	Ability to evaluate the requirements for effective storage of supplies	All procurements include the principles of storage, including the effective, secure and accessible storage

B. Knowledge and skills requirements

- **Education:** A university degree in business or other fields related to procurement.
- **Preferable Training:** IoF and OMSAR training courses.
- **Membership:** Professional bodies.
- **Length and type of practical experience required:** Minimum 4 years' experience as a junior procurement officer or equivalent.
- **Knowledge of language(s)** and other specialized requirement: Fluent Arabic and another foreign language.

Should be also conversant in government policies, rules and regulations.

C. Complexity of work

(Describe the intricacy of tasks, steps, processes or methods involved in work, difficulty and originality involved in work):

Minimal complexity as the role is governed by the procurement rules and regulations of Lebanon

D. Scope and effect of work

(Describe the breadth of work performance, and the effect the work has on the work of others or the functions of the organization):

Need to manage the suppliers effectively, while managing supply and demand requirements, to the best value outcome for the department and meeting the Governments sustainable procurement agenda.

E. Instructions and guidelines available

Instructions (Describe controls exercised over the work by the Superior; how work is assigned, reviewed and evaluated).

Guidelines (Indicate which written or unwritten guidelines are available, and the extent to which the employees may interpret, adapt or devise new guidelines):

1. The Government of Lebanon Rules and Regulations
2. The Public Accounting Law (PAL)
3. Procurement Manual (goods & Services) and National Bidding Documents
4. Policy and Strategy documents
5. Institutional work plan document.

F. Work relationships

(Indicate the frequency, nature and purpose of contacts with others within and outside the assigned organization (other than contacts with superiors):

The role requires engagement with internal and external stakeholders, suppliers, vendor managers and contractors.

G. Supervision over others

(Describe responsibility this position has for supervision of other employees, including the nature of supervisory responsibilities and categories and number of subordinates, both directly and indirectly supervised):

The role requires supervision of departmental procurement teams.

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