



REPUBLIQUE LIBANAISE
MINISTERE DES FINANCES

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Status of Implementation of Lebanon's Public Procurement Law 244/2021 and Assessment of skills' gaps and training needs

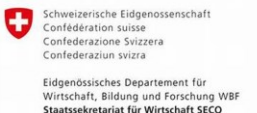
June 2024

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With the technical support of:



Ministry of Foreign Affairs of the
Netherlands



List of Abbreviations

CEDRE	Conférence économique pour le développement, par les réformes et avec les entreprises
COA	Court of Accounts
FAQ	Frequently Asked Questions
IMF	International Monetary Fund
IOF	Institut des Finances Basil Fuleihan
GOL	Government of Lebanon
LBP	Lebanese Pound
MAPS	Methodology for Assessing Procurement Systems
NSPPR	National Strategy for Public Procurement Reform
PP	Public Procurement
PPA	Public Procurement Authority
PPL	Public Procurement Law
SIGMA-OECD	Support for Improvement in Government and Management - Organization for Economic Cooperation and Development
WB	World Bank

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Objective

- According to international reports, professionalizing the public procurement workforce has become a priority in countries' public procurement reforms. Assessing the level of professionalization of the public procurement workforce is a first step in a process that shall accompany and consolidate the procurement reform.
- Lebanon has been reforming its public procurement system since 2019, starting with a MAPS assessment (2019-2020), to drafting and issuing a modern Law (PPL 244/2021), followed by issuing a national reform strategic vision and the entry into force of PPL 244/2021 (2022).
- **The present report aims at determining the status of the implementation of the Public Procurement Law (PPL) 244/2021, and at assessing skills gaps and specific training needs of procuring entities at central and local level of government towards an informed professionalization process.**
- **The report proposes recommendations to assist Lebanon in improving implementation practices as well as training and capacity building, in line with PPL 244/2021 and the reform strategic vision.**

Background and scope

Government's Commitment to Public Procurement

- Public procurement reform is a key commitment for structural reforms of the Government of Lebanon (GoL) expressed at CEDRE Conference (2018), Ministerial Declarations (2019-2021) and in the Staff-Level Agreement with the IMF (2022)
- It is a pillar of the National Anti-Corruption Strategy (NACS) (2020).
- Following the MAPS assessment by the World Bank (2021) ⁽¹⁾, the new Public Procurement Law (PPL) 244/2021 ⁽²⁾ was ratified in June 2021 and entered into force in July 2022.
- The National Strategy for Public Procurement Reform (NSPPR) and Action Plan (2022-2024) ⁽³⁾ was approved by the Council of Ministers on May 20, 2022 (Decision no.66)

1. Lebanon MAPS Report (2021), <http://institutdesfinances.gov.lb/wp-content/uploads/2022/03/MAPS-Lebanon-final-W.-Maps-Seal.pdf>
2. Public Procurement Law (PPL) no. 244/2021, <https://institutdesfinances.gov.lb/wp-content/uploads/2022/02/PP-law-2023-aug23.pdf>
3. National Strategy for Public Procurement Reform (NSPPR) (2022), <http://institutdesfinances.gov.lb/wp-content/uploads/2022/05/Lebanon-PPR-strategy-Final-April22-Approved-by-COM-Eng-1.pdf>

Background and scope

Reforming in a deteriorating governance and economic environment

- PPL 244/2021 entered into force while Lebanon is facing critical times ⁽⁴⁾:
 - a. A political and institutional vacuum, and a crippling socioeconomic crisis for over four years, coupled with the spillover effects of the conflict in the Middle East since October 2023: a Presidential vacuum, a caretaker government with restricted executive powers, and a limited legislative action by Parliament in issuing reform laws have all markedly slowed the progress needed for a comprehensive crisis resolution plan.
 - b. A continued deterioration of the macroeconomic environment: the acceleration of inflation is primarily driven by exchange rate depreciation and the rapid dollarization of the economic activities.
 - c. Poverty continues to rise and household living conditions continue to deteriorate: around 3/5 households consider themselves to be poor or very poor.
 - d. The continued impact of Syrian refugees on Lebanon's already weak infrastructure in the electricity, water, and transportation sectors.

4. World Bank, Lebanon Economic Monitor (LEM) 'In the Grip of a New Crisis', Fall 2023, <https://documents1.worldbank.org/curated/en/099518112202340074/pdf/IDU1cbb9a9271d02b14f6a18d8c1cd99718adaaf.pdf>

Background and scope

Procurement capacity & professionalization

- Lebanon has been facing significant shortages in procurement capacities and competencies, with 48% of practitioners unfamiliar with international practices ⁽⁵⁾.
- MAPS assessment highlighted gaps and risks in the old procurement system, including gaps in the procurement workforce, necessitating training of procurement practitioners to align with international good practices.
- Building capacities of procurement practitioners is essential for proper fund utilization, economic recovery and growth, and better service delivery.
- The National Strategy for Public Procurement Reform (NSPPR) and Action Plan (2022-2024) prioritized capacity building for procuring entities and tenderers, crucial for effective application of PP Law 244 and to advancing procurement reform.

5. Institut des Finances, 2014, Public Procurement: Diagnostic Review and A Vision Forward, <http://www.institutdesfinances.gov.lb/wp-content/uploads/2018/08/Procurement-Leb-for-web.pdf>

Background and scope

- PPL 244/2021 aspires to achieving a high degree of professionalism among public procurement practitioners through:
 - a. Establishing PP as a distinct profession within the State's structure, requiring specialized units within procuring entities tailored to their procurement volume.
 - b. Defining competency frameworks, recruitment, promotion terms, scientific qualifications, skills, experience, and ethical standards through secondary legislation as defined by the PPA in coordination with the Civil Service Board.
 - c. Suggesting a training policy by the PPA.
 - d. Mandating continuous and specialized training to the Ministry of Finance - Institut des Finances Basil Fuleihan (IOF).
 - e. Making available PP practical and procedural guides available for procuring entities.
 - f. Involving other training institutions across the public sector and specialized knowledge centers and other concerned stakeholders across the civil society in the capacity development process at the national level.
 - g. Ensuring high professional standards for all procurement officers and committee members.
 - h. Addressing training to the private sector and economic operators.
 - i. Raising awareness on the principles of integrity, transparency and sustainable development.

Background and scope

- Since the enactment of PPL 244/2021 in July 2021, the IOF has been building capacities among procuring entities at central and local levels and raising awareness across civil society and business associations.
- A group of 15 expert-trainers has been certified by the Institute since 2021 to conduct training, supported by the World Bank (WB).
- The "PP Law 101" introductory course reached 60% of targeted beneficiaries; more than 3,000 out of 5,000 procurement practitioners were trained by the Institute of Finance.
- While 667 practitioners attended the introductory training, municipalities still lack resources to fully comply with the Law and request further training and coaching.
- In 2022, the IOF, with WB's support, developed a capacity building strategy aligned with national priorities and international best practices, peer-reviewed by OECD-SIGMA and Expertise France - Agence Française de Développement.
- This capacity building strategy aligns with the NSPPR and Action Plan implementation (2022-2024) and provides a clear roadmap for national stakeholders on learning pathways and priorities.

Background and scope

- Resistance to implement PPL 2444/2021 was detected at various levels of government; the implementation was not systematic for large independent procuring entities that have their own internal regulations giving them more flexibility than PPL (like Middle East Airlines, Casino du Liban, and others) and for small ones (like small municipalities) that have limited human capacity for an efficient understanding and application of the law.
- This resistance has increased the demand for continuous training and coaching among procuring entities and practitioners.
- To face these challenges, technical and financial support is needed with a need for prioritization of donor-funded projects/initiatives to support capacity building. Building upon existing initiatives is crucial.
- **The IOF, in collaboration with Insights Analytica, conducted a survey to assess PPL 244/2021 implementation status and skills gaps in public procurement across central and local government entities. It was implemented in October and November 2023. Data cleaning, transformation and analysis took place in January 2024. Report drafting and reviews took place in March and April 2024.**
- **This report presents 1) the findings of the survey with 68 participating procuring entities, and 2) the recommendations to overcome challenges and enhance training and capacity building at the national level for sound reform implementation.**

Methodology

Instrument

- 1 survey questionnaire, covering:
 - General information of respondents
 - PPL 244/2021 implementation: practices and challenges
 - Recommendations of procuring entities
 - Capacity building needs

Data collection

- A team of 3 experts supported the Institute in designing the survey, following-up with procuring entities and analyzing the findings
- Survey was administrated online (Microsoft forms)
- Surveys was made on a voluntary basis.
- Evidence collected to inform decision making.

Limitations

- Data collection was conducted at a time civil servants were not motivated to provide insights and recommendations on Law 244 implementation.
- High rate of absenteeism related to civil service strikes.
- Several reminders sent asking procuring entities to fill the online questionnaire.
- Covering only the qualitative aspect due to difficulty of accessing structured and reliable information in early stages of new Law application.

Survey questionnaire

- The survey questionnaire collected qualitative data.
- Questionnaire was divided into two main sections:
 - Law 244 implementation:** aimed at understanding the characteristics and challenges of the Law implementation by procuring entities and identify room for improvements.
 - Capacity needs assessment:** aimed to diagnose the procuring entities' practices related to procurement professionalization and to identify their needs and priorities for capacity building.
- Survey was tested with a group of 7 national experts and practitioners working on the PP reform and on building capacity in public procurement, and with 2 senior procurement specialists from the World Bank.

Data Analysis and results

- Central (ministries and public institutions), and local government (municipalities and unions of municipalities) respondents' results are grouped and analyzed.
- A layer of analysis was provided for local government insights collected.
- A consultation meeting was held by the Institute of Finance with **32 representatives from various procuring entities** and national expert-trainers allowing for discussion of findings at the level of challenges, training needs and recommendations.

SURVEY RESULTS



17%

Overall response rate (68 entities were responsive out of 399 targeted by survey)



48/124

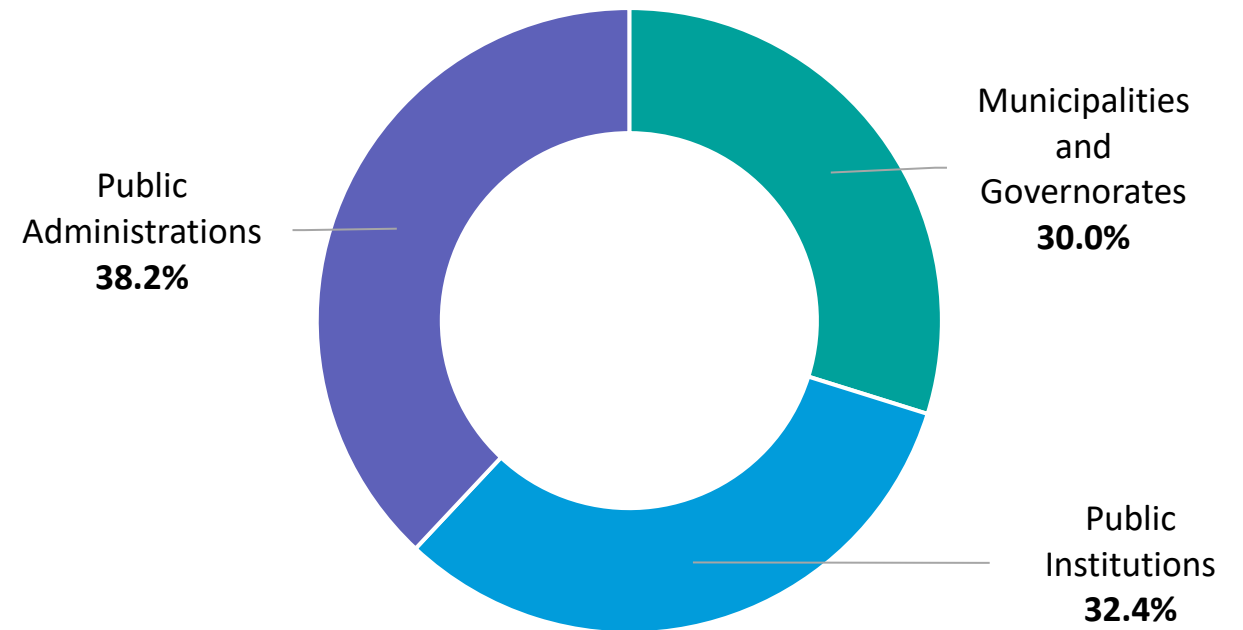
Surveys filled by public administrations and institutions (39% as response rate).



20/275

Surveys filled by local government (only 7% as response rate).

68
participating procuring entities

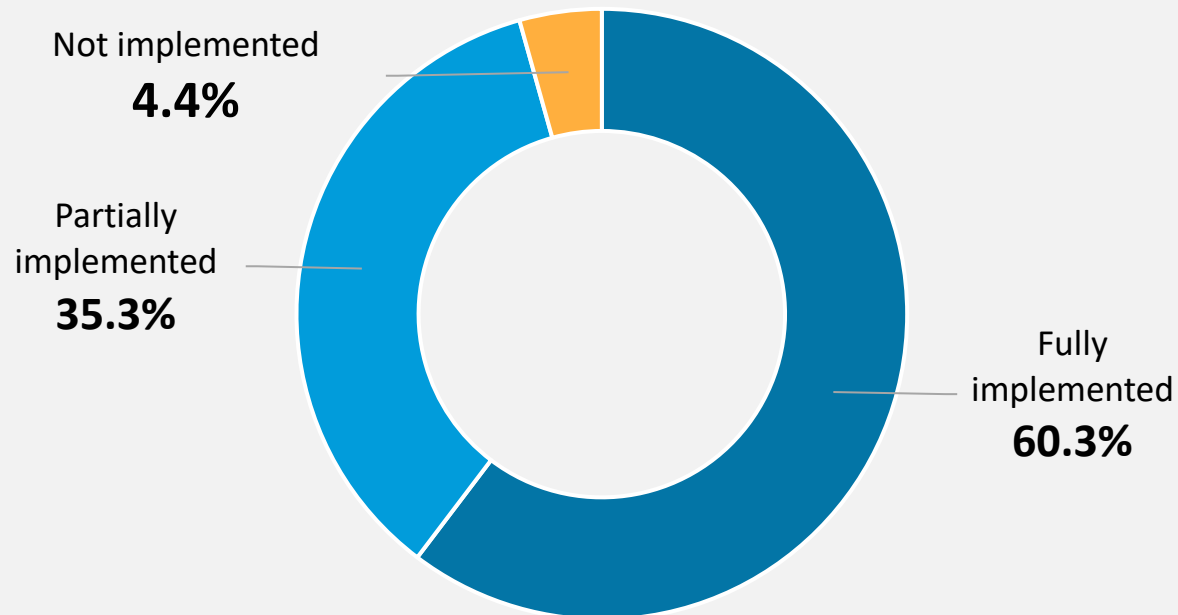


Implementation of PPL 244/2021: Overview on practices & challenges

Procurement planning & applied practices

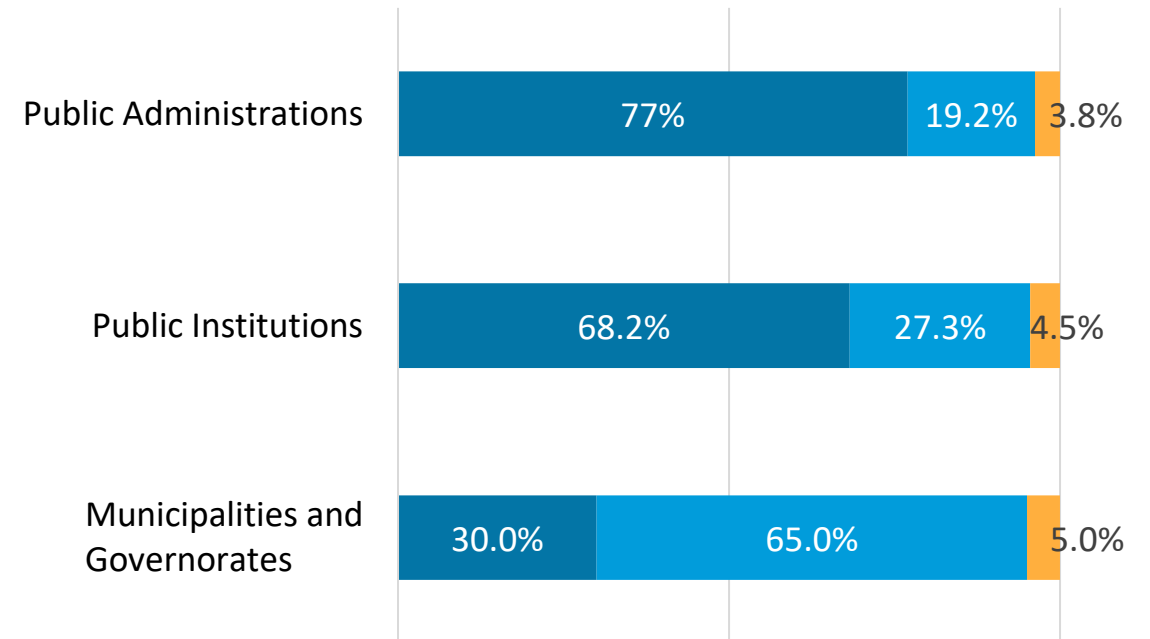
Implementation of the PPL 244/2021

Implementation of Public Procurement Law 244/2021



More than 95% of procuring entities are implementing PPL 244/2021, but two third only are implementing it fully. Awareness and capacity building efforts need to address this issue to have procuring entities abiding by full PPL 244/2021 provisions.

