



# Better Value for Taxpayers Money

## Public Procurement in Lebanon

Why public procurement?

Public procurement in Lebanon

Main players and stakeholders

Is procurement a profession?

The way forward

This policy brief is a publication of the Institut des Finances Basil Fuleihan. It presents main findings of the national survey on public procurement conducted during the period 2011-2012. It proposes recommendations and policy advice on how to modernize public procurement and achieve value from spending taxpayers money.

### Why public procurement?

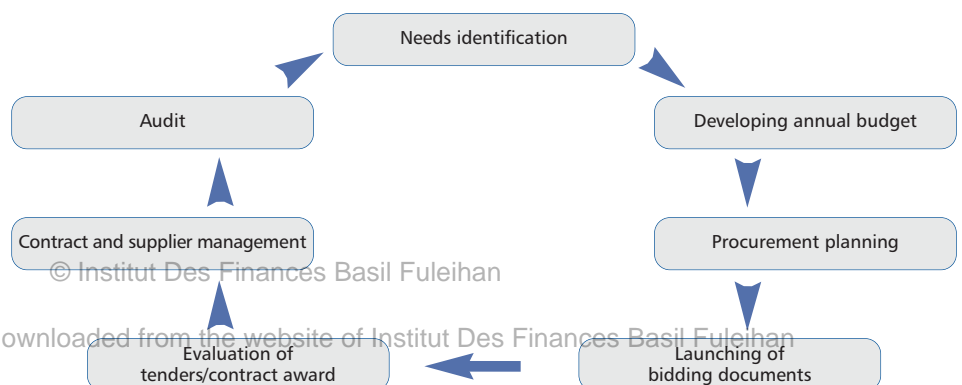
#### Spending taxpayers money

Public procurement refers to the process of acquisition by government and public entities, centralized and decentralized, of goods, works and services that are necessary to fulfill their mandate in the provision of services and facilities to citizens. By doing so, they are spending taxpayers money or funding provided in the form of grants or loans.

#### Purchasing v/s Procurement?

- Purchasing is a subset of the wider procurement process. It encompasses all stages of the purchasing process from the ordering phase such as request approval, and the issuance of a purchase order record to the receipt of goods and services.
- Procurement is an all-inclusive function describing the activities and processes to acquire goods and services for the best possible cost at the best possible time by private entities or government agencies. It involves a broader range of activities such as, the development of Terms of Reference, sourcing strategies (based on market research), supplier evaluation, contract negotiation and management.

#### Procurement cycle



In the European Union, public procurement accounts for almost **one-third of government expenditure, and one-sixth of total GDP.**<sup>3</sup>

## Governments are the largest buyers in an economy

According to data published by the Organization of Economic Cooperation and Development (OECD), public procurement accounts, on average, for 13% of Gross Domestic Product (GDP) across OECD countries.<sup>1</sup> Public procurement could reach up to 70% of public spending in developing countries and post conflict countries where underdeveloped private sectors require the public sector to deliver a wide array of services to citizens and provide much needed economic infrastructure.<sup>2</sup>

Public procurement is therefore a key policy instrument. It is:

- A core component of public finance reform and a **policy instrument** to rationalize and streamline public expenditures and create **value for money** in the delivery of public services.
- A stimulus for **innovation, competition and private sector growth**.
- A tool for promoting fair and open **access of SMEs** to government's contracts.
- An incentive to the **introduction of environmentally friendly and socially responsible criteria** in government's purchases.
- An instrument to fight corruption and enhance **transparency** in the management of public funds, allowing for increased citizen participation into public life.
- A driver of economic growth, effective public investment and **sustainable development**.

### What is Value for Money?

Value for money is about considering the lowest whole-life cost of a product or service. It is the optimal combination of quantity, quality, features and price, expected over the whole of the project's lifetime. It gives due consideration to the interests of citizens, both as taxpayers and recipients of public services, while processing procurement operations.

(Source: OECD, 2011)

## Public Procurement in Lebanon

### What is the size of public procurement?

Procurement purchases<sup>4</sup> made by central government agencies in Lebanon, which include estimated amounts procured under the General Budget and under the budget of the Council for Development and Reconstruction,<sup>5</sup> did not exceed 4% of GDP as yearly average for the period 2001-2006.

Latest calculations for the period 2007-2012 show that procurement purchases increased in monetary value from LBP 1,159 billion to reach LBP 1,532 billion. However, given the high rates of GDP growth during that period, the estimated size of public procurement accounted for 3% of GDP in 2007 and 2008, and decreased to around 2% of GDP in recent years. This figure is an understatement as it does not include procurement made at the local government level (i.e. municipalities) nor by autonomous agencies.

