

Launching the findings of the Gender Responsive Public Procurement

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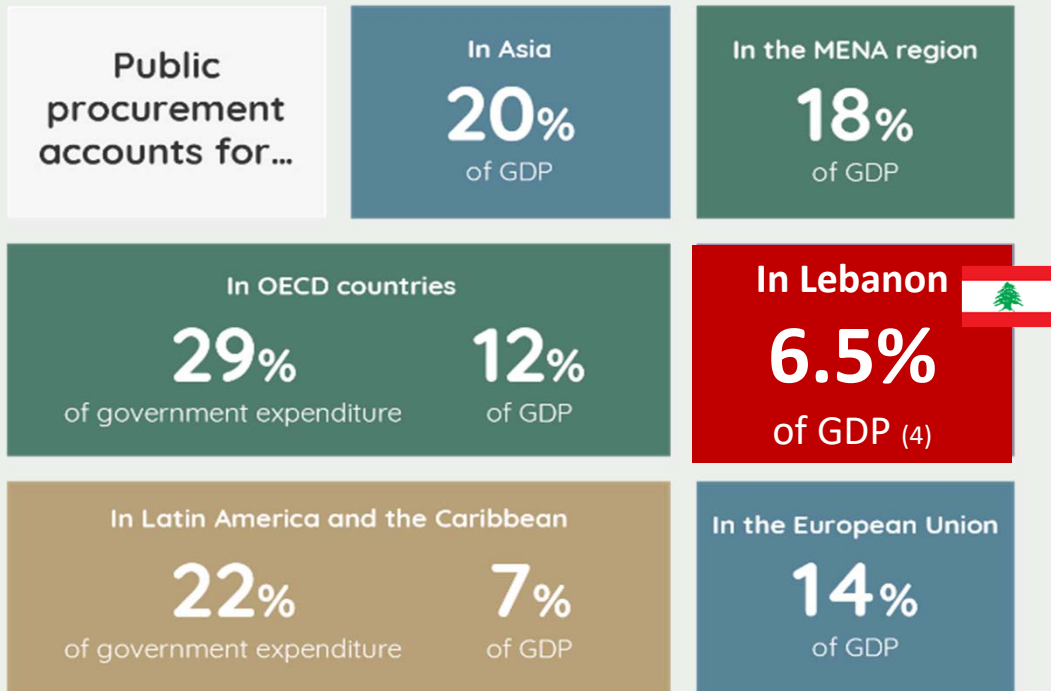
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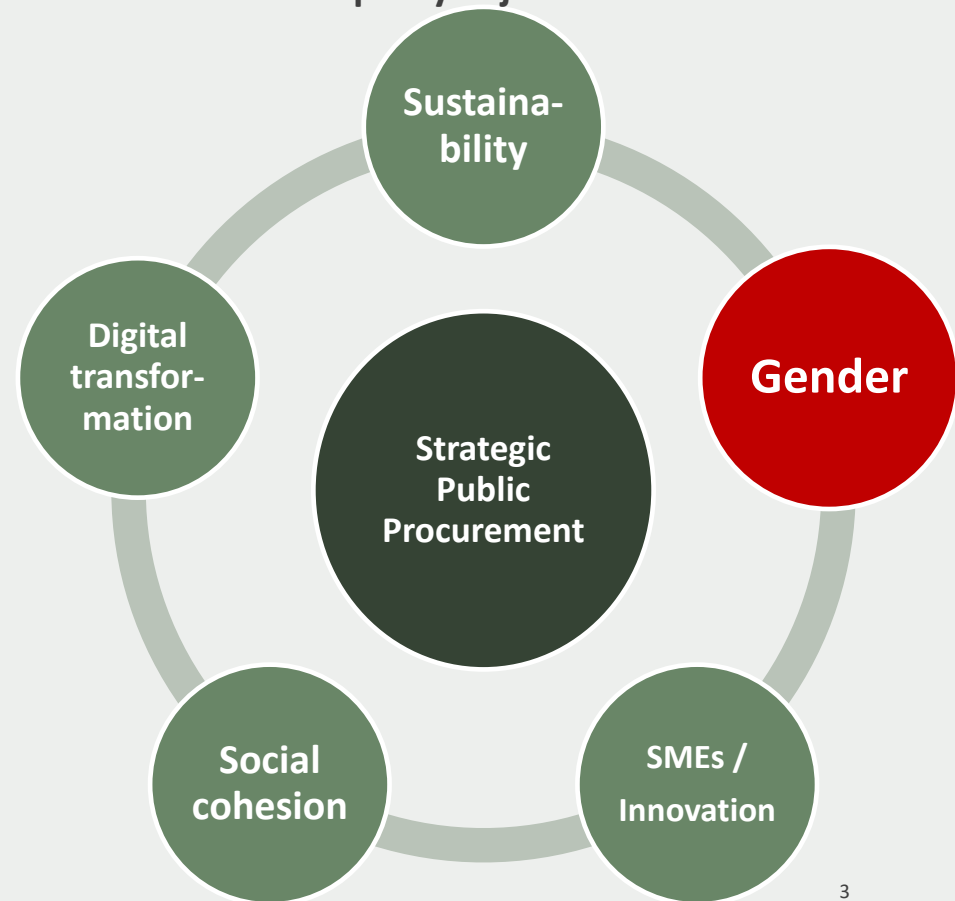
Public procurement is a key enabler to achieve inclusive growth and sustainability