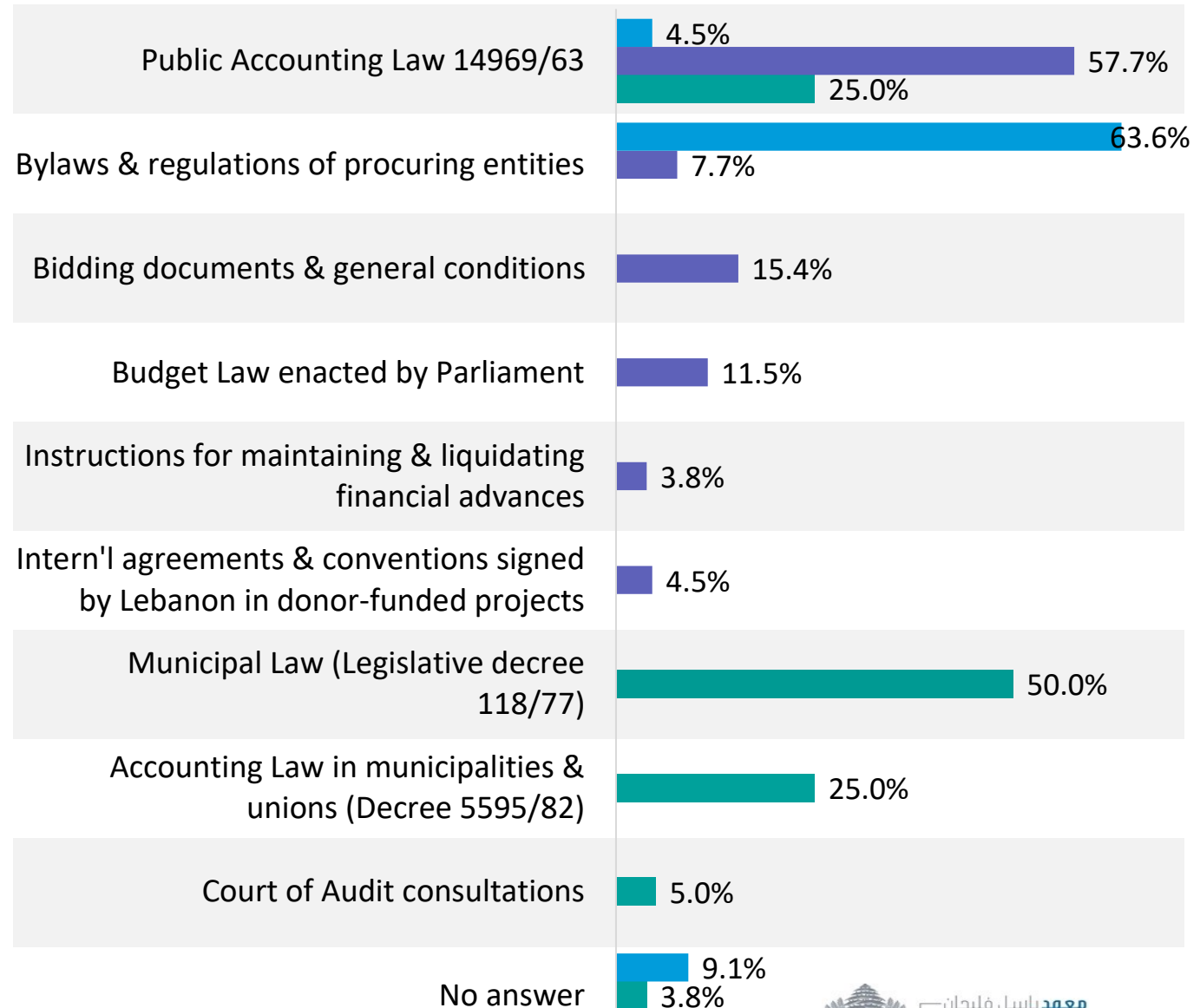
According to the type of entity



■ Fully implemented ■ Partially implemented ■ Not implemented

Besides PPL 244/2021, what are the effective rules and regulations related to procurement operations that you apply?

■ Public institutions ■ Public administrations ■ Municipalities



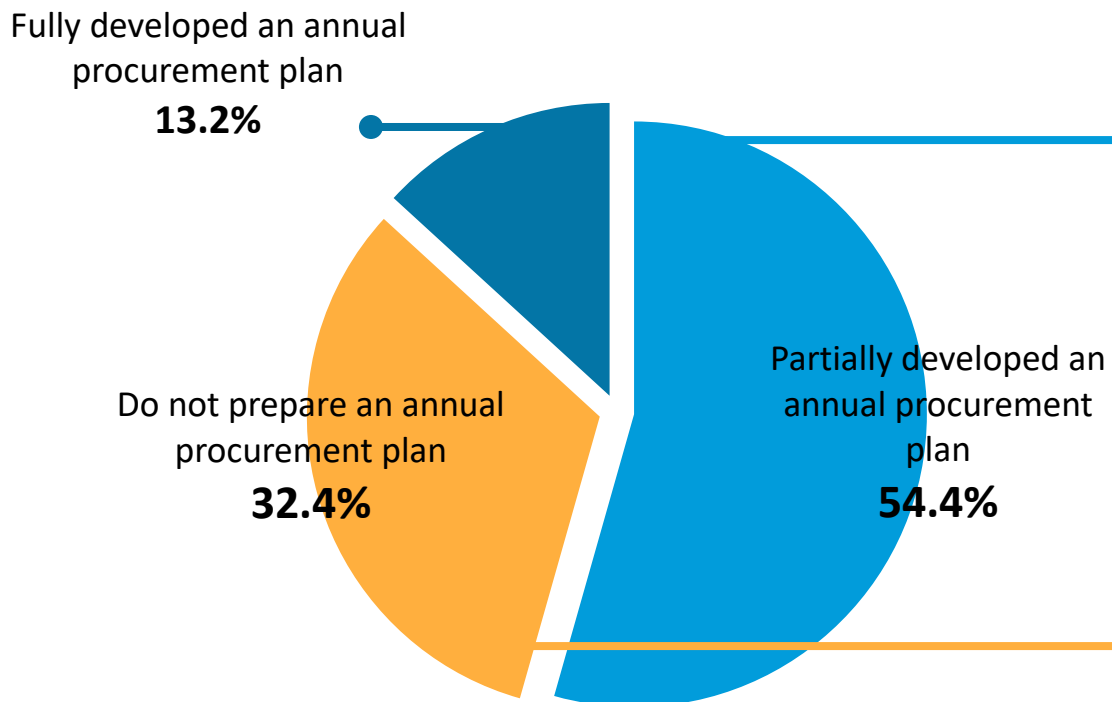
In addition to PPL 244/2021, procuring entities are applying other rules and regulations interlinked with procurement operations but independent from it (budget, internal processes of validation, tutelage authorities for independent public institutions, etc)

20.5% of procuring entities surveyed use ONLY the PPL 244/2021.

- 19.2% of Public Administrations answered that they only use the PPL.
- 22.7% of Public Institutions answered that they only use the PPL.
- 20% of Municipalities answered that they only use the PPL.

Procurement planning is not yet fully executed

Prior to the enactment of PPL 244/2021, did you develop an annual procurement plan?



Among the ones who partially developed an annual procurement plan

In accordance with PPL 244/2021, did you prepare the annual procurement plan for 2023?

Started to prepare
27.0%

Did not prepare
73.0%

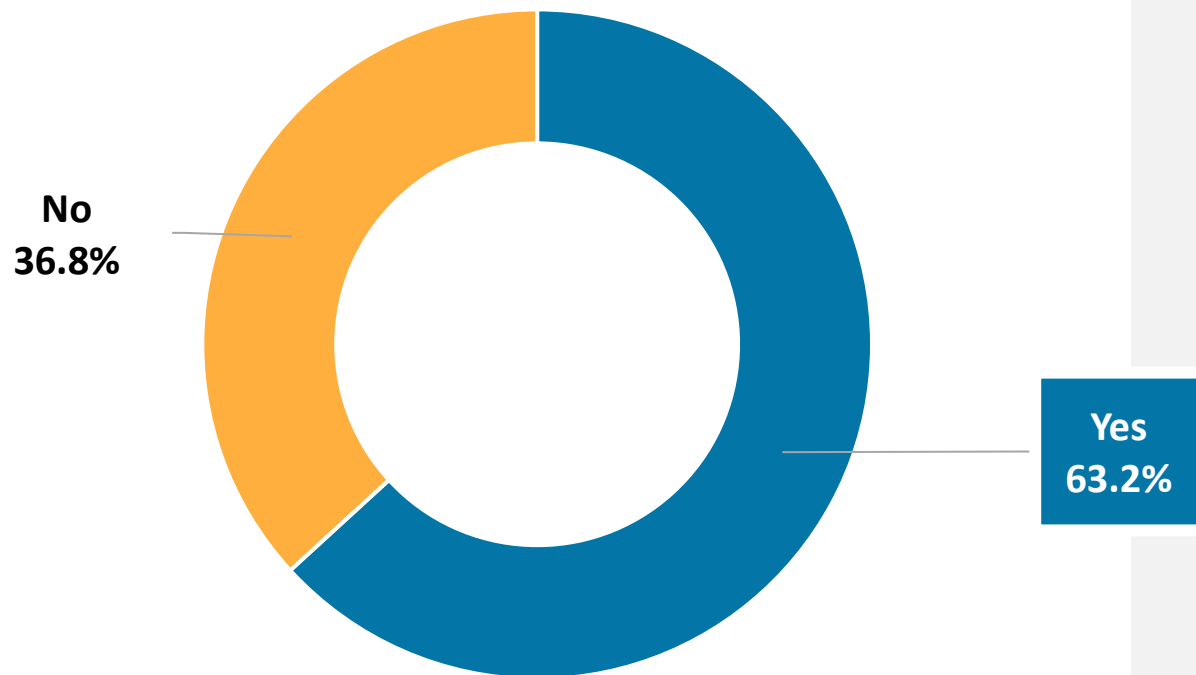
Among the ones who did not prepare an annual procurement plan

Started to prepare
31.8%

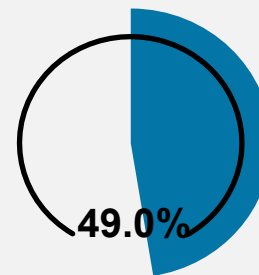
Did not prepare
68.2%

Procurement planning is still challenging

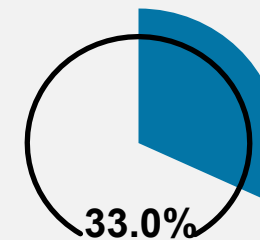
Obstacles are faced in 2/3 of the cases surveyed



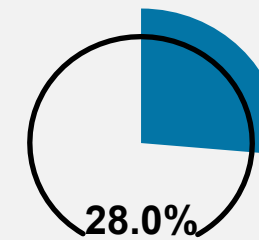
What are the obstacles faced in preparing the annual procurement plan?



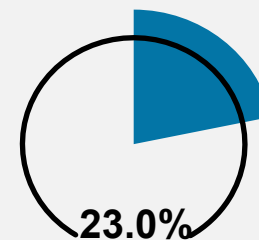
Weak human capabilities



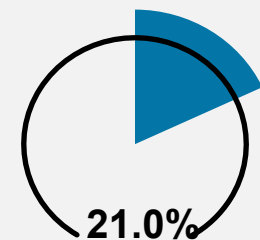
Did not receive any information on the procurement plan template by PPA



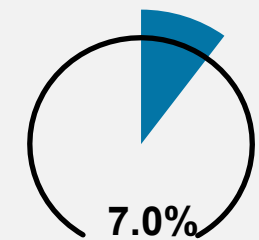
Procurement plan template does not suit the nature of work



Eco-Fin situation and fluctuation of exchange rate



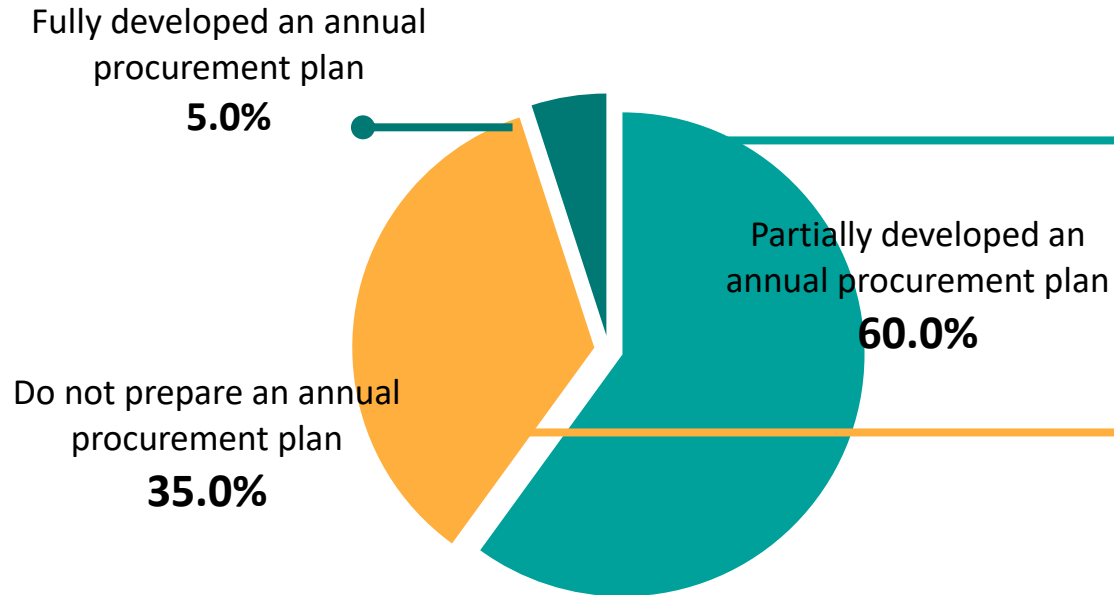
No Budget in 2023



Other

Limited procurement planning at the local level

Prior to the enactment of PPL 244/2021, did you develop an annual procurement plan?



Among the ones who partially developed an annual procurement plan

Started to prepare
25.0%

Did not prepare
75.0%

Among the ones who did not prepare an annual procurement plan

Started to prepare
43.0%

Did not prepare
57.0%

In accordance with PPL 244/2021, did you prepare the annual procurement plan for 2023?

70% of surveyed municipalities found procurement planning challenging

Types of obstacles faced in preparing the annual procurement plan

57.1% Weak human capabilities

28.6% Procurement plan template does not suit the nature of work

35.7% Did not receive any information on the procurement plan template by PPA

28.6% Eco-Fin situation and fluctuation of exchange rate

7.1% No Budget in 2023

A variation in the use of procurement methods

1- Shopping (or by invoice) stands out as the most used method.

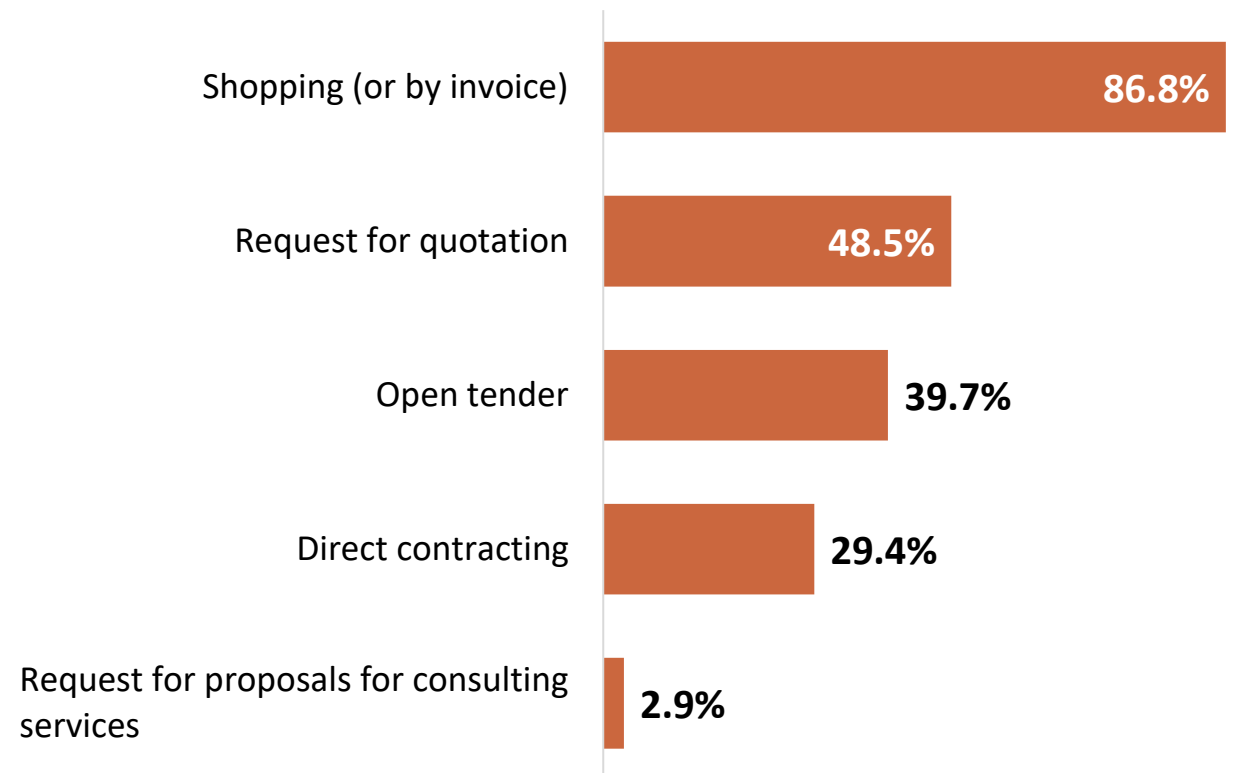
This method is often employed for low value and regular procurement where a bidding process is not applicable; namely when the estimated value of the procurement project (including consulting services) does not exceed LBP 500 million.