<sup>1</sup>OECD, "Government at a Glance" (2013).

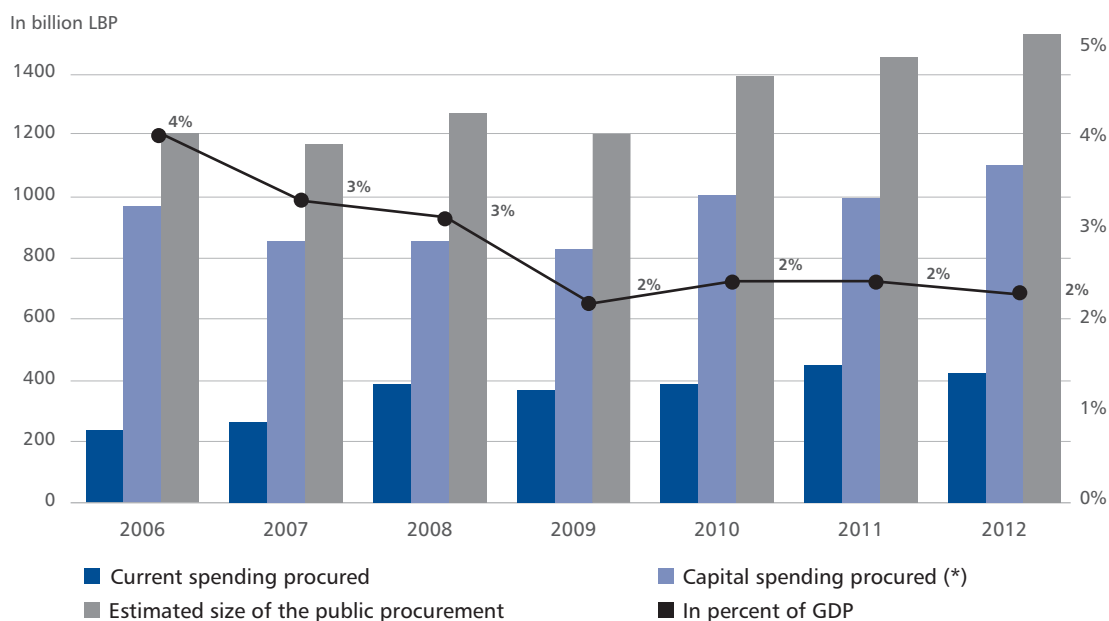
<sup>2</sup>UNDP, "Public Procurement Capacity Development Guide" (2010).

<sup>3</sup>European Commission Internal Market and Services, "Public procurement: Better value for taxpayers' money".

<sup>4</sup>The estimated size of public procurement was calculated based on the OECD standard definition: 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). For more details about the methodology refer to the report: "Professionalizing Public Procurement in Lebanon: Diagnostic Review and a Vision Forward", the Institut des Finances Basil Fuleihan (2014).

<sup>5</sup>Council for Development and Reconstruction (CDR) is a public autonomous agency that receives funds from the budget and from foreign loans for the execution of large investment projects.

### Estimated size of public procurement in Lebanon (2006-2012)<sup>6</sup>



(\*): Capital spending includes CDR domestic and foreign financed capital expenditures.

*In MENA countries, public procurement outcomes are key components of the governance agenda.<sup>9</sup> Since 2007, reforms addressed public procurement regulations, namely in Yemen, Iraq and Jordan, and the use of new practices such as e-procurement in Morocco.*

### How is Lebanon doing compared to MENA countries?

Public procurement in Lebanon is currently governed by a set of scattered regulations found in various Lebanese laws and decrees that are mostly outdated<sup>7</sup> and do not accommodate for international good practices nor innovative trends; hence, the necessity of a single, unified and modern law. A new public procurement draft law was endorsed by the Council of Ministers in October 2012 and submitted to the Parliamentary Commissions for discussion.

**Table 1: Procurement legislation: Lebanon in comparison to the Arab World<sup>8</sup>**

Country	Transparency/Accessibility of Laws and Regulations	Exceptions to Competitive Bidding Explained	Estimated % Procurement Subject to Competitive Bidding	Typical Duration of Procurement
<b>Jordan</b>	Transparent and accessible and rules are simple	Yes	Unavailable	30 days
<b>Lebanon</b>	Old and need amendments (under study); some hinders work	No (Need change)	About 75% of all large procurements	Minimum 30 days
<b>Morocco</b>	Texts are precise but loopholes exist; noticeable progress in the decree on public procurement since 1998	Yes (Follow World Bank and UNCITRAL guidelines)	66% (2001)	21 days for competitive bidding, 15 for acceptance, 20 for submission of bids
<b>Sudan</b>	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
<b>Tunisia</b>	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 be longer for important bids)
<b>Yemen</b>	Transparency exists in texts but not followed	No	About 90%	30 days

<sup>6</sup> Ministry of Finance public finance annual reviews (2007-2012) and the Institut des Finances Basil Fuleihan calculations.