Procurement matters: Governments are powerful change makers; they are the largest buyers in an economy



- Sources:
1. OECD Data (2017)
 2. World Bank (2017), Benchmarking Public Procurement Report
 3. United Nations, One Planet Network
 4. Institut des Finances Basil Fuleihan, Ministry of Finance, 2020

Procurement is a powerful tool to achieving secondary policy objectives

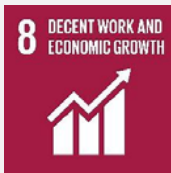


...and for Sustainable Development - Agenda 2030



Government is the BIGGEST buyer

Purchasing behavior affect the conditions of competition. OECD research suggests that eliminating bid rigging could **reduce procurement prices by 20% or more**



Government is the BIGGEST buyer

An opportunity for SMEs and local economy (95% of enterprises, 51% of the working population)



Government is the BIGGEST buyer

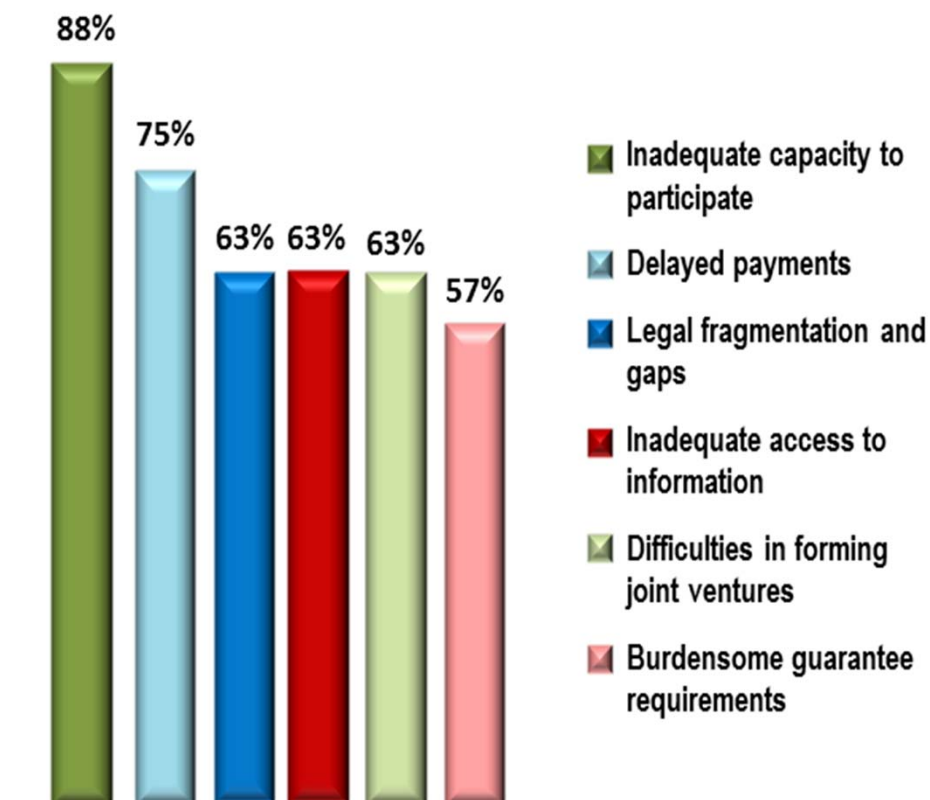
An opportunity for **sustainable procurement**