2- The second most used method is the **request for quotation (RFQ)** followed by the **open tender**. RFQ is applied when the value of the procurement project does not exceed LBP 5 billion, with at least 3 bidders invited.

3- **Direct contracting** is applied mainly in specific sectors: security, telecommunications, health, public works and energy & water.

4- **Newly introduced methods** (framework agreements and two-stage tendering) are practically not used yet due to lack of awareness.

What are the most frequently used procurement methods in your institution since the beginning of PPL 244/2021 implementation?

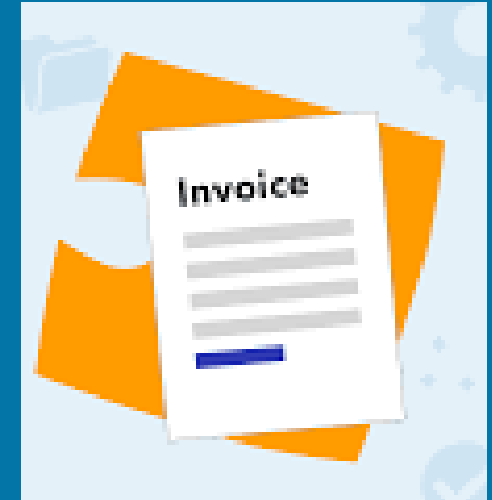


IN FOCUS- Shopping stands out as the most used procurement method

- Based on qualitative data from training and consultation with procuring entities, shopping is the most used method across public sector, which is not in line with the common practice of open competition, and this is mainly due to:
 - a. the devaluation of the Lebanese Pound has a severe impact on procuring entities' budgets
 - b. the suppliers are not bidding for open tender due to payment delays combined with the devaluation of the national currency
 - c. the procuring entities are splitting procurement under threshold to be able to procure by invoice, which is not permitted by the Law.
- **Court of Accounts Ex-Ante audit**

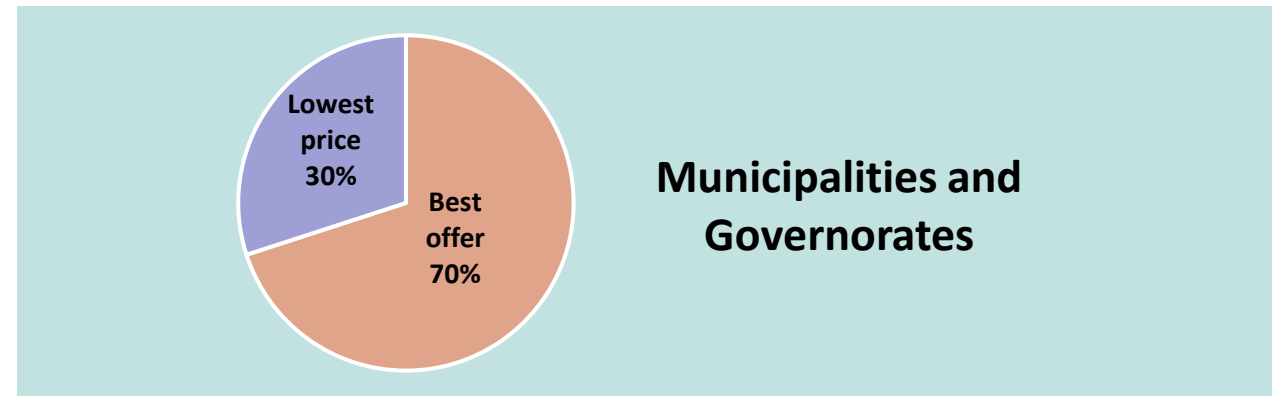
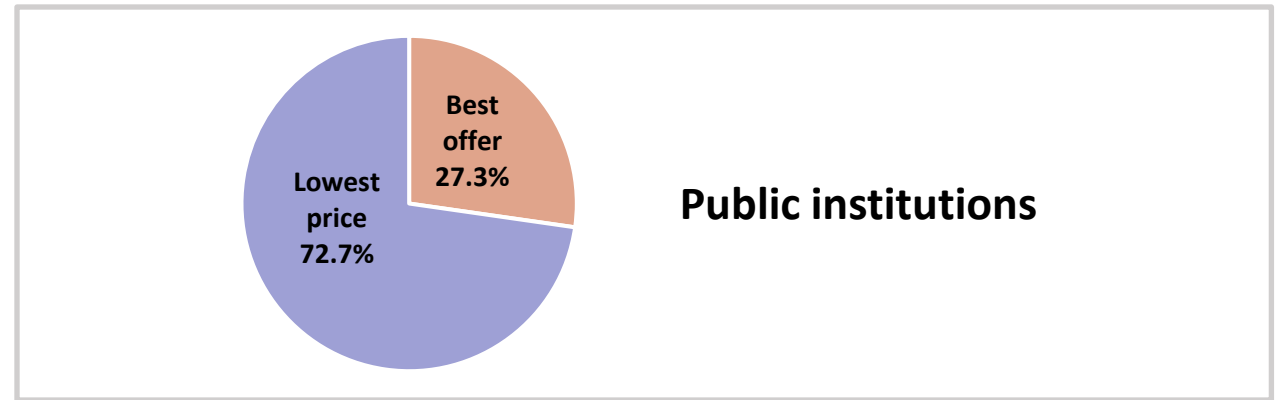
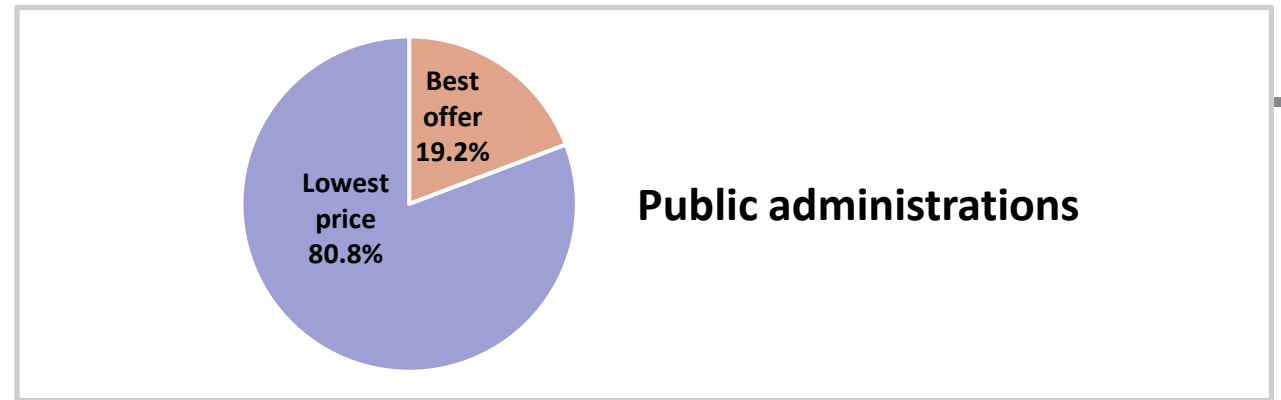
At the beginning of PPL 244/2021 implementation, all invoices were subject to the Court of Accounts ex-ante audit due to the thresholds of the CoA Law (25 and 75 million LBP).

Following the common practices of using the procurement by invoice, **the CoA issued Decision 15/2023 dated 31/7/2023 that allows a derogation to invoices** (invoices are no more subject to ex-ante control)



Lowest price as main criteria for contracts award

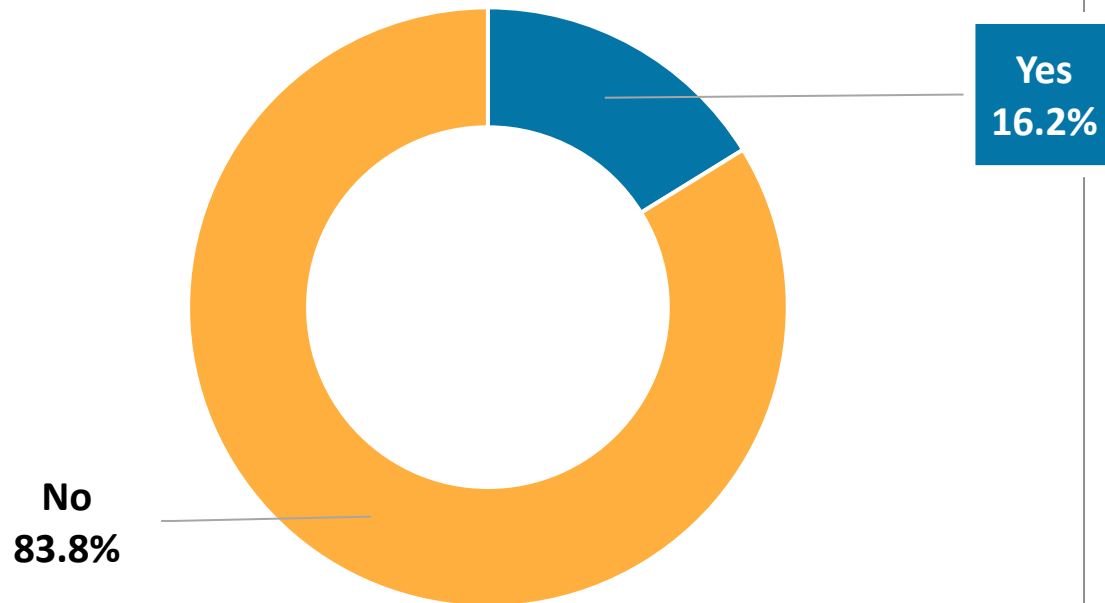
On what basis is the awarding of contracts most often made?



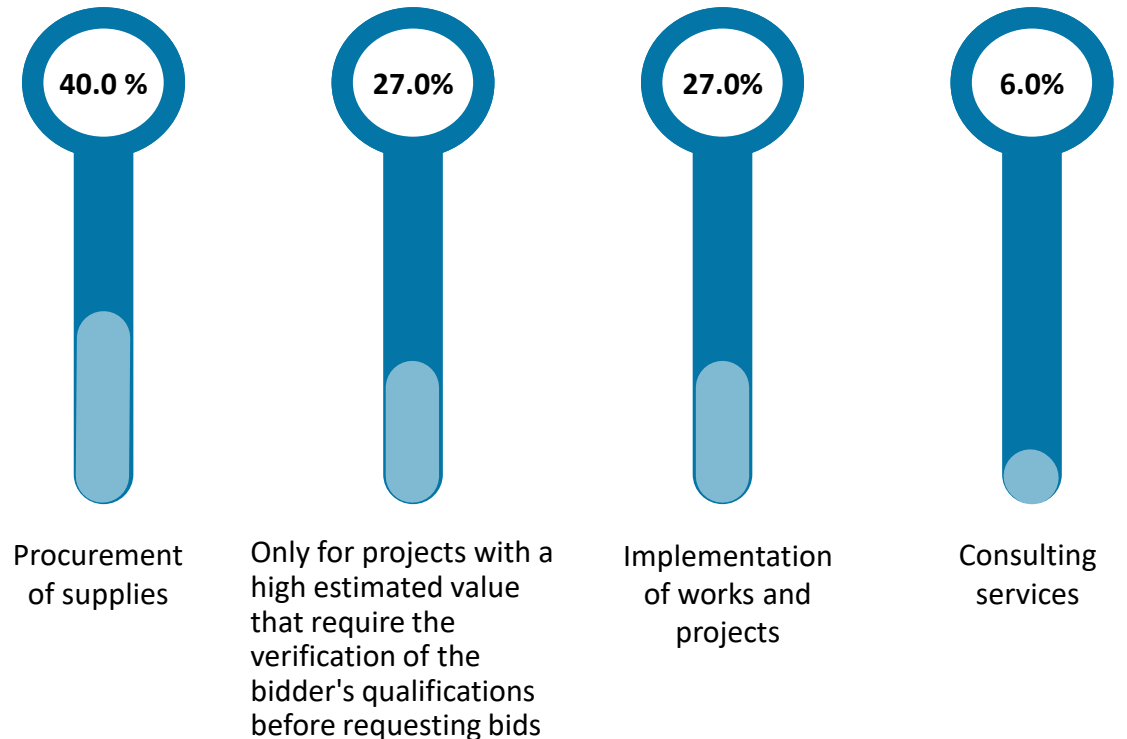
Municipalities and Governorates declared using other award criteria than the price (best offer) in application to Article 55-6

Pre-qualification proceedings for bidders

Do you apply pre-qualification proceedings for bidders?



In which procurement operations do you apply pre-qualification?



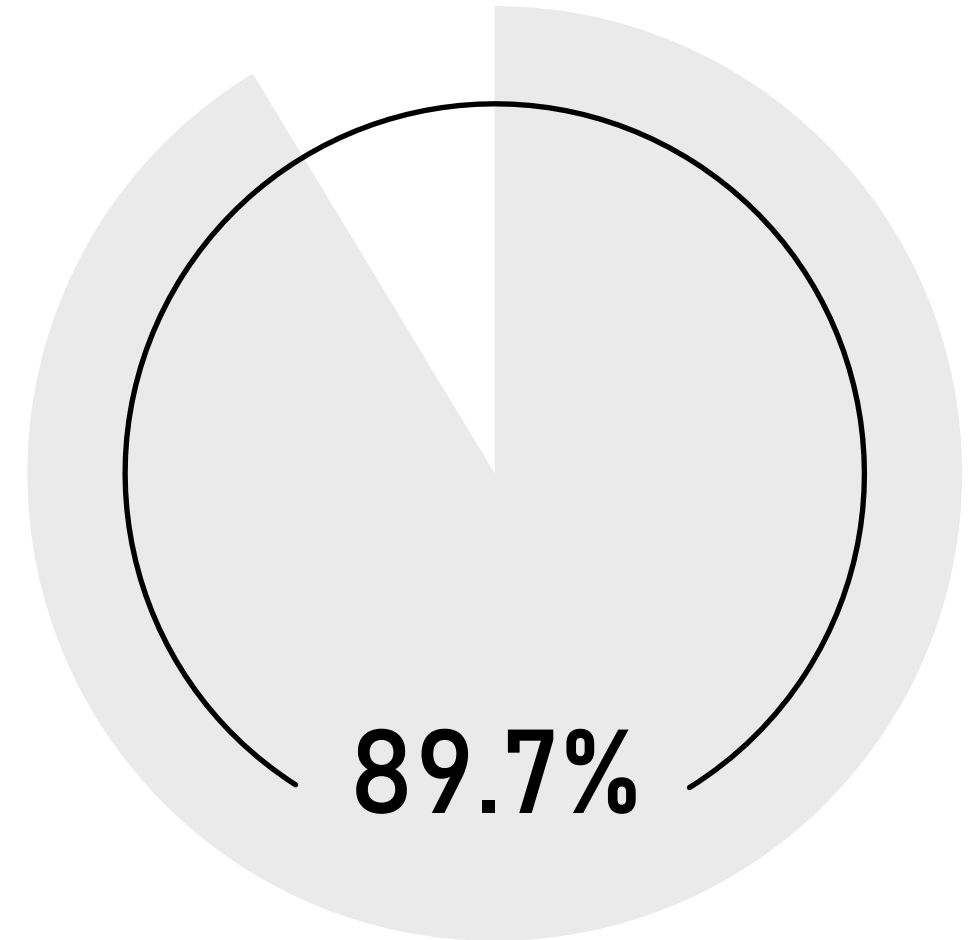
Although required by PPL 244/2021, pre-qualification is not largely applied by procuring entities; **only in 16.2% of the cases**. Pre-qualification is used by procuring entities to ensure the availability of technical, financial, administrative, human and other capacities of the bidders to perform a contract with the required qualifications before soliciting them to submit proposals, as detailed in PPL 244/2021- Art. 19.

A need for standard procurement documents



- Almost all public administrations/institutions that participated in the survey (**89.7%**) considered the adoption of standard procurement documents by the Public Procurement Authority a **high priority** to ensure proper implementation of the law.
- Non-standardized procedures are entry points for corrupted practices and inefficiencies; which worsen the business community's lack of trust in the PPL and reform.

Do you consider the adoption of standard procurement documents by the Public Procurement Authority a priority to ensure proper implementation of PPL 244/2021?



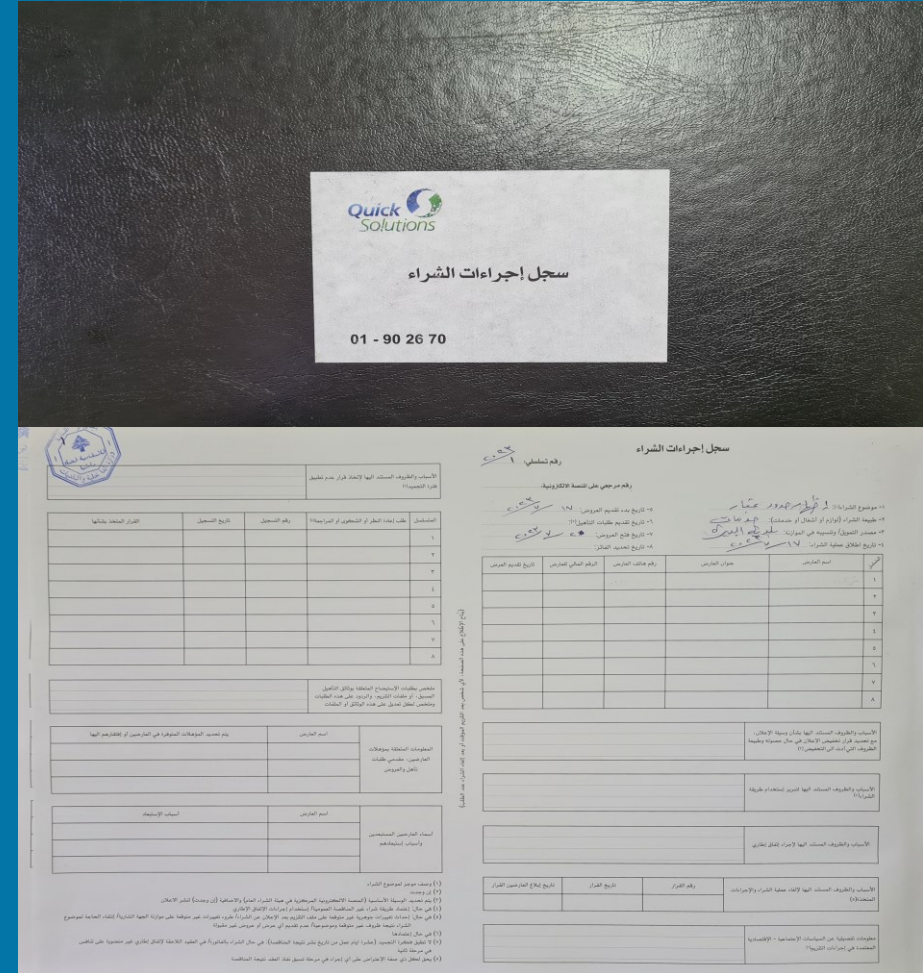
IN FOCUS- Record-keeping requirements for procurement proceedings are not respected

There is a considerable misconception regarding the record-keeping requirements for procurement proceedings as outlined in PPL 244/2021.