<sup>7</sup> Public Accounting Law (1963), the Tender System (1959), in addition to special provisions for specific public agencies.

<sup>8</sup> United Nations, "Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices" (2004).

<sup>9</sup> <http://blogs.worldbank.org/arabvoices/node/361> and is copyrighted work.

As indicated in table 2, there are no agreed Standardized Bidding Documents (SBDs) for public sector use. The “Terms of Reference” that are currently in use vary across public institutions. This practice complicates the procurement process from the suppliers standpoint and leads to inefficiencies.

**Table 2: Procurement system: percentage of respondents indicating “Always” and “Frequently” practiced<sup>10</sup>**

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

In an attempt to harmonize procurement practices across the public sector, the Institut des Finances Basil Fuleihan was charged by the Minister of Finance in 2008 to compile a National Procurement Manual based on the existing legal framework. With the assistance of the World Bank, the Institute produced a set of five Standard Bidding Documents (SBDs) for goods, works and services, reflecting good practices and balanced conditions of contracting. The draft SBDs were piloted in various public entities, revised twice and sent to the Council of Ministers for endorsement.

### What are the common practices?

The “Situational survey on procurement practices in Lebanon”, conducted in 2011 by the Institut des Finances Basil Fuleihan,<sup>11</sup> mapped practices in procurement planning and sourcing as well as methods in use, relationship with suppliers, evaluation and audit, reporting and archiving and the adoption of new trends. Below are the main survey findings.

#### Procurement planning is weak

The current legislative framework in Lebanon does not specify a process to identify, assess or classify needs, nor the links with budget preparation and execution processes. Actually, few public entities undertake **needs assessments** as per internationally approved standards. Annual procurement plans are prepared in **50% of the surveyed cases**; a share that goes up to **78% under donor-funded projects**.

#### Procurement sourcing strategies need modernization

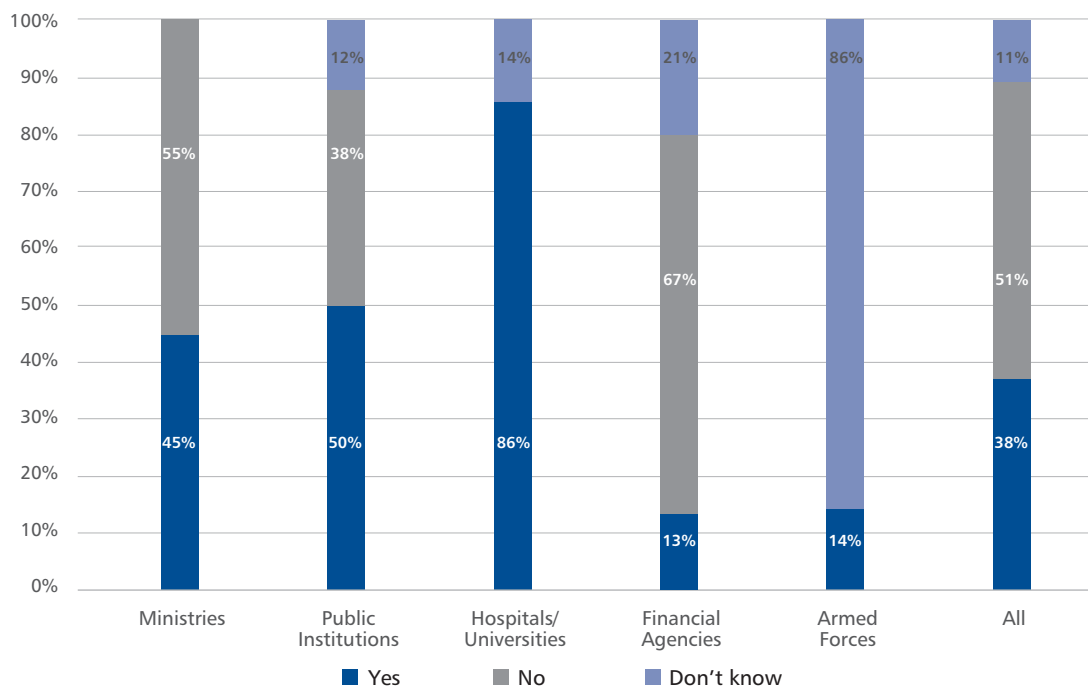
Conducting comprehensive **market studies and price estimations** allow public entities to compare financial offers, and help preventing or restricting suppliers collusion. Around **60% of procurement officials** conduct **market studies** while preparing bids, and do rely on price estimates. However, only **38% of the surveyed officials** use **price databases** for goods and services.