Government is the BIGGEST buyer

An opportunity for **gender equality & women empowerment**

Obstacles for SMEs in public procurement



1. Rotar, LauraJuznik, *Contributions of SMEs to employment in the EU*, September 2019
2. The Economist and UNOPS, *The Future of Public Spending*, April 2020

Barriers facing women-led businesses in public procurement

Only 5% to 20% of the US\$13 trillion spent annually on public procurement is awarded to women-led businesses, mostly in urban areas *Open Contracting Partnership*

Lack of access to finance

- limits their ability to acquire the working capital needed to apply for government contracts.
- payment delays in public procurement means that businesses need access to finance.



Lack of knowledge of tender opportunities

- Women businesses, that are of majority SMEs, do not have timely information about procurement opportunities & procedures, which hinders their participation & capacity to grasp new opportunities.
- Access is lower among smaller entrepreneurs and in sectors where majority of Women SMEs operate (trade, services, etc)

Operating on a smaller scale

- In Latin America, Sub-Saharan Africa, and East Asia, women lead, on average, 23% of small businesses compared to 11% of large businesses.
- The smaller size hinders their capacity to meet the requirements of large government contracts.
- Governments have difficulty to define women-led businesses and lack gender-disaggregated data about bidders and suppliers



Perceptions of corruption or bias

- Women entrepreneurs believe corruption and bias impair the fairness of public procurement processes, favoring men businesses.
- Preconceived beliefs that women can only lead microenterprises in certain sectors affect how women's capabilities are perceived in the bidding process.
- Corruption, payment delays and inadequate regulatory framework are key obstacles to participation.



Lebanon: A challenging environment for WLBs

Lebanon's economic competitiveness is declining

Performance Overview 2019 Key ◇ Previous edition ▲ Upper-middle-income group average □ Middle East and North Africa average



Source: World Economic Forum, Global Competitiveness report, 2018-2019

- Lebanon ranks **139/153** countries in **women economic participation and opportunity** (Global Gender Gap, 2020).
- The share of firms in Lebanon that are **co-owned by women is 9.9%**, concentrated in lower value sectors and struggle to grow, finding it harder to access finance and markets. (World Bank Enterprise Survey, 2019)
- Economic crisis in Lebanon has **multiplied the challenges facing women-led start-ups and SMEs**: Growth contraction of 25% (2021); pay and retain employees, cover operational costs with a decreased demand, difficulty to access supplies.
- Challenges to enter PP market**: corruption, mismanagement, mistrust, cartels and elite capture.



Lebanon: Businesses' perception to Law 244

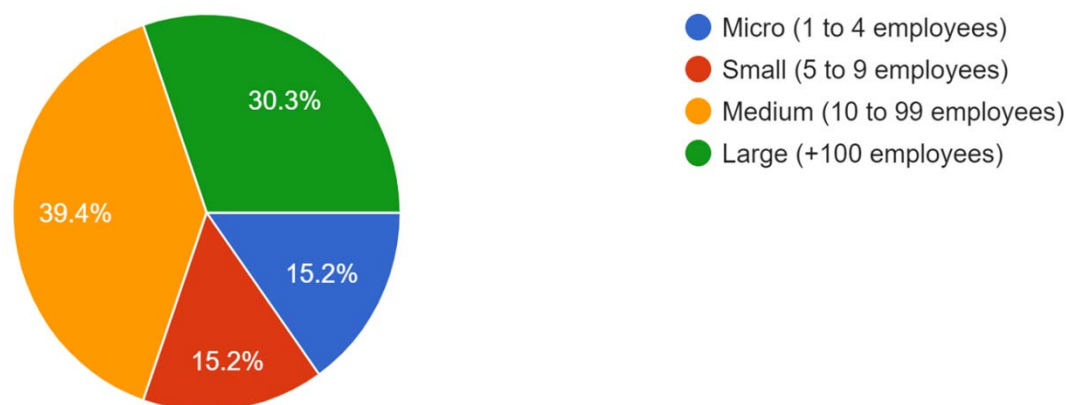
Size of sample: 33 respondents (70% are MSMEs)