Some procuring entities (including municipalities) have mistakenly adopted a complex booklet for “procurement record” sold by a local copy center, believing it to be the standard template for procurement procedures' records.

Whereas by Law 244, the procurement record is a folder that every procuring entity should use to store all documents related to a specific procurement project. This folder may include a log or table of contents at the top for organizational purposes, but there is no prescribed template for this record.

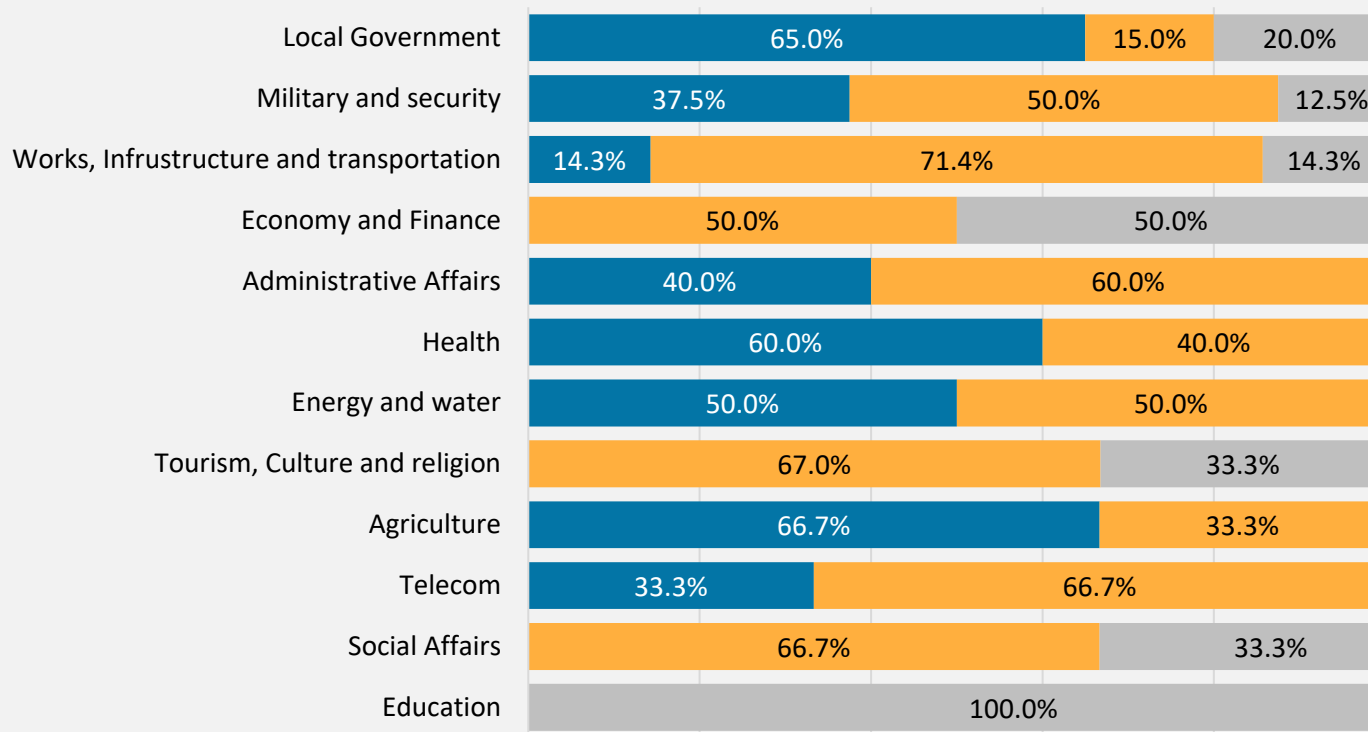
Additionally, each type of procurement requires different record-keeping practices based on its complexity and the volume of documents that need to be issued and retained as per PPL 244/2021.



Insufficient integration of sustainability in procurement processes

Less than half (**39.7%**) of respondents incorporate sustainability standards into their procurement processes, while **17.6%** are unfamiliar with the concept of sustainable procurement.

Do you apply sustainability standards in procurement processes?



Criteria taken into consideration in the procurement

81.5%
Economic

participation of small and medium enterprises, participation of women-owned businesses, etc.

33.3%
Environmental

mitigating carbon emissions, rationalizing the use of energy resources, reducing pollution, etc.

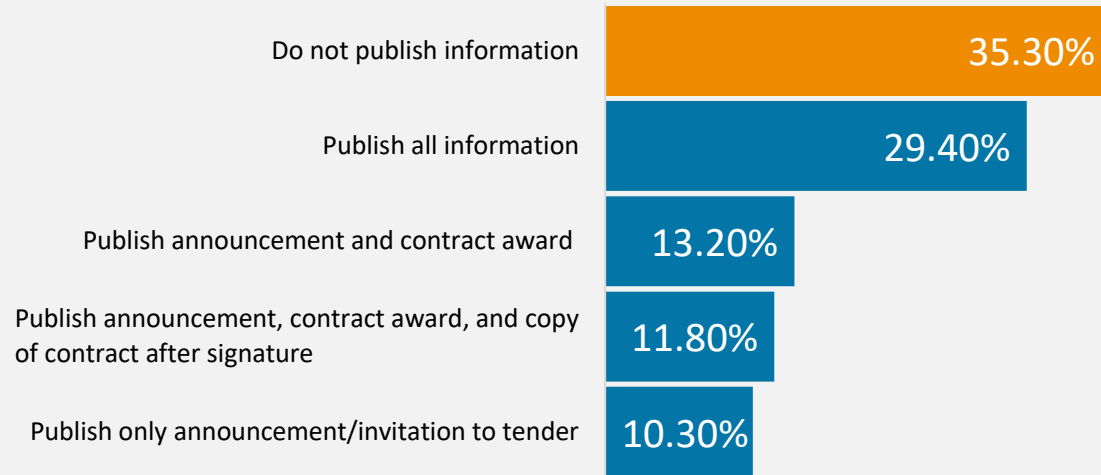
22.2%
Social

preventing child labor, registering workers in social security, respecting workers' rights, integrating people with special needs, etc.

Publication, access to information and transparency

Publication of information needs to be enforced

Does your institution publish all information related to procurement operations in accordance with PPL 244/2021?



What type of information do you publish?

Annual procurement plans

Results of the bidding

List of invoices

Evaluation committee decisions

Public tenders' procedures and documents

Signed contracts

Announcements

Notice of direct contracting

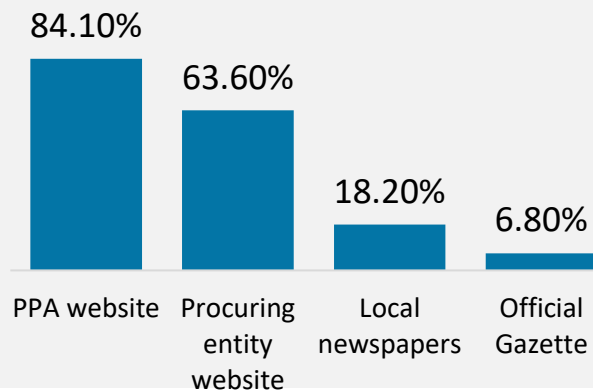
Procurement documents and conditions for bidders

Cancellations of procurement

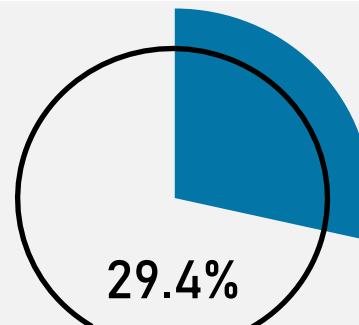
Amendments to procurement documents

Decision to form committees

Where is it published?



Do you announce contracts awarded by shopping on PPA website? (at least once per year)



What are the top reasons hindering the publication of information?

ranking

1

Budget limitations affecting procurement volume

2

Urgent and low value procurement

Lack of logistical capacity and expertise

3

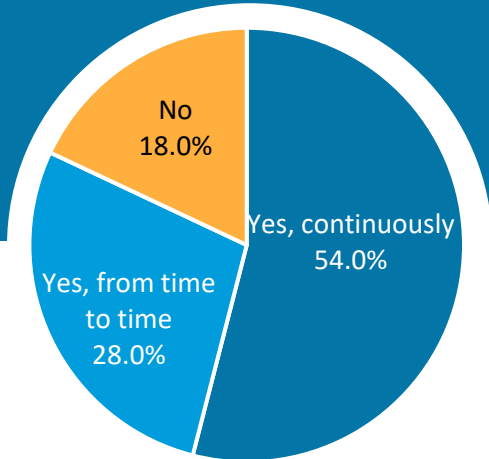
Not knowledgeable enough of law requirements

4

Not registered on PPA website yet

Current use of PPA website

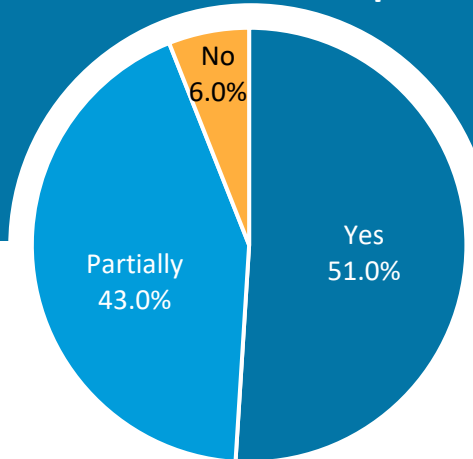
Do you use PPA's website?



Main purposes of website usage:

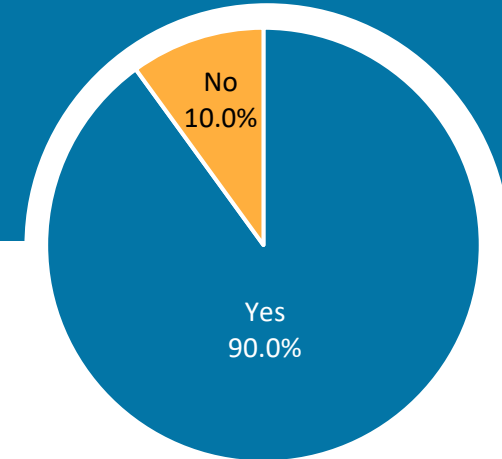
- 93%** To access circulars and decisions issued by the Authority
- 64%** For publication and announcements
- 30%** To request assistance in applying PPL 244/2021

Does PPA website contain sufficient information needed for PPL implementation?



Most respondents agreed that the PPA website contains sufficient information for the administration/institution to implement PPL 244/2021.

Do you find it easy to access and find information on PPA website?



The majority of administrations found the PPA website is easy to navigate and the information easy to find.

The central electronic platform (single portal) is the tool for transparency

Incorporate a **section dedicated to FAQ** to provide users with quick access to essential information using inquiries previously asked by procuring entities.

01

Improve the **search option** for more efficient navigation and information retrieval.

02

Dedicate a **section for Q&A, ensuring prompt responses within 24h** to accelerate clarification during the procurement process.

03

Publish the **Standard Procurement Documents** in a clear and chronological order.

04

05

Publicly disclose all mutual agreement contracts.

06

Publish and facilitate **access to essential data** related to procurement for transparency

07

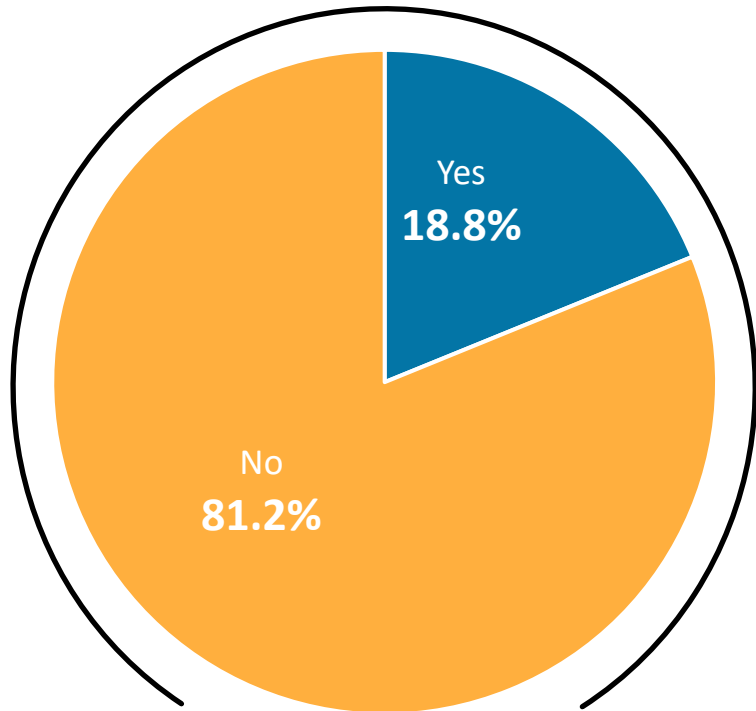
Allocate a **page specifically for the requirements of municipalities.**

08

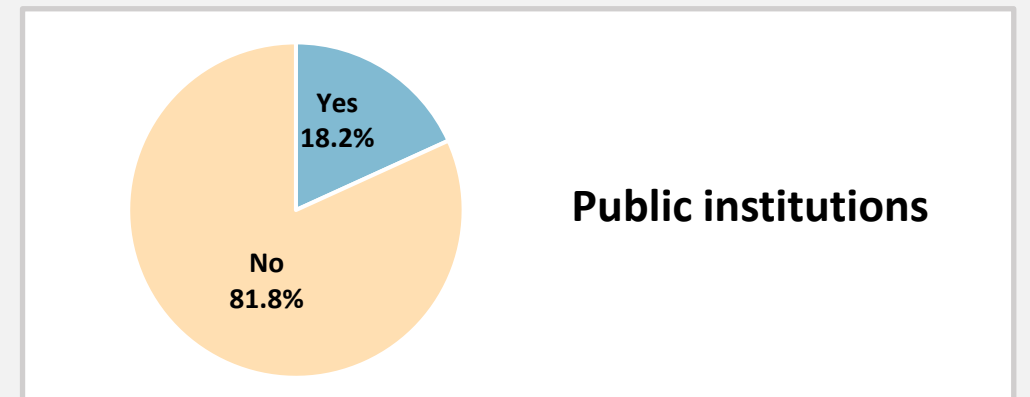
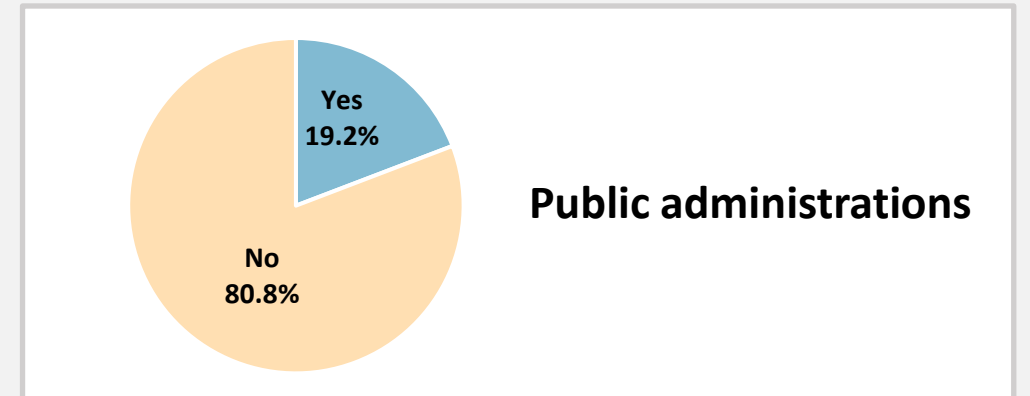
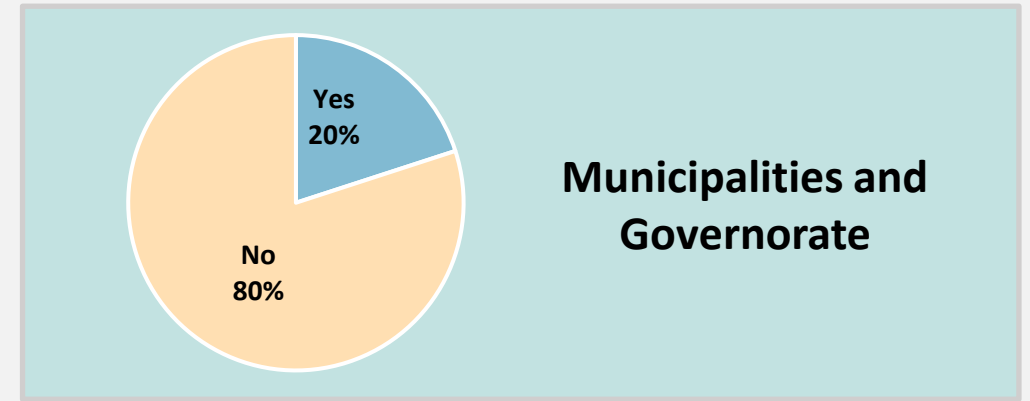
Ensure **continuous update of information** to keep users informed.