This document was downloaded from the website of Institut Des Finances Basil Fuleihan

<sup>10</sup>United Nations, “Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices” (2004).

<sup>11</sup>The survey was completed in 2011 in cooperation with the Consultation and Research Institute, and published in the report “Towards Professionalizing Public Procurement in Lebanon: Diagnostic Review and a Vision Forward” (2014).

### Price database for goods and services



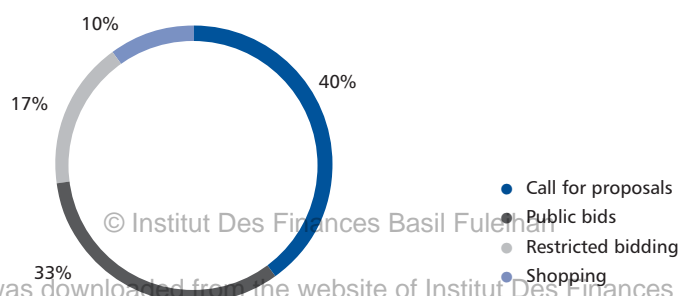
In the case of goods, **suppliers registries** are established in **58% of the surveyed cases**. This percentage rises to 68% in the case of works. The process of registration and classification of suppliers may benefit from further modernization in order to meet international standards.

### Request for proposals are mostly in use

In the absence of a modern regulatory framework, public entities use a wide array of procurement methods stipulated in the Public Accounting Law (PAL). The survey revealed that public bids are used in **33% of the surveyed cases**. For specific procurement, other methods may apply, among which:

- **Restricted Tender**, used in **17% of the cases**: limited to a specific list of bidders depending on the nature and type of goods or works.
- **Request for Offers or Request for Proposals or Invitation to Bid**, used in **40% of the cases**: limited to a ceiling of LBP 100,000,000.
- **Shopping or Invoice Purchasing** used in **10% of the cases**: for procurement value less than LBP 3,000, 000.

### Procurement methods used under PAL

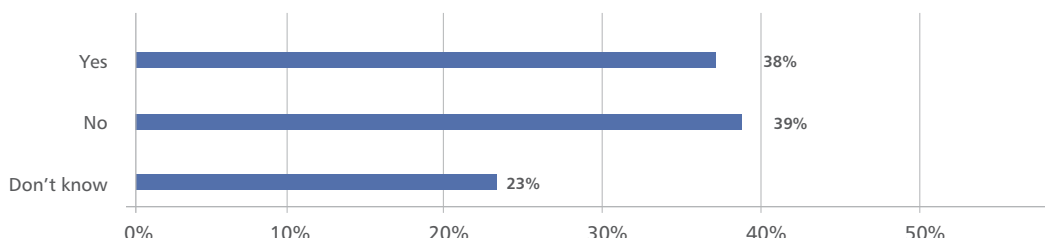


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For **donor-funded programs**, public entities abide by donor regulations through established units such as the PIUs.<sup>12</sup> This raises a number of challenges as **54% of public procurement practitioners are not familiar with the rules that apply under foreign funding.**

**Are procurement rules different in case of foreign funding?**



**Relationships with suppliers are tense**

Procurement officials enjoy a positive image among private sector suppliers in 50% of the cases. Among the most common critics voiced by the local private sector, is the low level of confidence in the fairness and efficiency of the national public procurement processes. Efforts are needed to encourage the participation of SMEs and foster the development of the domestic market place.