Gender: 72.7% female; 27.3% male

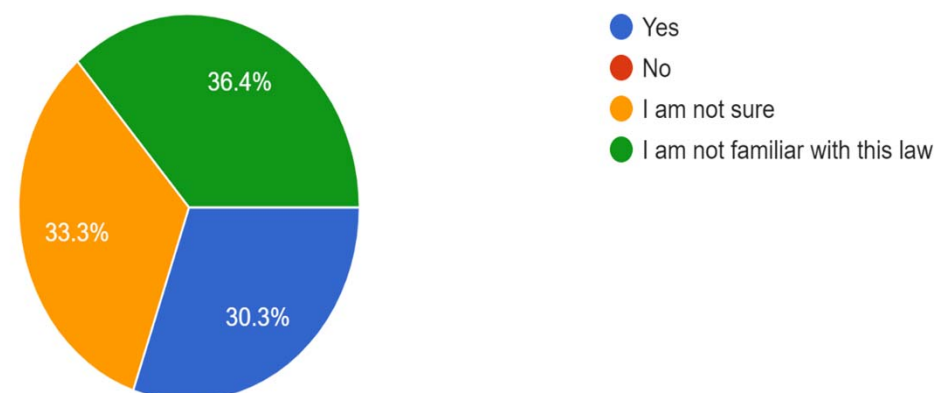
Position level of respondent: 76% Top/Executive level; 15% Middle level; 9% Operations level

Geographical location: 60.6% Beirut; 18.2% North; 15.2% ML; 6.1% Bekaa

Size of business



Law 244 will improve participation of women-led businesses to public markets

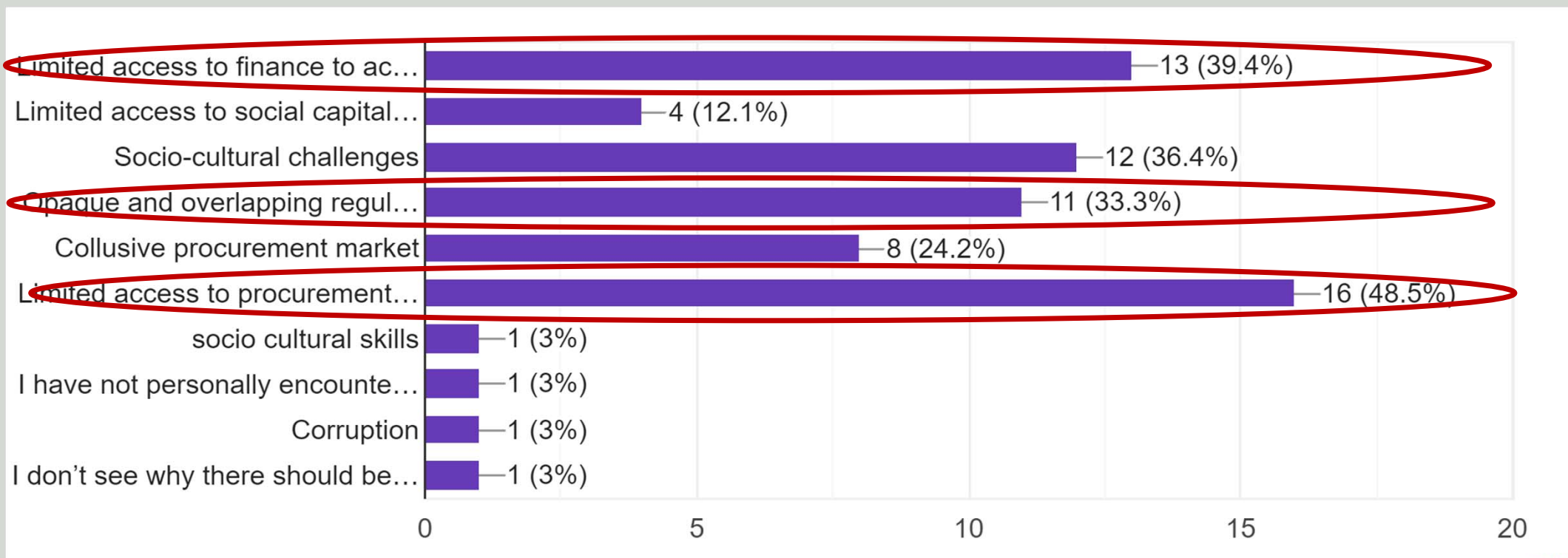


Source: Institut des Finances Basil Fuleihan, GRPP Survey, March 2022



Lebanon: Barriers impeding participation

Barriers impeding the participation of women-led businesses to public procurement in Lebanon