The **central electronic platform at the Public Procurement Authority (PPA) is the tool allowing access to public procurement information free of any charges through a central database.** Publishing on this platform is **mandatory** to all contracting authorities and to other stakeholders concerned by PPL 244/2021 implementation (such as PPA and Complaints Authority, etc).

Absence of relevant plan to manage risks in public procurement



Risk management is an area that needs to be addressed to lower inefficiencies and corruption risks across all types of procuring entities. It is an unexplored area that lacks awareness.



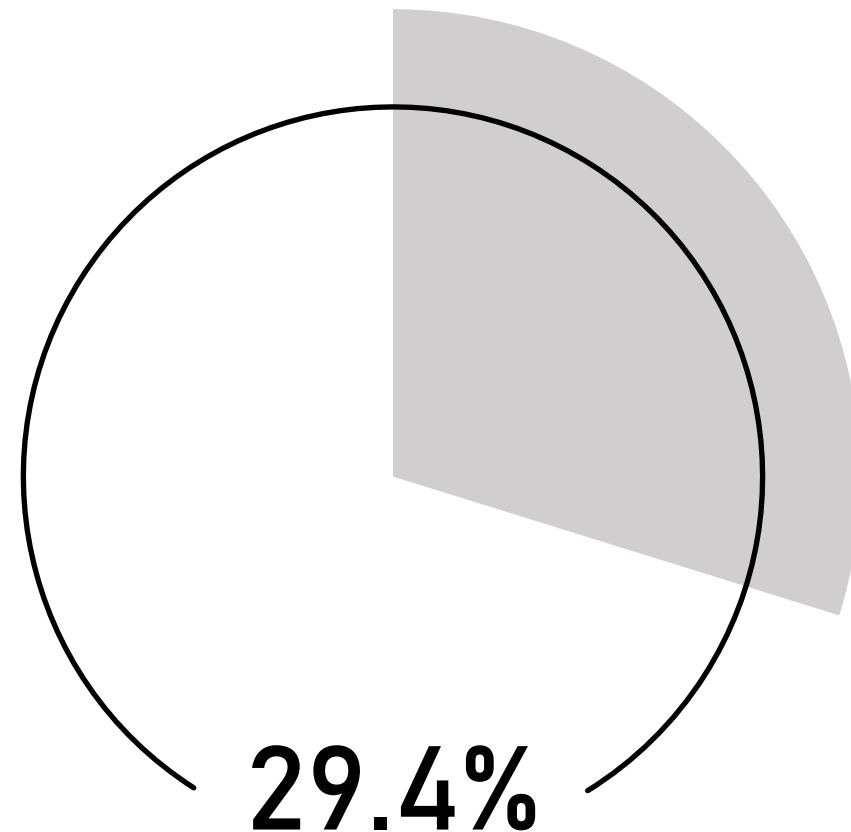
Relationship with the private sector

Communication with bidders regarding procurement proceedings



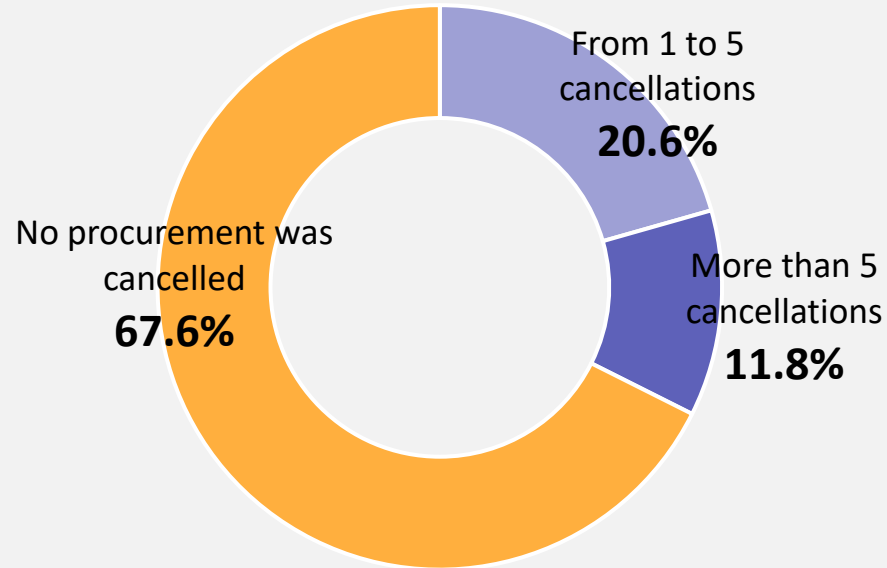
Only 29.4% of procuring entities have an employee responsible for direct contact with bidders and communicating with them regarding the procurement proceedings.

Do you have an employee responsible for direct contact with bidders?

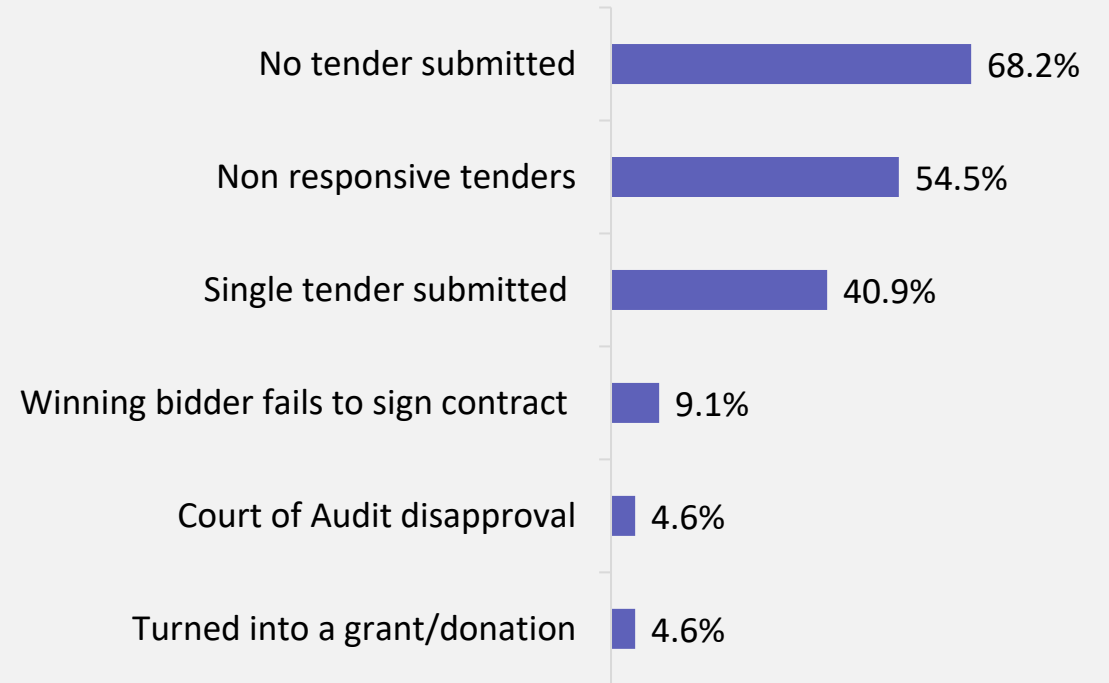


Cancellation of procurement

How many times did you cancel procurement since PPL 244/2021 entered into force?



What are the top reasons behind the cancellation?



- The main reason behind cancellation of procurement is the **absence of offers (68% of the cases)**.
- The fact of having **50% of cases of cancellation due non-responsive tenders** highlights the need for strategies and approaches to enhance bidder engagement and improve the quality of submitted tenders, ensuring a more competitive and successful procurement environment.
- **Failing to sign the contract** by the winning bidder is an issue that deserves further investigation.

Only 2 local authorities mentioned the cancellation of procurement since the PPL entered into force: Zahle municipality from 1 to 5 times and Bekaa Governorate cancelled once.

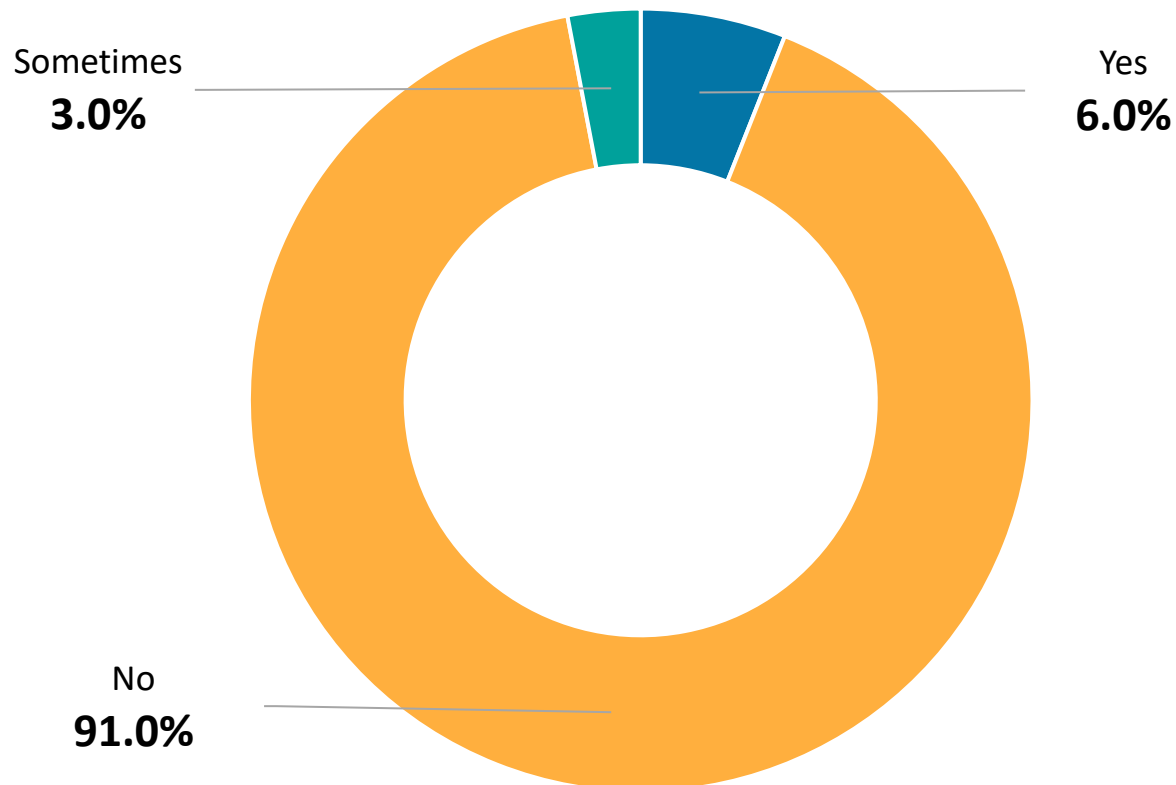
Waiver for bid security in procurement offers

The majority of procuring entities indicated that **they have not waived submission of bid security in procurement offers** for values estimated to be less than 500 million LBP (before adjusting the financial ceiling) or 2.5 billion LBP (after adjusting the ceiling).

This shows a prevalent adherence to bid security requirements, even for lower-value procurement offers, a practice that may tend to discourage small and medium enterprises to participate due to the financial burden.

This is due to lack of awareness on the existence of this clause in the PPL 244/2021 (Art. 34-2) and the need to further be trained on its application.

Has your institution abandoned the request for bid security in procurement offers?



90% of municipalities indicated that they have not abandoned the request for bid security in procurement offers for values estimated to be less than 500 million LBP (before adjusting the financial ceiling) or 2.5 billion LBP (after adjusting the ceiling).

Procuring entities facing problems with suppliers

Do you face problems in dealing with suppliers?



Type of obstacles faced

Obstacles related to the private sector

- Not being registered at the Ministry of Finance.
- Not being capable of maintaining proper records (e.g., invoice serialization).
- Lacking awareness regarding the regulations and laws applied to municipalities.

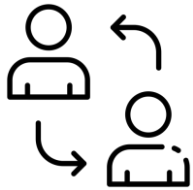
Obstacles related to the country's economic and financial situation directly affecting participation to public procurement

- Facing challenges due to new requirements imposed by the PPL (such as publication, planning, formation of tender and acceptance committees, etc).
- Suppliers are unwilling to participate in bids unless it is through shopping.
- Non-responsiveness to calls for competition and failure to submit offers in LBP due to the instability of the exchange rate and delays in payment.
- Reluctance to provide long-term price offers, particularly in fuel purchases.
- Difficulty in meeting contract requirements.
- Lack of confidence in public management and hesitation among some suppliers to engage with the public sector.
- Challenges in securing administrative documents and bank guarantees.
- Delays in payment and extended procedures associated with it.

Minimal Complaints on Public Procurement Procedures

The majority of procuring entities (95.6%) have answered that they did not face any complaints about procurement procedures. The complaints mechanism is not yet applied as per PPL 244/2021 especially with the non establishment of the Complaints Authority and the non initiation of related training and awareness on bidders' right to complain.

Only **4.4%** of respondents reported receiving between 1 and 5 complaints. How were they dealt with?



Referral to the concerned authority



Responses are provided in writing



Responses are provided according to the administration's procedures

PPL 244/2021 implementation challenges

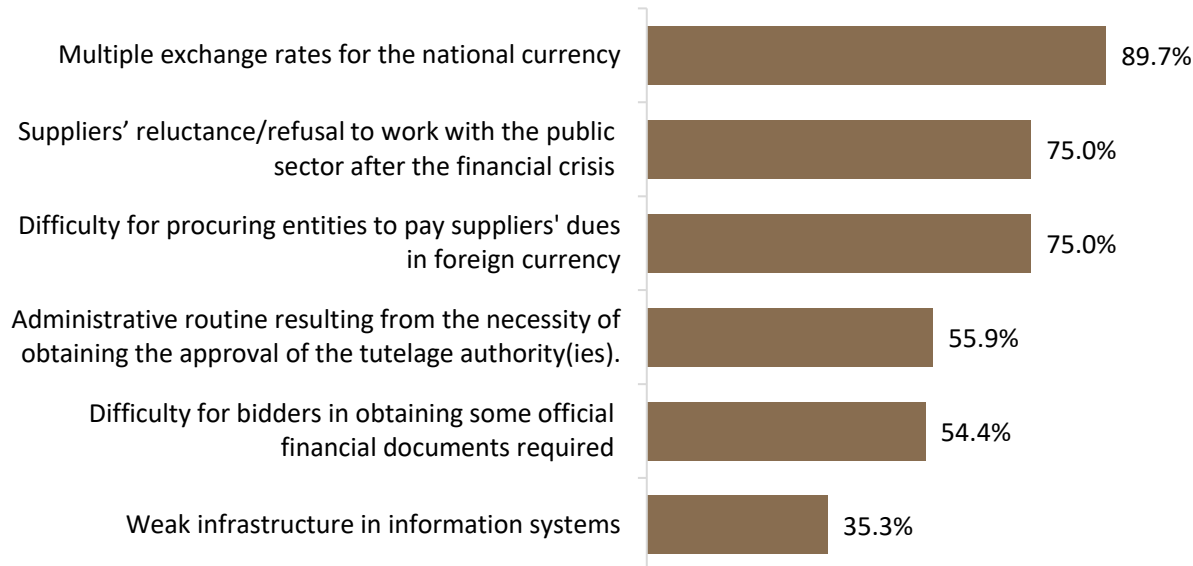
Multi-fold challenges in implementing Law 244



If not addressed adequately, challenges can have far-reaching consequences, including delays and inefficiencies in procurement processes, an increased financial burden due to currency-related issues that will impact budget allocations and fiscal responsibilities, compromised quality of decision-making, and strained supplier relationships.

Three of the **main internal challenges** are related to the **procurement workforce**: a need to enhance knowledge and competencies, and to maintain sufficient, talented and enthusiastic personnel.

What are the external challenges that you face in implementing PPL 244/2021?