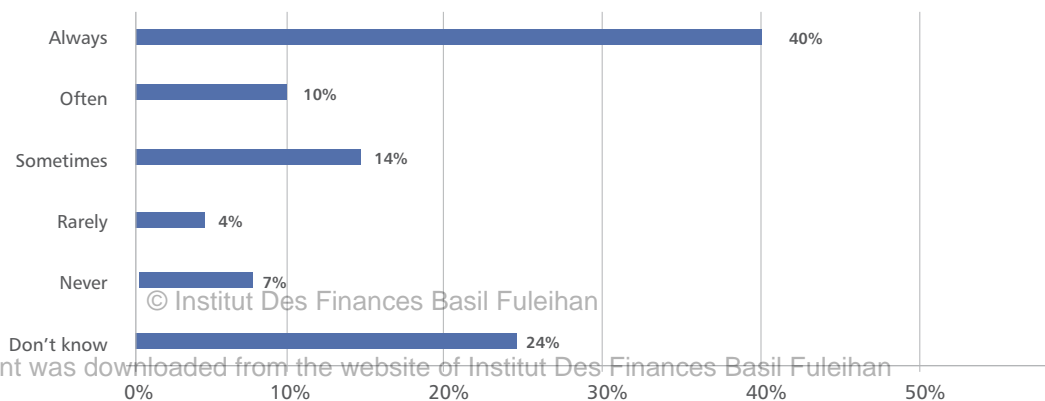
In terms of **communication**, only 43% of the surveyed cases systematically communicate clarifications and amendments made to the bidding documents to all other bidders. During the contract execution phase, it was found that deadlines were extended repeatedly, especially in works contracts. **In 76% of the surveyed cases, additional tasks, outside the scope of the contract, or variation orders were requested by contracting authorities. In 50% of the surveyed cases, suppliers are paid on time.** Bureaucracy, lengthy administrative procedures, the lack of knowledge about payment processes and funds carry-over from year to year, affect negatively the credibility of the government, and escalate prices.

At the **post-contract phase, a limited number of procurement practitioners use KPIs** to evaluate the performance of suppliers and contractors.

**Evaluation and audit are not systematic**

Around **50% of the surveyed cases** have their procurement operations internally audited either always or often. **In 24% of the cases, procurers were not sure an audit was performed.** This is one of the main concerns voiced by international organizations while assessing the country's procurement system and processes.

**Are procurement accounts subject to regular auditing?**



*Only 3,000 transactions, out of 50,000 per year, are submitted to ex-ante control of the Court of Audit.*

<sup>12</sup>PIUs: Project Implementation Units, established by international organizations (EU, World Bank, UNDP) at line ministries.

Less than 100 transactions per year are subject to the ex-post oversight of the Court of Audit. These are mostly carried out in the case of public institutions that are not subject to ex-ante control.

The 2013 Corruption Perception Index ranks Lebanon 127<sup>th</sup> out of 177 scored countries.<sup>13</sup>

Around 28% of the surveyed cases stated that bidding documents and contracts contained anti-bribery and anti-corruption clauses, although the introduction of such clauses is encouraged in international aid contracts.

### Reporting and archiving are not systematic

Less than 40% of surveyed cases prepare reports on procurement activities. Reports are published and disseminated in 33% of the cases, with the highest percentage of reporting being done by public hospitals.

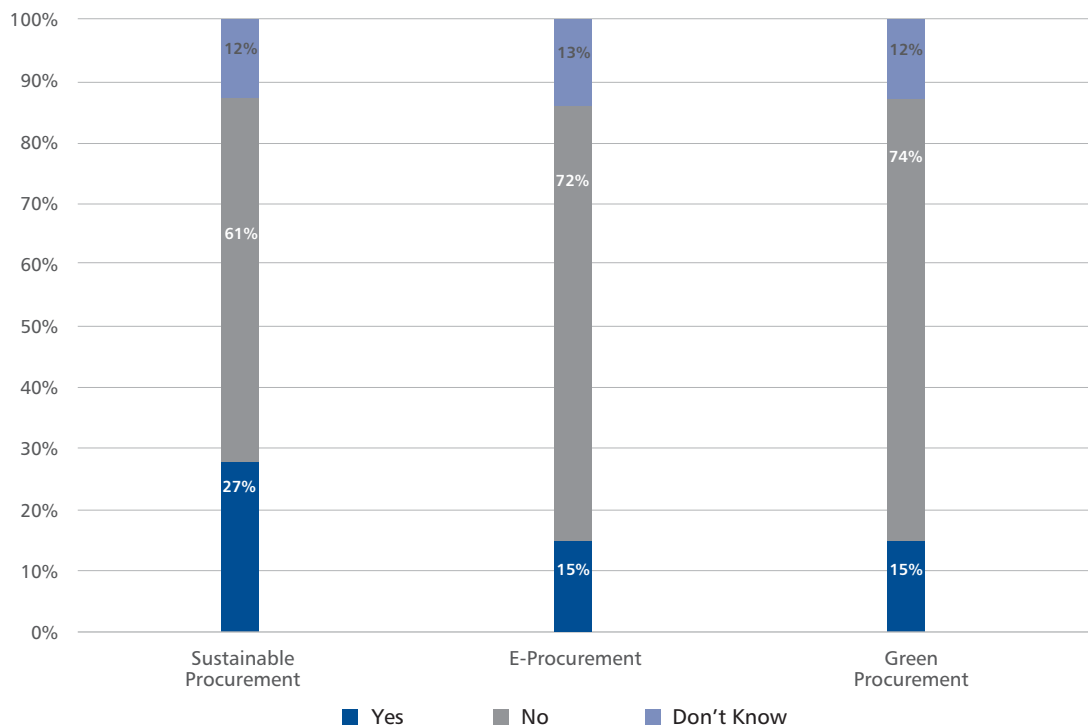
For archiving, almost 50% of the surveyed cases rely solely on paper, while automation of the procurement process remains limited to 20% of the cases. This major obstacle hinders the development of suppliers and prices databases, effective procurement planning and the proper exchange of information among government agencies.