Source: Institut des Finances Basil Fuleihan, GRPP Survey, March 2022



Lebanon: A potential for WLBs through public procurement

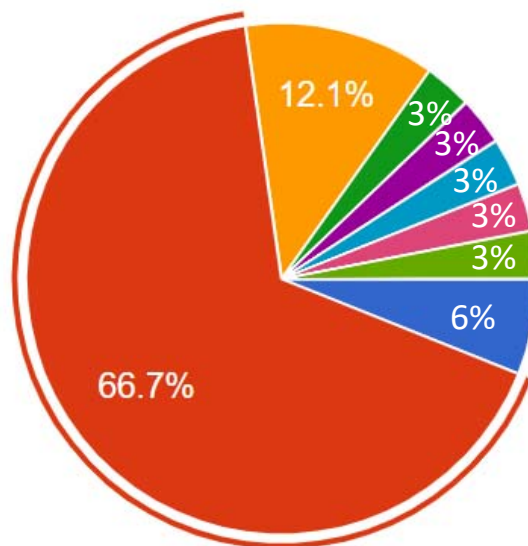
76%

consider that GRPP helps women-led businesses thriving

21%

don't know about the effect of GRPP

Definition of WLB to be targeted by GRPP policy



- Full ownership by women
- Partial control by women (51%+)
- 51% of employees are women
- 50, 50
- -
- 30%+ of employees are woman
- Women in leadership positions regardless of %
- Women in the Leader positions

Source: Institut des Finances Basil Fuleihan, GRPP Survey, March 2022

I. Gender analysis of Law 244/2021

Methodology

Desk Review

- Literature review: 45 national and international reports/articles/studies
- Detailed review of Public Procurement Law 244/2021 from gender perspective
- Benchmarking with international experiences

Surveying the businesses

- Online survey targeting +30 businesses in Lebanon
- Focus group/ consultation with experts and representatives of WLBs, business associations

Policy dialogue

- Consultation session with parliamentarians, the PPA, representatives of civil society and international organizations
- Policy recommendations

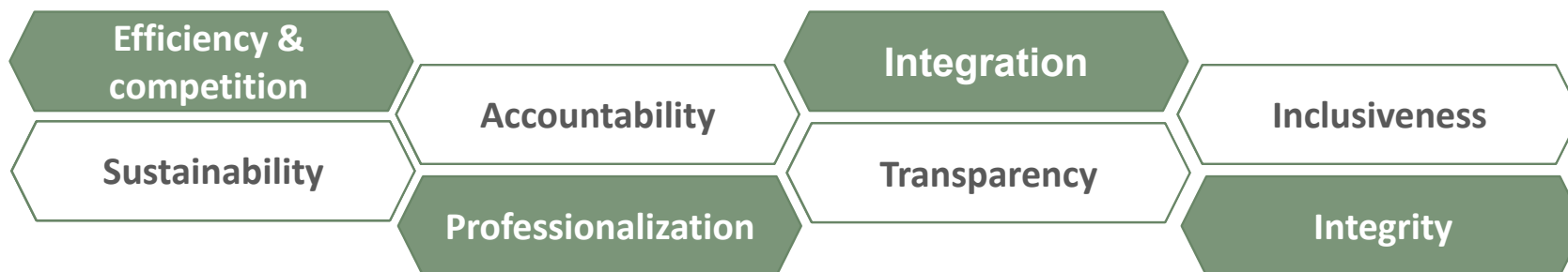
Law 244/2021: An opportunity towards gender equality

A modern procurement law in line with international standards

POLICY PROCESS

- **Evidence-based** exercise to identify the level of performance of the current procurement system through the **MAPS** Assessment
- Leveraging on previous laws and draft laws prepared at the national level to **preserve national efforts**
- Based on the **UNCITRAL Model Law** on Public Procurement (2011) and the **OECD Recommendation** on Public Procurement (2016)
- Benchmarking against other **MENA countries'** procurement laws, namely Jordan (2019), Egypt (2018), Palestine (2014) and Tunisia (2014)
- **Technical guidance & assistance** from World Bank, EBRD and EU-OECD SIGMA joint initiative.