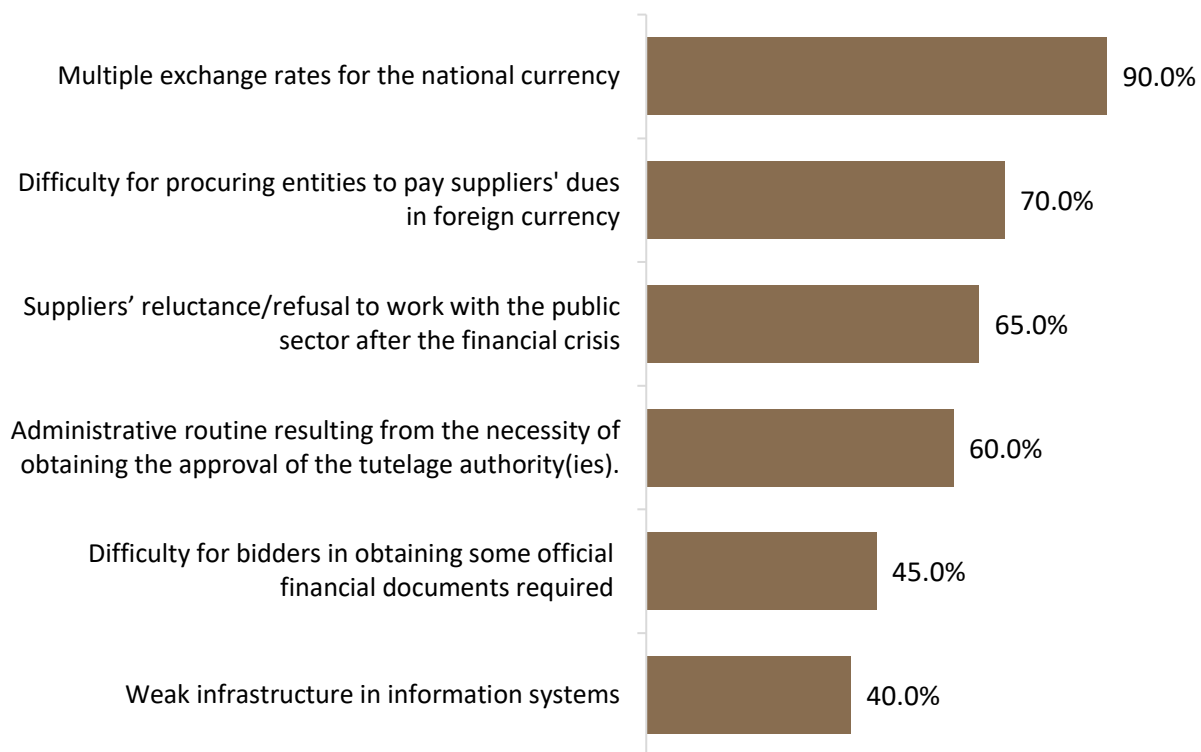


What are the internal challenges that you face in implementing PPL 244/2021?



Challenges in implementing PPL 244 across local government

What are the external challenges that you face in implementing PPL 244/2021?



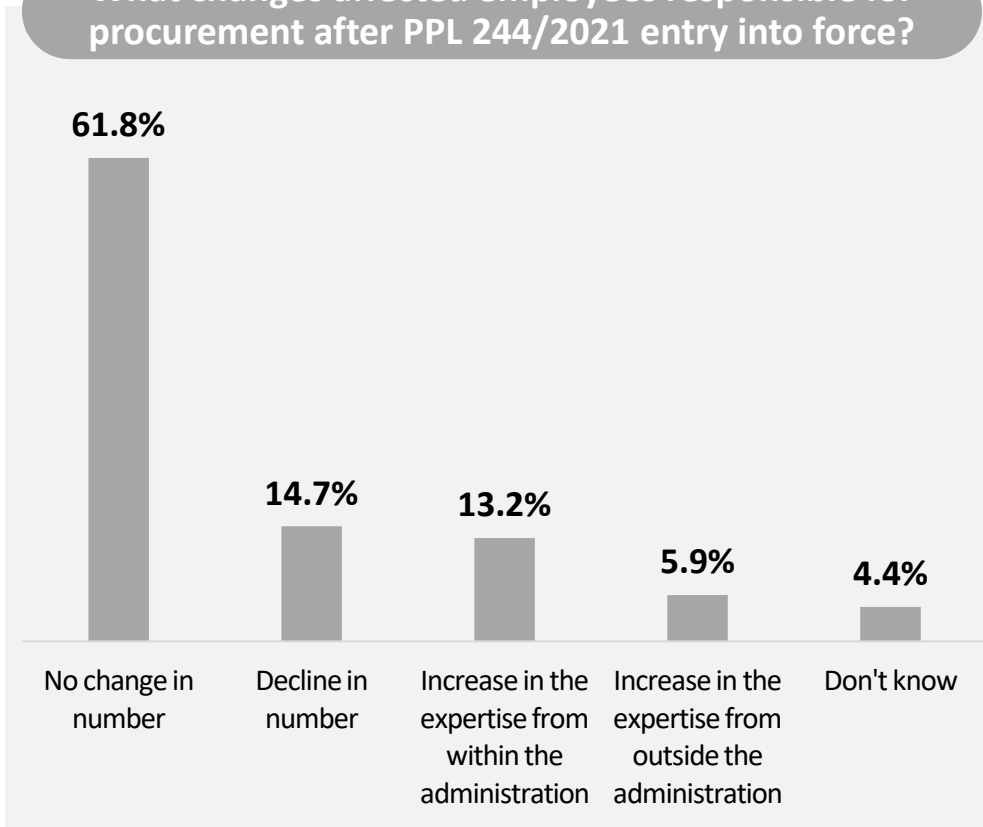
What are the internal challenges that you face in implementing PPL 244/2021?



Insufficient human capital for tender and acceptance committees

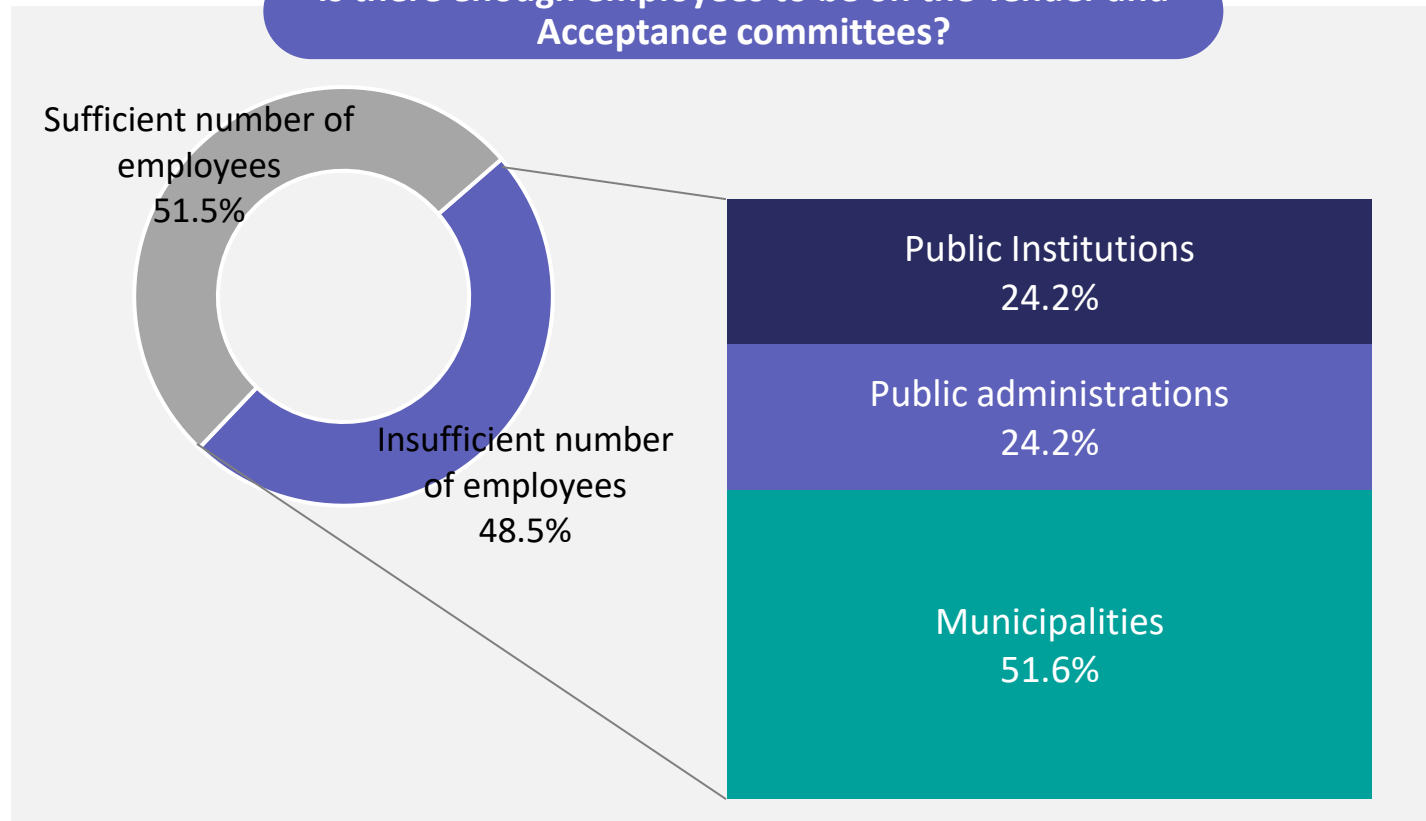
The slight decline in number of procurement employees at procuring entities is compensated by an **increase in requesting expertise from within the administration.**

What changes affected employees responsible for procurement after PPL 244/2021 entry into force?



Municipalities are extremely lacking human resources to be members on tender and acceptance committees. With freeze in employment across public sector, building capacities of available procurement personnel would help ensuring needed human resources for committees' membership.

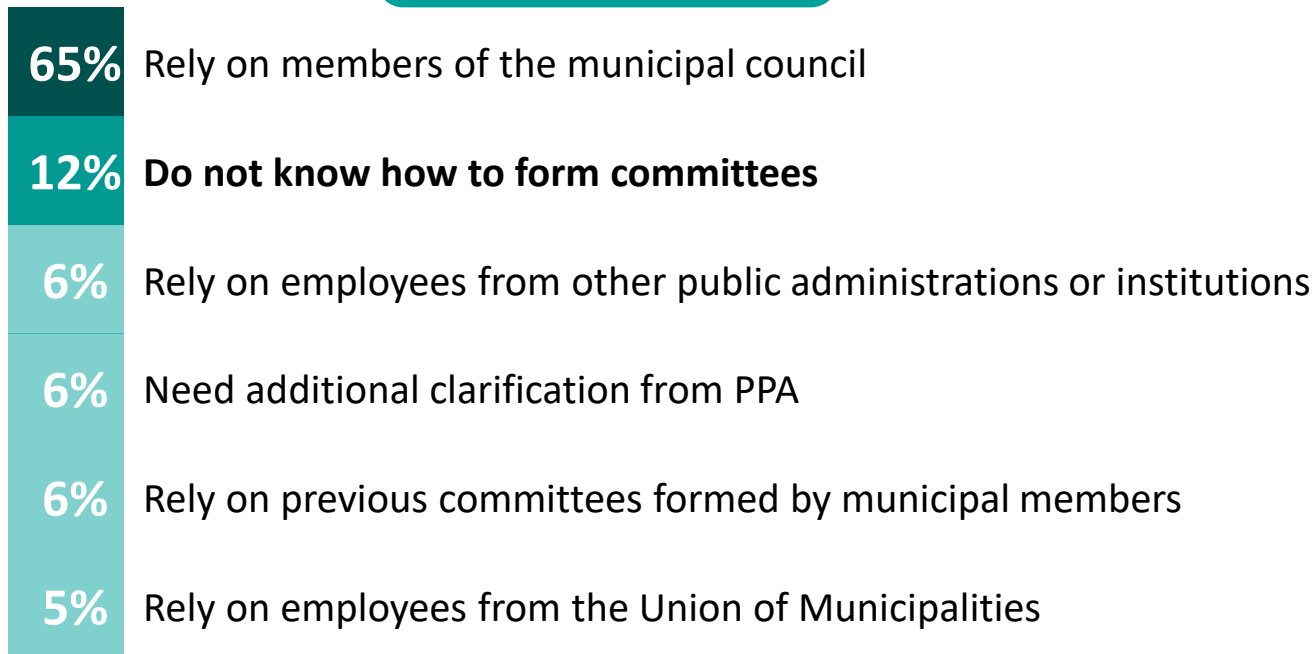
Is there enough employees to be on the Tender and Acceptance committees?



How are administrations alternatively forming tender & acceptance committees?

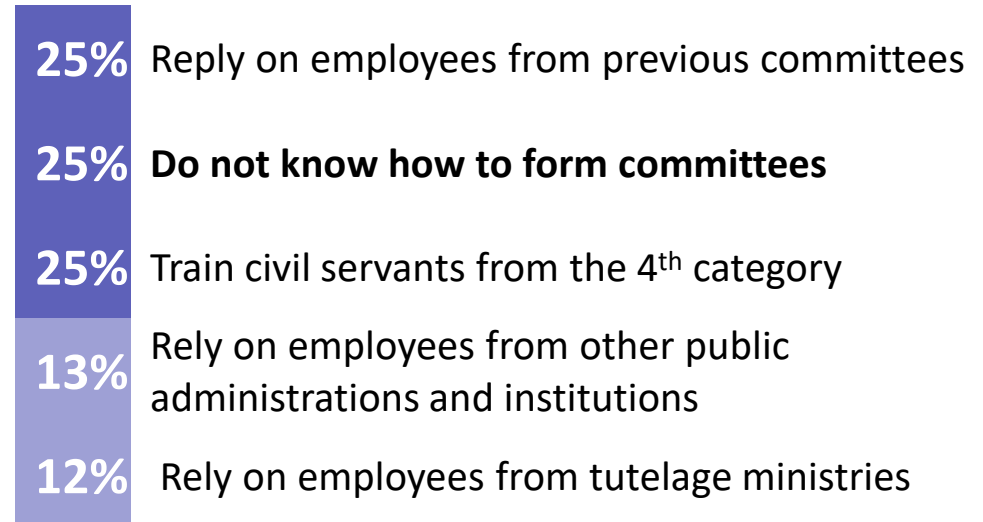
% of responses providing alternatives

Municipalities

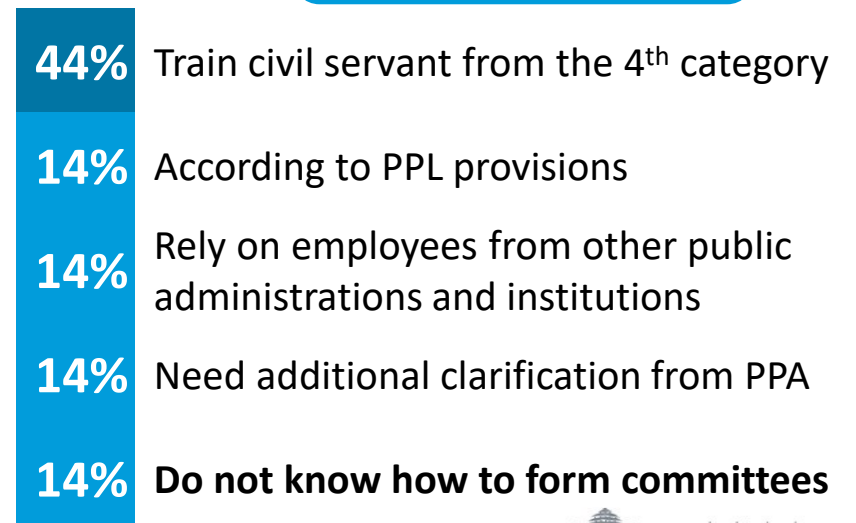


There is a need for the Public Procurement Authority to further communicate about the mechanism of forming tender and acceptance committees, especially after amendments of PPL 244/2021 (through Law no. 309/2023) in this regard.

Administrations



Institutions



Measures and Factors for efficient PPL implementation

Top measures undertaken at the level of procuring entities to increase ability of implementing PPL 244/2021

60.3%	Activating communication with the Public Procurement Authority	55.9%	Adopting transparency and providing access to information
51.5%	Identifying employees authorized to participate as members in the Tender and Acceptance committees	51.5%	Contacting the Institute of Finance to request specialized and mandatory training
48.5%	Submitting the names of employees authorized to participate in the membership of the Tender and Acceptance committees to the Public Procurement Authority		
44.1%	Raising awareness among directors and senior employees about the importance of Law enforcement	41.2%	Training employees and following up on their performance after training
10.3%	Establishing a procurement unit in the organizational structure or amending this structure, as stipulated in Article 73 of the Law	4.4%	Communicating with private sector institutions to raise awareness about the new Law

Top enabling factors that facilitate implementation of PPL 244/2021

73.5%	Developing capabilities through continuous and specialized training	67.6%	Developing and issuing standard procurement documents
67.6%	Developing guidance, working tools and templates to facilitate the application of the law	55.9%	Establishing the central electronic platform (single portal)
54.4%	Enhancing the infrastructure of information systems at procuring entities	51.5%	Stabilizing the financial system to enable proper contract implementation
42.6%	Adopting joint procurement with aggregated needs		

IN FOCUS- Need for sound operationalization of the regulatory authority

Several challenges are hindering the sound operationalizing of the regulatory authority (PPA) and negatively affecting the performance of the PP system:

- Increasing difficulty in adopting **complementary decrees**, in particular those concerning the creation and/or operationalization of the PPA, and similarly the Complaints Authority, both created for by PPL 244/2021.
- Absence of the **central electronic platform** and its functionalities which hinders the proper functioning of the procurement system, namely the use of templates, the availability of information, the establishment if a helpdesk, the access to open data, the availability of data analytics and reporting.
- Absence of **Law explanatory guidelines** that explains the provisions and articles to avoid misinterpretation and ineffective application of the Law.
- Absence of **standard procurement documents** and **basic templates** such as committees' reports.
- **Misunderstanding of the advisory role of the regulatory authority** (stipulated in Art. 76-19) by senior decision makers at procuring entities level (ministers, directors general, etc) who are systematically requesting prior review of tender documents by the regulatory authority. This practice has serious negative implications on the procurement system, like delaying procurement procedures, creating conflicts in the PPA (monitoring v/s prior approval), and inefficient use of limited resources at PPA to exercise the regulatory role.
- The provision by the PPA of opinions on technical evaluation procedures, indicating whether they are correct or incorrect, despite this not being within its remit (such as in the telecommunications sector).