### Procurers are not familiar with new trends

Considering the size of the public sector in the economy, every procurement operation is an opportunity to drive markets towards innovation and sustainability, through the adoption of new trends such as green procurement, e-procurement and sustainable procurement.

In Lebanon, there is a general lack of knowledge of new trends. Around 27% of the surveyed officials are familiar with sustainable procurement and 15% with green or e-procurement. This hinders the wide inclusion of environmental considerations in the technical specifications; only 30% of the cases have this practice in place.

### Familiarity with new procurement trends



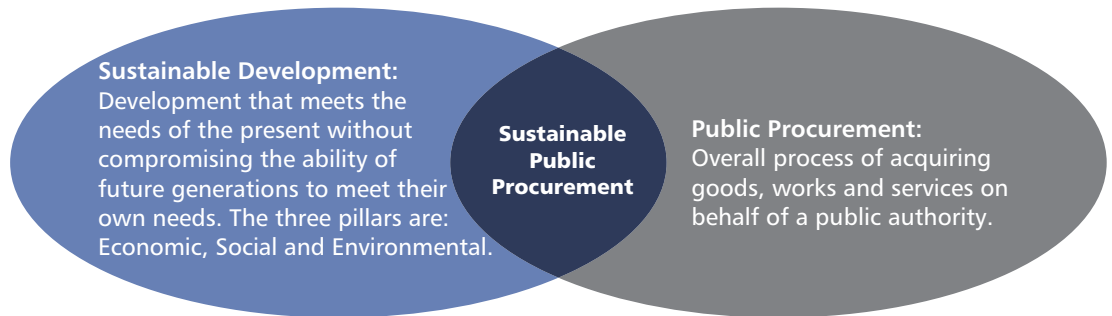
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<sup>13</sup>Transparency International, <http://www.transparency.org/country#LBN>

### What is Sustainable Procurement?

Sustainable Procurement is the process whereby organizations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis. It results in benefits to the organization, but also to the society and the economy, whilst minimizing damage to the environment. Sustainable Procurement seeks to achieve the appropriate balance between the three pillars of sustainable development i.e. economic, social and environmental.

*Source: Procuring the Future - the report of the UK Sustainable Procurement Task Force, June 2006*



## Main players and stakeholders

Six institutions are directly involved in advancing the public procurement reform agenda in Lebanon, through continuous dialogue with the international community, academia and civil society:

- 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 bids values exceeding LBP 100,000,000.
- The **Office of the Minister of State for Administrative Reform (OMSAR)**, in charge of conducting administrative reform in the Lebanese public sector, and producing a new public procurement law.
- The **Ministry of Finance** considers public procurement as core component of public financial management reform and backed-up the reform of the legal framework by a series of initiatives to improve procurement at the operational level, notably with the production of a National Procurement Manual and SBDs.
- The **Council for Development and Reconstruction (CDR)** that manages a large share of international aid projects to Lebanon and in particular their procurement components.
- The **Court of Audit**, in charge of overseeing the management of public funds and performing ex-ante and ex-post administrative and judicial controls.
- The **Institut des Finances Basil Fuleihan**, center of excellence in public financial management, who has been offering specialized training to public procurement practitioners, and is currently the provider of certification training in procurement in association with the Chartered Institute of Purchasing and Supply (CIPS).

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## Is procurement a profession?