PRINCIPLES



OBJECTIVES

- Applying **competitive methods** as a general rule
- Providing for **equal opportunities** to participate in public procurement
- Providing for **fair, equal and equitable treatment of all bidders and contractors**
- Ensuring **integrity & professionalism** of procurement proceedings to enhance control & accountability
- Promoting **local economy development**, national employment and production, based on the best value for spending public funds



Gender analysis of Law 244/2021

Although not explicit on gender considerations, **Law 244/2021 provides all legal foundations necessary to inspire a transformative conceptualization of gender-responsive procurement policies** that support both equal market opportunities for women's enterprises to access public markets, and equal outcomes for women in the labor market.

It **allows the setting up of a GRPP ecosystem**, prerequisite for the transformation, and paves the way for concrete ways to make this vision a reality, through:

Enhanced competition
frameworks

Observed sustainability

Clear and modern institutional framework that is
conducive to broad participation of the private
sector, including SMEs & WSMEs



Gender analysis of Law 244/2021

Law 244 adopts an enhanced framework for competition, which:

- Ensures that **competitive measures are the general rule and the standard procurement method**, as a means to enhancing efficiency and fighting corruption (**Article 42**)
- Adopts strict controls to **limit the recourse to mutual agreements (Article 46)**
- Provides equal opportunities for all bidders wishing to participate in the **pre-qualification proceedings according to a clear and detailed process, (Article 7, Article 19)** allowing to determine the bidder's eligibility and capacity to implement the contract. This replaces an old and archaic "classification" process that was ill governed and acted as a barrier for entry of newcomers into the public markets
- Operates within **coherent, stable, clear and simple institutional, legal and regulatory frameworks** which ensures that potential competitors of all sizes have access to procurement opportunities, including foreign suppliers, and promote fair, equitable and transparent treatment of all



Gender analysis of Law 244/2021

Law 244 adopts sustainability as a key guiding principle:

- Provides a **leverage for economic development**, by ensuring SMEs the right to fair and transparent participation in government contracts, and including sustainability criteria related to environment, balanced economic development (support of women's economic participation, rural development, etc.), and social responsibility **(Article 15)**
- Directs the PP capacity, when possible, towards **sustainable goods and services**, while ensuring a balance between potential benefits and achieving the best value for money **(Article 15)**
- Provides **incentives to SMEs, local production and national expertise (Article 15)**
- Allows for procurement to be **divided into lots**, when possible, to guarantee social & economic benefits;
- Provides **preference regulations with regard to domestic products, consulting services and expertise**, and guarantees that such products, services and expertise shall not be excluded if they are available and their quality thereof meet technical requirements **(Article 16)**
- Uses **clear, integrated and standardized bidding documents**, binding for all parties **(Article 52, Article 76)**
- Provides an **appropriate range of procurement methods** that include competitive procedures, to ensure best value for money and only eligible bidders are involved **(Articles 41 to 48)**



Gender analysis of Law 244/2021

Law 244 establishes a **clear and modern institutional framework** that is conducive to broad participation of the private sector, including SMEs and more particularly WSMEs, in a way that ensures alignment to international standards and good practices.

The duties of the Public Procurement Authority, listed in Article 76 of the Law, that particularly impact gender equality and WLBs participation are the following:

Formulating public policies that ensure the progressiveness and innovativeness of the system.

Prioritizing the adoption of policies that promote the support of WSMEs by setting aside a certain percentage of annual PP contracts

Allowing systematic and free of charge access to procurement information through the central electronic platform, and publishing and analyzing gender-disaggregated data to inform procurement policies

Assisting and advising WSMEs on how to seize procurement opportunities, and making available tools and guidance

Designing strategies & recommendations to increase or improve the participation of SMEs, with room for gender inclusiveness through particular consideration to WLBs: dialogue, analysis of barriers to entry, etc.



Gender analysis of Law 244/2021

Law 244 establishes **the Complaints Authority that provides fair, specialized and timely responses to grievances**. The new complaints system is a new innovation brought by the Law.

- The new system is key for the business environment in Lebanon to **re-establish trust** in the procurement market and encourage small businesses, including WSMEs, to participate.
- It guarantees the **right of businesses to file their complaints at any stage of the pre-contractual phase** should they note breaches of the principles of PPL or an abuse of any sort.
- A three-stage complaint mechanism in line with modern practices **giving the right to private sector in general, and SMEs including WSMEs in particular, to file complaints about unfair decisions** taken by procuring entities or carry specific biases.
- When filing a complaint, **the procurement procedures are frozen and no signature of contract is allowed**, guaranteeing that the system efficiently addresses grievances in a swift, timely, independent, unbiased and competent manner.