Human capacity and Training needs

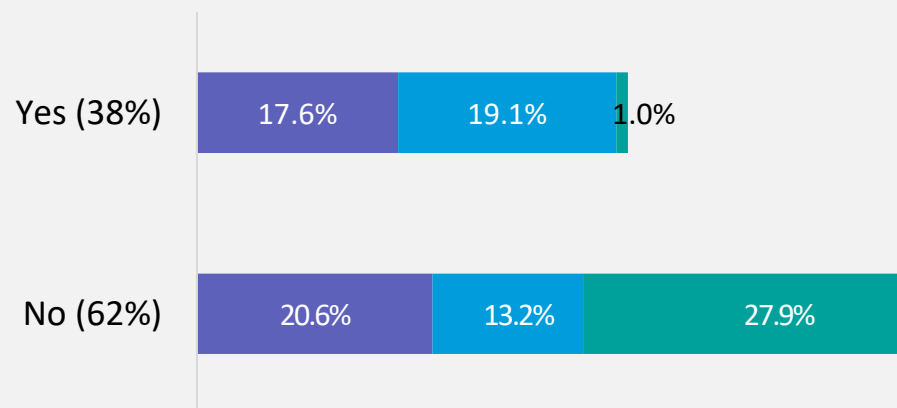
Lack of unit specialization and clarity of roles

Public Administrations

Public Institutions

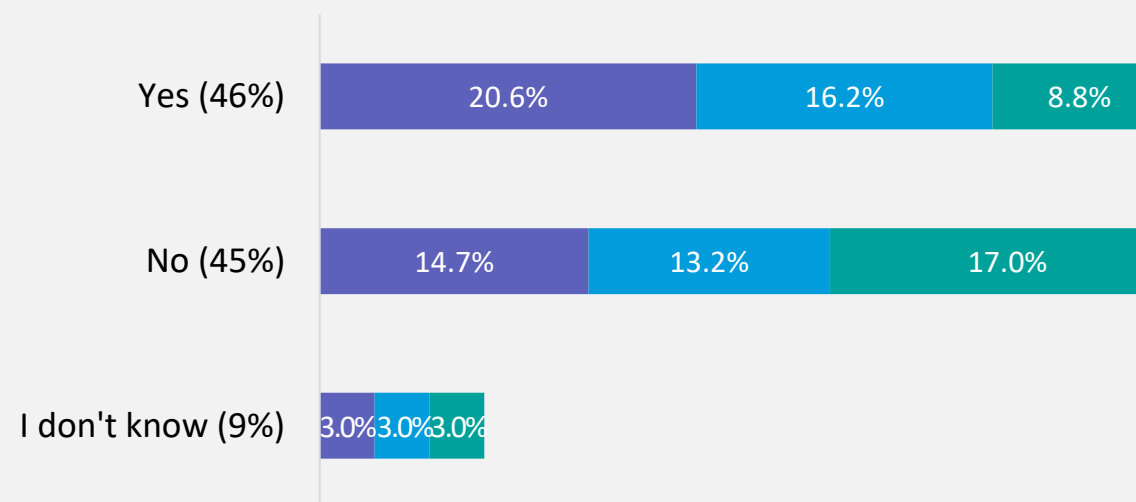
Municipalities

Do you have a unit specialized in public procurement?



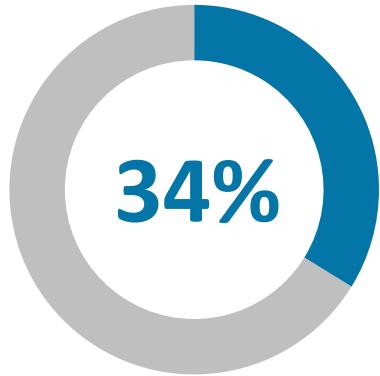
More than a year following the implementation of the Public Procurement Law (PPL), two third of procuring entities (especially municipalities) **continue to operate without the establishment of a dedicated public procurement unit**. The staffing of this unit shall be determined by a secondary legislation (decree) issued by the Council of Ministers upon the proposal of the competent authority, as per PPL 244/2021 (Art. 73-2,3,4).

Is the position "Procurement Officer" and related job description clearly defined at your institution?



There is a relatively even split between procuring entities that have designated a "Procurement Officer" and those that haven't. There is a **need to clarify the newly established "public procurement" function within the Lebanese civil service, and to define by secondary legislation, the related job description and the set of skills and competencies** in order for procuring entities to align designations, as per PPL 244/2021 (Art. 73-1).

Training on PPL 244 is below target level



Only 34% of entities surveyed have trained ALL their procurement practitioners on PPL 244/2021 at the Ministry of Finance – Institut des Finances Basil Fuleihan (PPL 244/2021 Art.72).

Mains sectors trained: Administration, Works & transportation, Military and security, Energy and Water.

Future training programs need to address key spending agencies in sectors: 1) Telecom and Education, 2) Ministries of Finance and Economy, Ministry of Health and Public Hospitals, 3) Municipalities and Unions.

Procuring entities that have trained ALL their procurement personnel on PPL 244/2021 at the Institute of Finance:

- Presidency of the Republic / Presidency of the Council of Ministers / Lebanese Armed Forces / Ministry of Finance (General Directorate of Land and Maritime Transport) / Ministry of Public Works and Transport (General Directorates of Land and Maritime Transport and of Urban Planning) / Internal Security Forces / Civil Defense
- Electricite du Liban / Port of Beirut / Council of South / Tripoli Port Investment Authority / Green Plan / Lebanese Agricultural and Research Institute / National Archives / Tibnin Governmental Hospital / Beirut and Mount Lebanon Water Establishment / South Lebanon Water Establishment
- Kneisse Municipality / Bazoun Municipality / Chtaura Municipality / Cooperative Fund of Makhateer

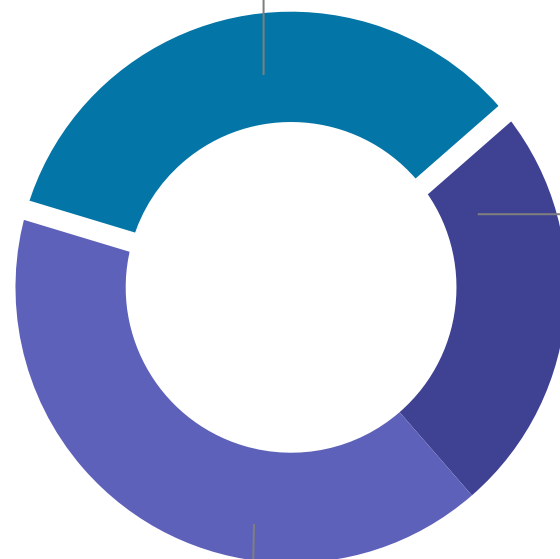
Training on PPL 244 remains a priority

Procuring entities where not all employees were trained on PPL – where there is still need for more training :

- Ministry of Defense (General Directorate of Administration) / Ministry of Public Works and Transport (General Directorate of Civil Planning) / Ministry of Telecommunications (General Directorates of Investment and Maintenance and of Construction and Equipment) / Ministry of Education and Higher Education (Directorate of Higher Education) / Ministry of Social Affairs (General Directorate of Social Affairs) / Ministry of Economy and Trade (General Directorate of Economy and Trade) / Ministry of Health (General Directorate of Health) / Ministry of Labor (General Directorate of Labor) / Ministry of Tourism (General Directorate of Tourism Affairs) / Ministry of Agriculture (General Directorate of Agriculture) / Ministry of Displaced / Office of the Minister of State for Administrative Reform / General Security / State Security
- Council for Development and Reconstruction / Dar Al-Fatwa / Ogero / Bekaa Water Establishment / Mutuelle des Fonctionnaires de l'Etat / National Employment Office / Rachid Karami International Exhibition / Rafic Hariri Governmental Hospital / Marjayoun Governmental Hospital / Tripoli Governmental Hospital / Lebanese National Higher Conservatory of Music
- Bekaa Governorate / Akkar Governorate / Mushrif Municipality / Barja Municipality / Jib Jenin Municipality / Haret Hreik Municipality / Hasroun Municipality / Zibdine El Nabatieyh Municipality / Zahle Municipality / Shaat Municipality / Tura Municipality / Ainatha Municipality / Ghbeleh Municipality / Qab Elias Wadi Dalam Municipality / Kafra Municipality / Lebbaa Municipality

34%

of surveyed entities have all their employees working in procurement trained on PPL 244 by the IOF



25%

of surveyed entities have been trained on PPL 244 by the IOF and by other training providers, distributed as following:

Ecole Nationale d'Administration
12%

Civil society organizations
6%

Other training institutes in Lebanon
7%

41%

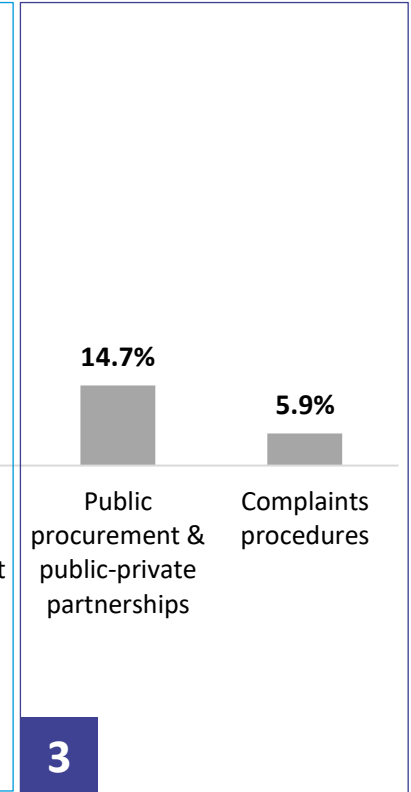
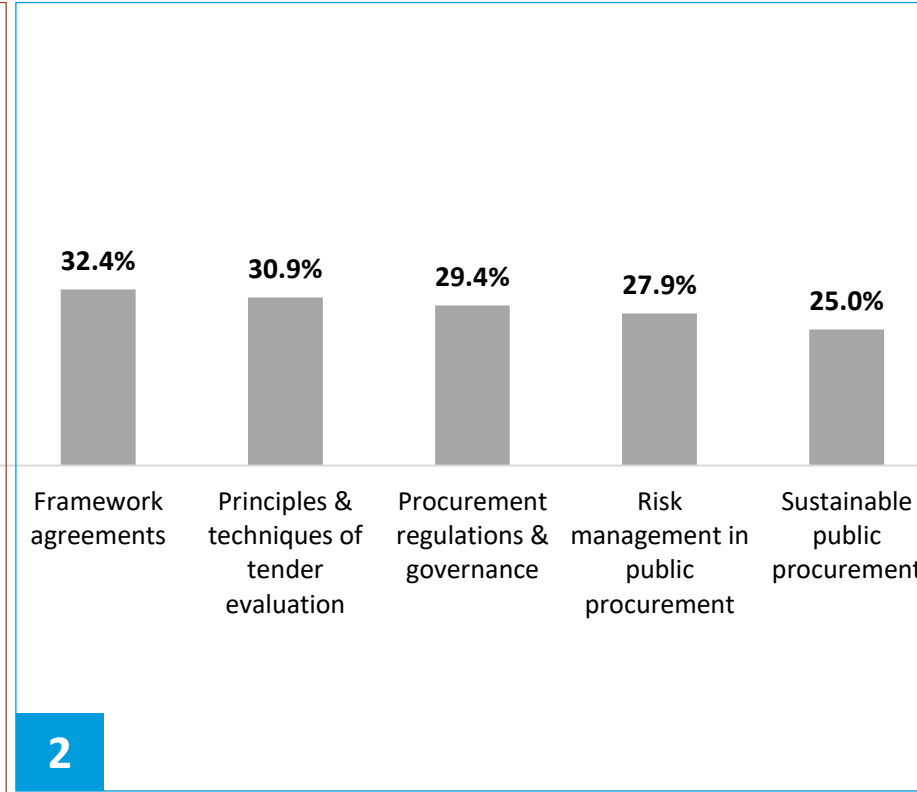
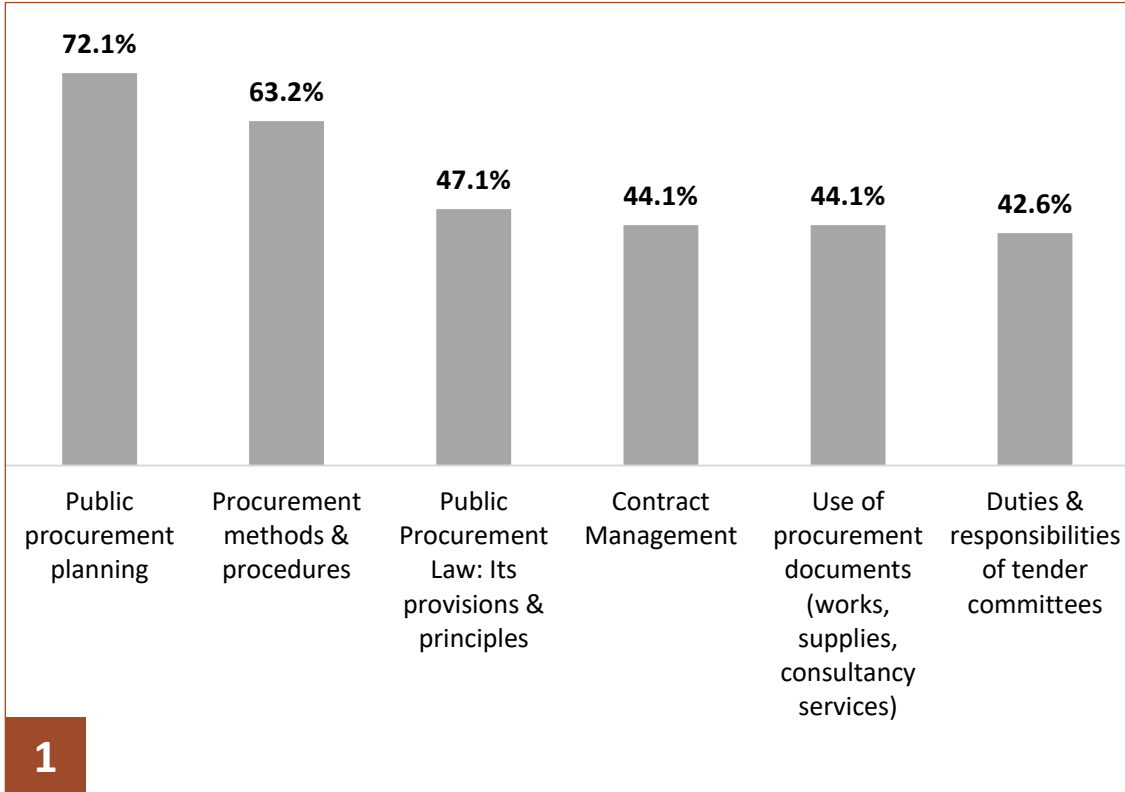
of surveyed entities indicated that not all employees working in procurement have been trained on PPL 244, neither by the IOF nor by any other organization

Prioritizing future training needs

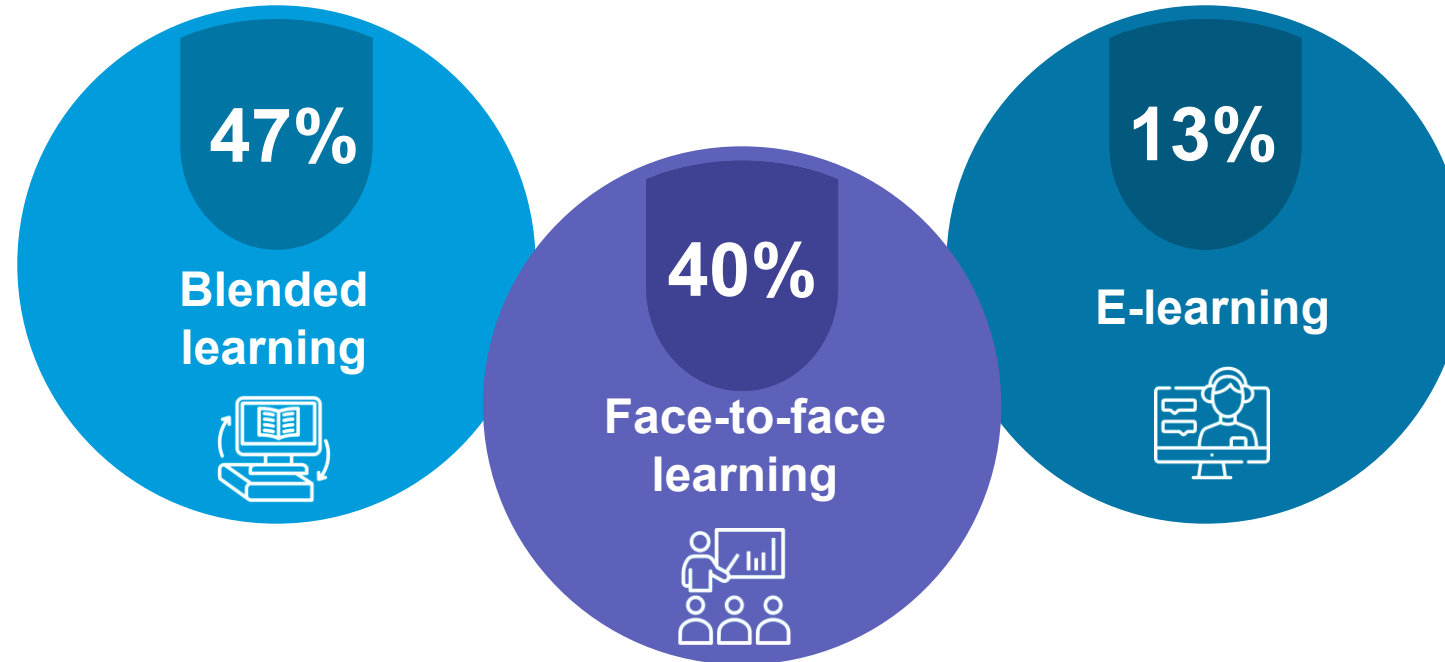
Training needs expressed by procuring entities surveyed cover a wide range of priority areas, revealing the necessity for a comprehensive approach to enhancing capabilities for a sound implementation of PPL 244/2021.