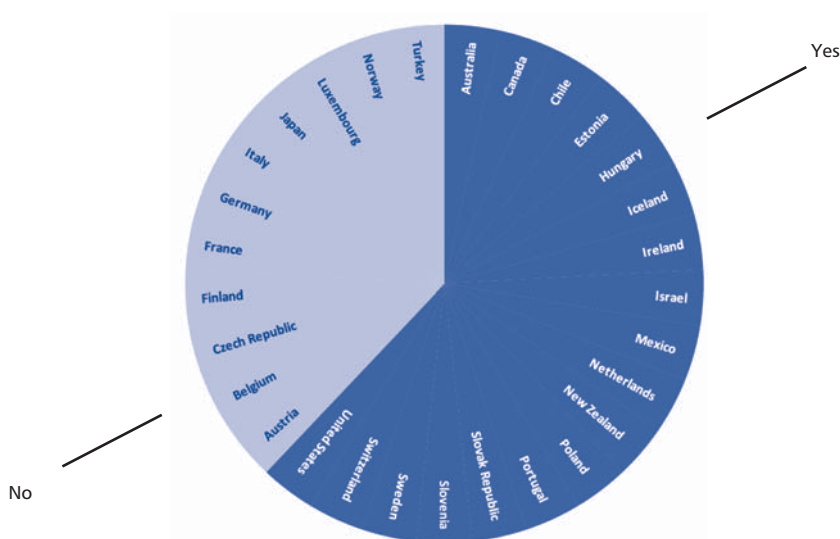
Worldwide, efforts are exerted to increase the visibility of the procurement function and put it at a strategic level in the decision-making process.

Being increasingly recognized as a full-fledged profession, public procurement requires interdisciplinary knowledge and skills, specific job descriptions and profiles, and a competencies framework that includes:

- **Technical competencies** for handling bid evaluations, complaints, resolving disputes, and monitoring contract performance.
- **Administrative competencies** for organizing filing, handling invoices and managing operations efficiently.
- **Legal knowledge** for a better understanding of national legislation and abiding by international guidelines.

**In OECD countries, are procurement officials recognized as a specific profession?**<sup>14</sup>

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. UK, Australia, Canada, Chile, Ireland, Mexico, Switzerland, USA).<sup>15</sup>



As procurement becomes more complex and new trends emerge, procurement officials are requested to make smarter purchases, achieve value for money, while making strategic decisions such as including **socio-economic and environmental criteria**.

Training and capacity building are key elements to improve the performance of professionals working in that field. The provision of certified training programs helps raising the profile of the profession, and recognises the high competencies and skills required.

### Guiding steps to professionalize the procurement workforce<sup>16</sup>

- Define a competency baseline
- Conduct a training needs assessment
- Identify training priorities
- Develop a competency-based training curricula
- Conduct Train the Trainers program and select national training institutions to work with
- Develop annual national training plans
- Deliver training and evaluate impact
- Certify procurement professionals

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<sup>14</sup>OECD, Meeting of Leading Practitioners on Public Procurement, Paris (11-12 February 2013).

<sup>15</sup>OECD, "Survey on Reporting Back on progress made since the 2008 Procurement Recommendation" (2011).

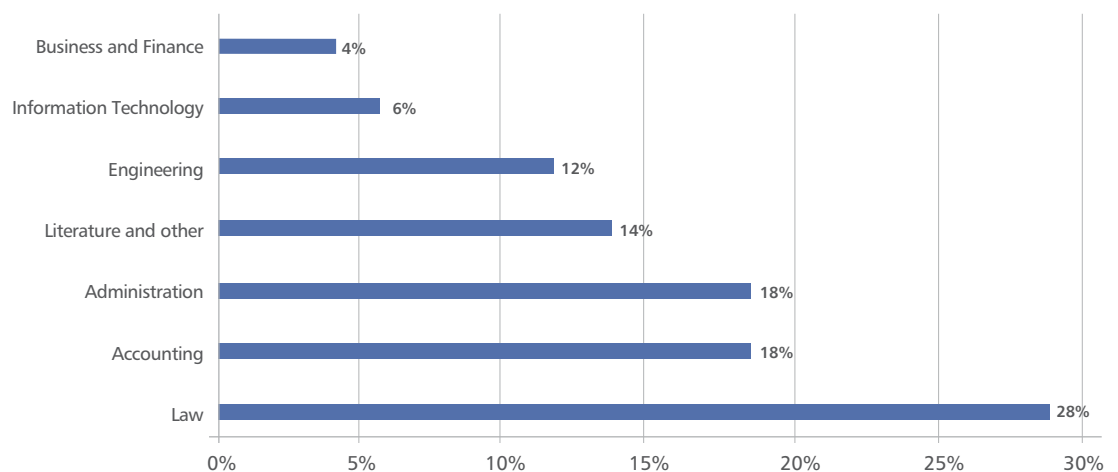
<sup>16</sup>The World Bank, "Why Reform Public Procurement?" pp 15 (2012).