Gender analysis of Law 244/2021

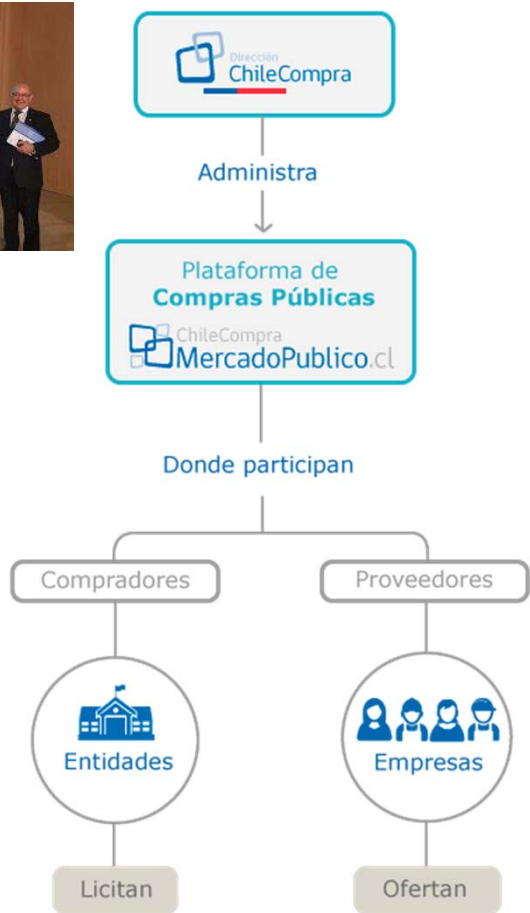
Law 244 (Article 72) establishes the professionalization public procurement in Lebanon across government through mandatory and continuous training, provided by the Ministry of Finance – Institut des Finances. **The law stipulates directing part of the training to the private sector.**

- The law stipulates **directing part of the training to the private sector** to ensure the respect of the principles of competition, efficiency and sustainable development.
- Training shall also aim at **strengthening businesses' ability to implement the law with high integrity standards.**
- The training shall include **supporting the implementation of the Sustainable Development Goals.**



Chile as a successful example

Embracing gender considerations in public procurement since 2015



- **ChileCompra (through ‘mercados públicos’)** helped address many common barriers that micro, small and medium-sized enterprises (MSMEs) – which most women-owned companies are – face, including very large contracts, lack of access to information, limited skills and time to prepare bids and cumbersome bureaucracy.
- Since 2015, women providers **were trained on how to do business with the state**, on ethics and transparency.
- A **certification system ‘Sello Empresa Mujer’** (Women Supplier Certification) where enterprises are certified and registered in the civil registry as “female enterprises”.

RESULTS

Increase in number of women-owned businesses in PP (approx. 45% of transactions). Many of them are from rural areas and 64% are from the family’s main wage earner (OECD,2021).

III. Policy recommendations



Policy recommendations (1)

To advance the agenda of GRPP, the GOL should principally make the regulatory framework for PP more adequate in relation to the needs and characteristics of MSMEs, including WLBs

Practical policy recommendations for GRPP to be considered by the Public Procurement Authority (PPA), in consultation with key stakeholders:

1. Identify and track women-led businesses: Formulating an officially recognized definition of WLB that helps the Government and the business sector identify businesses to be targeted by gender-inclusive policies

2. Design informed GRPP policies:

- ✓ Developing a strategy for GRP upon the suggestion of the PPA
- ✓ Undertaking an in-depth survey and a sectoral analysis to understand the characteristics of WLBs and WOBs, and the dynamics with the PP market
- ✓ Designing tailored GRPP policies with special attention to WLBs

3. Cater sourcing techniques and practices:

- ✓ Dividing PP into independent portions where the nature of works, goods or services requires such division
- ✓ Encouraging the application of group bidding / joint venture
- ✓ Reserving contracts below a certain value threshold for pre-qualified WSMEs (positive discrimination)
- ✓ Issuing specific guidance and provide hands-on training for public buyers on PP planning from a gender lens, and on how to include clauses with a gender perspective
- ✓ Providing timely and adequate feedback to bidders