Three clusters of training topics are identified:

What are the priority training needs of your institution to ensure proper implementation of the Public Procurement Law?

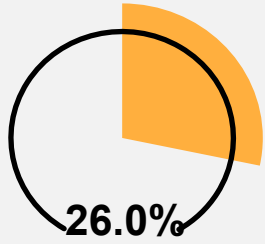


Favoring a combination of traditional and modern learning methods

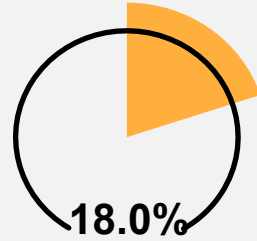


There is a keen preference across procuring entities for face-to-face and blended learning over full E-learning. This approach reflects a balanced recognition of the advantages offered by face-to-face interaction as well as the flexibility and accessibility provided by online components knowing the effects of the financial crisis on employee's mobility, and the adaptability to workload/work styles offered by the blended solutions.

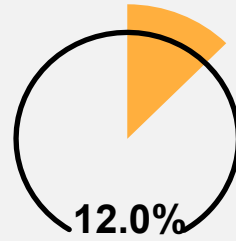
Focus areas for legal support and technical coaching over the next three years



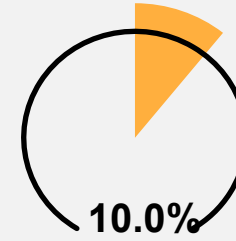
Procurement methods and procedures



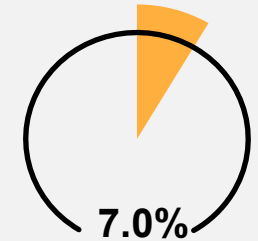
Provisions and principles of the law



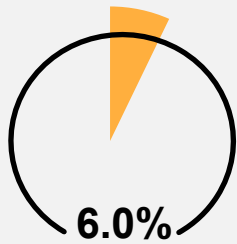
Procurement planning



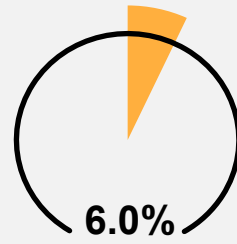
Framework agreement



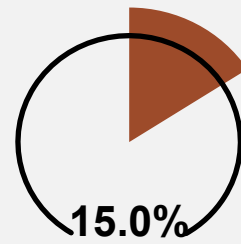
Impact of the financial situation on procurement



E-Procurement



Usage of standard procurement documents

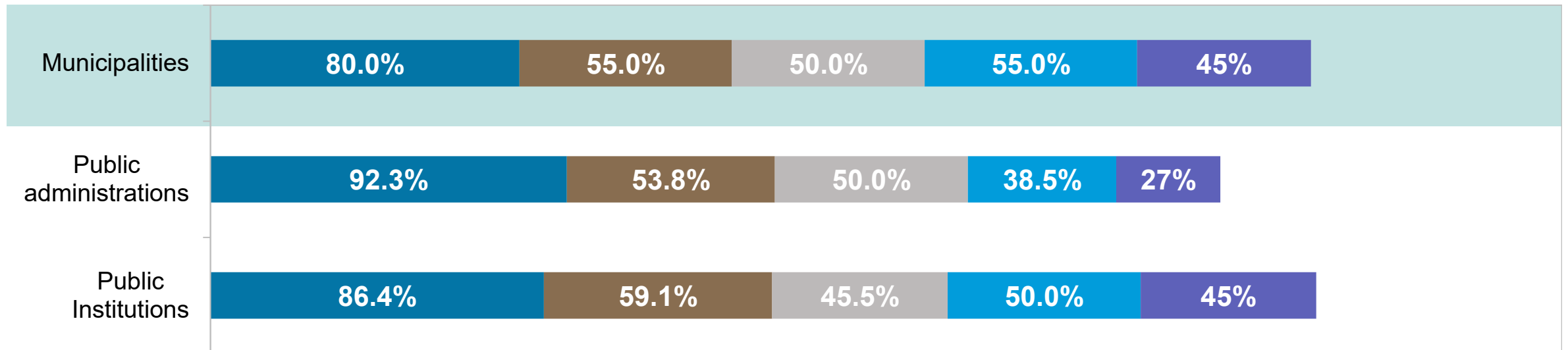
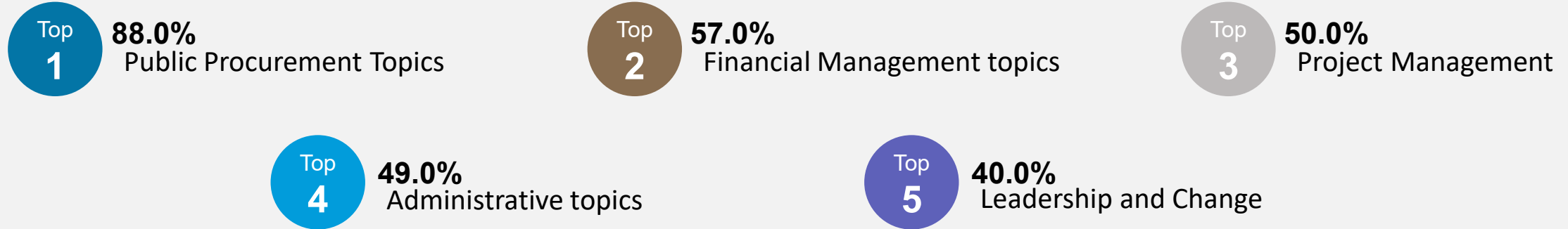


Did not specify an area

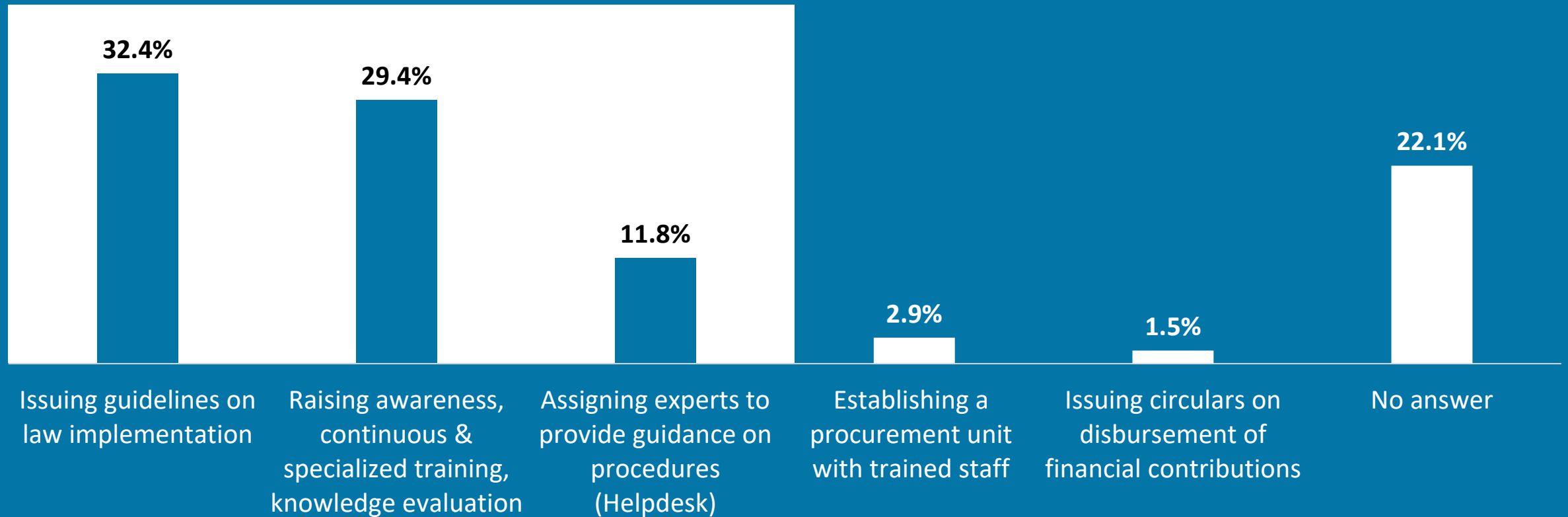
13 other areas mentioned by respondents:

1. Procurement Governance
2. Tasks and Formation of Committees
3. Preparation of Specifications
4. Mechanism for Prompt Response to Inquiries if any
5. Bid evaluation
6. Contract Management
7. Maintaining Procurement Records
8. Objections and Complaints
9. Emergency Procurement
10. Sustainable Procurement
11. Internal Audit
12. Establishment of Procurement Unit and Determination of Responsibilities
13. Amendments introduced to the Law

Complementary training to enhance practitioners' capacities in favor of effective implementation of PPL



Providing practical tools and assistance are key for a proper implementation of PPL



Recommendations

The Public Procurement Law entered into force in the most difficult time with a severe economic and financial crisis hitting Lebanon, which put at risk its full and sound implementation by administrations and institutions. The following recommendations were expressed by surveyed entities to enhance proper application of law principles and provisions:

- Reinforcing the regulatory role and the independence of the Public Procurement Authority (PPA) from transactional prior reviews and decisions, through clear legislation and complementary regulations.
- Establishing the Complaints Authority that is still absent from the system.
- Making sure that any update/amendment of the PPL 244/2021 is based on assessing the impact of its implementation on concerned stakeholders.
- Issuing the needed regulation for the automation in public procurement operations.
- Issuing standard procurement documents by the PPA to serve as a benchmark, and help minimizing ambiguities and disputes, thereby streamlining the procurement process.
- Ensuring complementarity of PPL 244/2021 with other laws that are impacting the PP system (CoA laws, the processes of validation by tutelage authorities for procuring entities like municipalities, autonomous public institutions, etc)

The Public Procurement Law entered into force in the most difficult time with a severe economic and financial crisis hitting Lebanon, which put at risk its full and sound implementation by administrations and institutions. The following recommendations were expressed by surveyed entities to enhance proper application of law principles and provisions:

- Streamlining procedures, particularly those outlined in decisions and memorandums of the PPA.
- Ensuring regularity in the procurement planning process, which depends primarily on a timely budget exercise (integration with the budget).
- Providing additional instructions and guidelines and clarifying new concepts in PPL.
- Providing guidance to explain complex procurement procedures (FAs, two-stage tendering, etc).
- Reconsidering the currency of effective payment by the Ministry of Finance in order to proceed with procurement operations and ensure public services.
- Issuing guidelines for the disbursement of funds in a crisis mode.
- Disrupting the cartels, monopoles, elite capture regime in procurement market.

Capacity development and professionalization

- Building institutional capacities in public procurement, through the provisions of continuous and specialized training in public procurement to meet the needs of civil servants involved in the various stages of the procurement cycle.
- Raising awareness (through briefings, seminars and policy discussions) among senior management (director generals and heads of institutions, elected members of municipal councils) about the importance of the PPL 244/2021, the relationship with the PPA, and the necessity of applying it as a change management tool for an efficient procurement system, so that they are aware of their roles and responsibilities, avoid back-and-forth correspondences concerning procurement due to misconceptions, and better enforce procurement processes that align with best practices and regulatory requirements.
- Incentivising the personnel to fully perform its public procurement related tasks.
- Establishing a dedicated department / unit with procurement expertise, dedicated to perform operations in accordance with the PPL, even if the creation of this unit necessitates the amendment of internal regulations proper to some procuring entities.
- Defining the job description of procurement personnel and organize their work into dedicated units/departments.
- Searching for solutions in light of the low number of personnel and the burden of multi-tasking, to avoid difficulties in forming procurement units as well as tender and acceptance committees.
- Raising awareness to the private sector and economic operators and improving the public opinion towards PPL 244/2021.
- Building on the Memorandum of Understanding (MOU) signed between the IOF and the PPA that institutionalizes the collaboration between both institutions on many fronts, in line with PPL 244/2021 (Art. 72 & 76).

Regulatory framework and procurement operations

- Modernizing public finance related laws that are inter-linked with the PPL 244/2021 such as the Law governing the Court of Accounts and the Budget Law.
- Revising prior review financial thresholds set in related oversight laws to align with the new market prices and exchange rate.

Capacity development and professionalization

- Modifying the requirements and criteria for the appointment of employees at municipal level to secure high level of qualification enabling them to perform procurement operations as required in PPL.
- Providing more training and awareness raising among those responsible of public procurement across local government.
- Providing customized training programs directed at municipalities and unions aligned with PPL provisions and requirements.
- Conducting hands-on sessions on topics of practical relevance for municipalities namely procurement methods among others.
- Exchanging experiences in applying the PPL among municipalities to learn from challenges and from successful practices.



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فاكس: +961 1 426 860

Annex – List of surveyed entities

Category	Sector	Ministry	Procuring Entity
Public administrations	Administrative Affairs	Presidency of the Council of Ministers	General Directorate of Presidency of the Council of Ministers
		Presidency's Directorate General	General Directorate of Presidency of the Republic
	Agriculture	Ministry of Agriculture	General Directorate of Agriculture
	Economy and Finance	Ministry of Economy and Trade	General Directorate of Economy and Trade
		Ministry of Finance	General Directorate of Finance
		Ministry of Labor	General Directorate of Labor
		Office of the Minister of State for Administrative Reform	Office of the Minister of State for Administrative Reform
	Education	Ministry of Education and Higher Education	General Directorate of Higher Education
	Health	Ministry of Public Health	Ministry of Public Health
	Military and security	Ministry of Interior and Municipalities	Directorate General of Civil Defense
		Ministry of Interior and Municipalities	Directorate General of General Security
		Ministry of Interior and Municipalities	Directorate General of Internal Security Forces and prisons
		Ministry of Interior and Municipalities	General Directorate of State Security
		Ministry of Interior and Municipalities	Ministry of National Defense
		Ministry of National Defense	Lebanese Armed Forces
		Ministry of National Defense	General Directorate of Administration
		Presidency of the Council of Ministers	Higher Council for Defense
	Social Affairs	Ministry of Displaced	Ministry of Displaced
		Ministry of Social Affairs	General Directorate of Social Affairs
	Telecom	Ministry of Post and Telecommunications	General Director of Investment and Maintenance
		Ministry of Post and Telecommunications	General Directorate of Installation and Equipment
	Tourism, Culture and religion	Ministry of Tourism	General Directorate of Tourism
		Presidency of the Council of Ministers	Fatwa councils
	Works, Infrastructure and transportation	Ministry of Public Works and Transportation	Directorate General of Land and Maritime Transport
		Ministry of Public Works and Transportation	Directorate General of Urban Planning
		Ministry of Public Works and Transportation	Ministry of Public Works and Transportation

Annex – List of surveyed entities

Category	Sector	Ministry	Procuring Entity
Public Institutions	Administrative Affairs	Presidency of the Council of Ministers	National Archives
		Presidency of the Council of Ministers	Mutuelle des Fonctionnaires de l'Etat
		Presidency of the Council of Ministers	Higher Disciplinary Council
	Agriculture	Ministry of Agriculture	Lebanese Agricultural Research Institute - Administrative and technical services
		Ministry of Agriculture	The Green Plan - Administrative and technical services
	Economy and Finance	Ministry of Economy and Trade	Rachid Karami International Fair - General Directorate of Economy and Trade
		Ministry of Labor	National Employment Office - General Directorate of Labor
	Energy and Water	Ministry of Energy and Water	Beirut Mount Lebanon Water Est. Ebml
		Ministry of Energy and Water	Bekaa Water Establishment
		Ministry of Energy and Water	Électricité Du Liban
		Ministry of Energy and Water	South Lebanon Water Establishment
	Health	Ministry of Public Health	Marjayoun Governmental Hospital
		Ministry of Public Health	Rafik Hariri University Hospital
		Ministry of Public Health	Tebnine Governmental Hospital
		Ministry of Public Health	Tripoli Governmental Hospital
	Social Affairs	Ministry of Interior and Municipalities	Cooperative Fund of Makhateer
	Telecom	Ministry of telecommunications	Ogero
	Tourism, Culture and religion	Ministry of Culture	Lebanese National Higher Conservatory of Music - General Directorate of Culture
	Works, Infrastructure and transportation	Ministry of Public Works and Transport	Port de Tripoli
		Ministry of Public Works and Transport	Port of Beirut
Presidency of the Council of Ministers		Council for Development and Reconstruction	
Presidency of the Council of Ministers		Council For South Lebanon - Presidency of the Council of Ministers	

Annex – List of surveyed entities

Category	Sector	Ministry	Procurement Entity
Municipality and Governorate	Local Government	Ministry of Interior and Municipalities	Governorate of Akkar
		Ministry of Interior and Municipalities	Governorate of Beqaa
		Ministry of Interior and Municipalities	Municipality of Ainata
		Ministry of Interior and Municipalities	Municipality of Barja
		Ministry of Interior and Municipalities	Municipality of Bazoun
		Ministry of Interior and Municipalities	Municipality of Chaat
		Ministry of Interior and Municipalities	Municipality of Chtoura
		Ministry of Interior and Municipalities	Municipality of Ghbele
		Ministry of Interior and Municipalities	Municipality of Haret Hreik
		Ministry of Interior and Municipalities	Municipality of Hasbaya
		Ministry of Interior and Municipalities	Municipality of Hasroun
		Ministry of Interior and Municipalities	Municipality of Joub Jannine
		Ministry of Interior and Municipalities	Municipality of Kab Elias Wadi EL Dalam
		Ministry of Interior and Municipalities	Municipality of Kafra
		Ministry of Interior and Municipalities	Municipality of Kneisseh
		Ministry of Interior and Municipalities	Municipality of Lebaa
		Ministry of Interior and Municipalities	Municipality of Mechref
		Ministry of Interior and Municipalities	Municipality of Toura
		Ministry of Interior and Municipalities	Municipality Of Zahle Mouallaka And Taanayel
		Ministry of Interior and Municipalities	Municipality of Zebdine El Nabatieh