The Lebanese Civil Service does not specify Public Procurement as a profession. Ad hoc job descriptions exist in a number of cases, resulting in various definitions of tasks and responsibilities for civil servants performing financial and administrative operations related to the procurement cycle. Public procurement departments are rarely found in public agencies across Lebanon. When existing, the procurement position maintains vague job descriptions.

Concerning the profile of procurement personnel in the Lebanese public sector:

- **Demographic profile:** The average age of respondents was **45 years**, with a considerable length of service in the public sector, an average of 18 years (11 years when considering only their current position). **The male to female ratio is 1.4.**
- **Educational background:** **86% of respondents have a graduate or post-graduate degree**, with diversified educational backgrounds varying from law, arts and humanities to accounting, engineering, IT and finance.
- **Job description:** **48% of respondents have functions that cover the entire procurement process.**
- **Work conditions:** 83% of respondents are civil servants hired through the Civil Service Board, **26% of them hold their current position on an interim basis**, and 62% of them are category three civil servants, holding only operational positions. Only few hold managerial or leadership positions.
- **Turnover and shortages:** A significant turnover in the procurement staff is highlighted in 34% of the surveyed cases. About **65% of respondents reported the lack of adequate number of qualified procurement officers**, mainly technical and sectorial experts.
- **Training:** Upon recruitment, procurement officers learn by observation and are coached by other employees in 87% of the cases. About **25% of respondents stated using procurement manuals**. 73% of respondents stated they were offered continuous training opportunities.

#### Distribution of respondents as per educational background



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## The way forward

Today's exercise of public duties is about delivering faster and better, while bringing more value to spending taxpayers money. It is about managing, but also anticipating, forecasting, planning and risk handling. 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 Lebanon, challenges are of many folds with debt servicing taking up around one third of public expenditures and a wage bill at more than 26 percent. Rationalizing expenditures to the best value for money is an inevitable choice. Therefore, the way in which public agencies procure goods, works and services plays a central role in achieving savings, while improving at the same time the delivery of services.

In order to bring about change, key entry points are here proposed:

- **Policy makers** should be alerted to the strategic importance of public procurement. They need to recognize it as a powerful instrument for achieving cost-reduction, delivering tangible value from spending taxpayers money, and enforcing sustainable production and consumption.
- **Modernizing the current legal and institutional frameworks** is a must, with a view of creating an efficient and transparent system that is harmonized with international practices.
- **Standard Bidding Documents** should be adopted across the board and comprehensive guidelines set to consolidate regulations.
- **Procedures and practices** should be modernized with the introduction of sustainable and innovative dimensions in public procurement and by encouraging market studies and procurement planning.
- **Oversight of procurement activities** should be improved by strengthening the capacities of the Court of Audit and enhancing ex-post audit and control with priority given to performance-based audits, sectorial experts and automation.
- **Dialogue with suppliers** should be fostered in view of encouraging the participation of SMEs and the development of the domestic marketplace.
- **A permanent dialogue with the private sector and the donor community** should be established to help building consensus and commitment to a long term reform agenda.
- **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.
- **Procurement** should be viewed as a stand-alone profession requiring a wide array of skills. Modernizing civil service recruitment processes as well as institutionalization of human resources management to attract talents and mitigate the risk of competent procurement staff turnover, should become a priority.
- **The procurement function** should be professionalized and capacities of civil servants developed through high standard certified training programs, to accompany procurement reform and change management.
- **Providers of specialized training services** in public financial management should contribute actively to this effort and seek to better identify and meet the needs and demands of public procurement practitioners, up-to-date knowledge and skills, and deal with increasingly complex issues.

Finally, upon the procurement community in both public and private sector, rests the responsibility of raising attention to its strategic importance and developing this profession in Lebanon: improving their technical abilities so that they stay on-top of new trends, be visionary, influential, strategic, ethical, and collaborative. The procurement profession is rising steadily worldwide. Lebanon needs to catch the trend.

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### *The 4C rule for a comprehensive public procurement legal framework<sup>17</sup>*

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

- *Clear in its drafting*
  - *Complete in terms of scope, procedures, etc.*
  - *Consolidated*
  - *Contemporary*
- 

<sup>17</sup>OECD, "Methodology for Assessing Procurement Systems (MAPS)" (2010).

## Further readings

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## This Publication

This publication analyses specific topics of relevance to Public Finance Management Reforms and other subjects of relevance to the work of the Institut des Finances Basil Fuleihan. This first issue aims to increase awareness of policy makers, government officials, the business community, professionals, academics, and citizens towards considering the key role of public procurement in achieving policy goals and national strategies.

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## 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
- 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).

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