Policy recommendations (2)

4. Develop the capacities of suppliers:

- ✓ Providing financial assistance to women-led businesses to enable them to have the needed means to apply to bids
- ✓ Setting incentive structures to sustain the risk of innovation for SMEs, including WSMEs, to reduce the risk failure and increase chances of success
- ✓ Informing and training women to help them registering as suppliers and to familiarize with Law 244
- ✓ Issuing specific guidance to economic operators, including WLBs

5. Promote transparency and harness the use of data:

- ✓ Ensuring effective operationalization of the central electronic platform
- ✓ Tracking reporting and goal-setting mechanisms
- ✓ Generating gender-disaggregated data on women-owned and led businesses

6. Encourage an inclusive public procurement ecosystem:

- ✓ stakeholders' engagement
- ✓ gender considerations & quota in sec. legislations
- ✓ peer to peer exchange

Roadmap



Policy recommendation for PPA	Actors that can be engaged	Timeframe
Set a quota for women in the secondary legislations pertaining to the nominations of the PPA and Complaints Authority.	<ul style="list-style-type: none"> • Institut des Finances (as reform coordinator) • International organizations providing assistance and support to public procurement reform 	Short term
Ensure the effective and timely operationalization of the central electronic platform, using adequate digital information means and technologies that ease access to procurement information to SMEs including WSMES, and that allows the collection and analysis of gender disaggregated-data for analysis and monitoring of competition and gaps	<ul style="list-style-type: none"> • Institut des Finances (as reform coordinator) • Procuring entities • International organizations providing assistance and support to public procurement reform 	Short term
Identify stakeholders concerned with the gender-responsive public procurement ecosystem to engage them in the process	<ul style="list-style-type: none"> • Institut des Finances (as reform lead) • International organizations working on public procurement reform 	Short term
Raising awareness on the importance and features of GRPP	<ul style="list-style-type: none"> • National training providers (Institut des Finances, others according to specialization) • Private sector (associations, syndicates, economic operators including SMEs, WLBs, startups, etc) • Civil society and think tanks 	Short term
Issue guidance to public procurers on applying procurement practices that are in favor of WLBs participation while applying PPL provisions (division into lots, group bidding, etc)	<ul style="list-style-type: none"> • National training provider (Institut des Finances) • Procuring entities 	Short term



Roadmap



<p>Issue specific guidance to economic operators, including WLBs, on the application of incentives for domestic businesses or locally produced supplies, goods or services</p>	<ul style="list-style-type: none"> • National training provider (Institut des Finances) • Private sector (associations, syndicates, economic operators including SMEs, WLBs, startups, etc) 	<p>Short to medium term</p>
<p>Issue decisions for the formation of the tender and acceptance committees while ensuring fair and gender-balanced representation and start</p>	<ul style="list-style-type: none"> • Institut des Finances (as reform coordinator) • Procuring entities • Central Inspection Board 	<p>Short to medium term</p>

Roadmap



Propose a strategy for gender-responsive procurement to be approved by the Government	<ul style="list-style-type: none"> • Institut des Finances (as reform coordinator) • Procuring entities • Private sector (associations, syndicates, economic operators including SMEs, WLBs, startups, etc) • Civil society and think tanks • International organizations working on public procurement reform and gender quality 	Medium to long term
Design a range of tailored GRPP policies with special attention to women-led businesses in Lebanon in a way that reduce barriers to participation and bring incentive measures	<ul style="list-style-type: none"> • Business associations • Economic operators bidding to the State • Women-led businesses • Financial sector • Civil society organizations advocating for gender quality and economic empowerment 	Medium to long term
Issue specific guidance, circulars and provide hands-on training on GRPP and related procurement practices addressed to public buyers	<ul style="list-style-type: none"> • National training provider (Institut des Finances) • Procuring entities 	Medium to long term
Implement the universal framework to assessing Gender Equality and Social Inclusion (GESI) in public procurement to assess the inclusivity of procurement practices, policies, regulations and laws at the national level	<ul style="list-style-type: none"> • Institut des Finances (as reform coordinator) • Procuring entities • Private sector (associations, syndicates, economic operators including SMEs, WLBs, startups, etc) • Civil society and think tanks • International organizations working on public procurement reform and gender quality 	Long term

Thank you
