

Forum on
Public Procurement for Resilience and Sustainable Growth
Institut des Finances Basil Fuleihan – Ministry of Finance
Beirut – Lebanon, 26-27 June 2018

**Concluding Remarks and the Way Forward:
Towards A National Multi-Stakeholder Public
Procurement Policy Framework**

In collaboration with:



The Forum on “Public Procurement for Resilience and Sustainable Growth” was held in Beirut, Lebanon, on the 26th and 27th of June 2018, organized by the Institut des Finances Basil Fuleihan, under the auspices and in the presence of His Excellency the Lebanese Minister of Finance, Mr. Ali Hassan Khalil,

With the collaboration of the Agence Française de Développement (AFD), the Association of Lebanese Industrialists (ALI), the European Bank for Reconstruction and Development (EBRD), the UN Economic and Social Commission for Western Asia (UN-ESCWA), the joint EU-OECD Support for Improvement of Governance and Management (SIGMA), the Tender Board of Lebanon, the World Bank, and the 10 Year Framework of Programme on Sustainable Consumption and Production (10 YFP),

And with the participation of more than 310 policy and decision-makers, senior officials and practitioners of the Government of Lebanon, as well as, representatives of the private sector and civil society organizations, of regional and international organizations, and of countries enjoying a track record in procurement reform.

The Forum recognized that:

- Public procurement is one of the critical structural reforms the Government of Lebanon has committed to at the recent CEDRE Conference to improve financial and infrastructure governance, foster inclusive economic growth and deliver efficiently on the commitments of the donor community that pledged USD 11 billion to support the Lebanese Government implementation of its Vision for Stabilization, Growth and Employment and Capital Investment Plan (CIP).
- Public procurement is also a key driver for achieving the Government’s commitment to the 2030 Agenda for Sustainable Development and the Sustainable Development Goals, in particular Goals 12 and 16 for “Ensuring sustainable consumption and production patterns” and promoting “Peace, Justice and Strong Institutions” and enhancing citizen well-being.
- Therefore, the reform of the current public procurement framework is an inevitable pillar of governance to ensure transparency and better value for taxpayers’ money, foster private-led growth, enhance competitiveness and the development of Small and Medium Enterprises, spur job creation, improve the business climate, instill innovative practices, fight corruption and collusion, enhance institutional capacity and tackle pressing issues related to the environment and public health in order to help restore citizen trust and empower the social contract.

In this perspective, the Forum on “Public Procurement for Resilience and Sustainable Growth” discussed Lebanon’s capacity to advance its procurement agenda to meet development challenges and analyzed links with domestic policy reform, institutional capacity, economic growth, competitiveness, governance and regulation, sustainable

development, project management and capacity development. It looked at the successful experiences of Chile, France, Portugal, Tunisia and Ukraine and at the guidelines and recommendations of international organizations, in particular at the AFD, EBRD, European Union, EU-OECD SIGMA, International Growth Center, IMF, UNDP, UN-ESCWA and the World Bank.

In summary, participants identified a set of barriers hindering public procurement mainly related to:

1. Dealing with public procurement as an event rather a process and an administrative function rather than a strategic function of the State able to achieve inclusive economic and sustainable development.
2. The lack of political will for public procurement reform and for evidence-based policy making.
3. An outdated and not fully implemented legislative framework governing procurement that does not support modern practices *such as sustainable and green procurement, reverse auction, Best and Final Offer, Framework Agreements, and Performance based contracts*, which may result in infringing and discriminatory practices in the implementation of the current procurement law.
4. Limited complementarity and compatibility with other laws (Public Private Partnerships, competition law, labor law, conflict of interest, etc.)
5. Overlapping mandates of public procurement stakeholders.
6. Weakened oversight environment and institutions that hinder procurement governance, efficiency, transparency and accountability.
7. Limited consultations with stakeholders outside of government institutions on policy reform.
8. Inefficient anti-monopoly, elite capture and conflict of interest policies.
9. Absence of standardization, coherent documentation (absence of Standard Bidding Documents or Model contracts) and best practices paving the way for arbitrary and inconsistent practices, including the excessive use of mutual agreements.
10. A multi-level capacity gap emphasized by the absence of recognition of procurement as a stand-alone profession in government, of the related job descriptions and of a comprehensive competencies framework.
11. Limited IT infrastructure and information management systems that would help to streamline procurement operations, enable the gradual establishment of e-procurement and provide a dynamic framework for data access and analysis.
12. Limited participation of SMEs to public procurement markets coupled with insufficient information about procurement opportunities and procedures, funding and restrictive technical terms of reference that do not address local market and SME characteristics and capacities.

THE CALL FOR ACTION

To address these challenges, participating institutions recommend the adoption of a roadmap for reform and modernization with significant developments and outputs that include:

a. General Recommendations

1. Define and promote clear, measurable and consistent principles for the development of an enabling environment for the realization of the Lebanese Government's Vision for Stabilization, Growth and Employment brought forward at the CEDRE Conference, particularly the reform of public procurement regulations and procedures. This entails the definition of policy guidelines that would inspire the efforts leading to the new law.
2. Create and sustain the political will, ownership and consensus for the speedy endorsement of new and updated/modern procurement legislation and decrees by the Government and the Parliament **following public consultations** with the private sector and civil society.
3. Conduct a quality and effectiveness assessment of the Lebanese procurement system based on the MAPS tool to help Lebanon identify strategic areas of intervention.
4. Recognize the critical role of procurement professionals, the private sector, civil society organizations and the donor community in the public procurement process to drive forward the CEDRE Conference and Capital Investment Plan (CIP) priorities and foster a participatory dialogue between the different stakeholders.
5. Clarify the mandates of stakeholders involved in public procurement and prioritize strengthening their institutional capacity. A revision of the role of each is necessary so to delineate responsibilities, overlap and gaps.
6. Empower oversight institutions and mechanisms and assure their independence from political pressures.

b. Specific Recommendations:

1. Enhance competitiveness, efficiency and private sector participation

- Encourage and facilitate the diverse and competitive participation of SMEs to procurement markets through increased access, capacity-building and incentives to private sector (*such as granting SMEs preferential payment terms or making it mandatory for all awarded suppliers to have proper Professional Indemnity Insurance, proposing tax exemptions whenever SMEs employ Lebanese individuals in order to win a public tender or during the execution of such a tender, etc.*).
- Promote the principles of fair competition to build private sector and donor confidence in public procurement and mitigate long standing SME perceptions of the lack of integrity by adopting transparent and non-discriminatory selection criteria and by increasing information sharing throughout the procurement lifecycle stages.

- Create a community of practice for SMEs in Lebanon to maintain dialogue and exchange knowledge and information on public procurement related subjects and opportunities and to engage with local investors and address their concerns.
- Bring forth national initiatives, programs and strategies targeted at SMEs and the business opportunities offered by public procurement to SMEs.
- Create a help desk at the Tender Board to assist SMEs in preparing public bids and train them on submitting successful bids, building on the experience of the World Bank and Institut des Finances Basil Fuleihan in providing training opportunities for SMEs to access public procurement markets.
- Encourage the creation, from the side of the private sector, of an accelerator for the government contracting market and a guarantee facility to support SMEs suffering from delayed payments.
- Facilitate the creation of an enabling market for international competition, allowing foreign firms to compete on equal terms.
- Adopt laws and decrees that have an impact on procurement such as access to information, e-signature, competition, conflict of interest, etc.

2. Accelerate the digitalization of the procurement process

- Accelerate and consolidate various efforts for launching an online unified procurement platform through a phased-approach for the gradual establishment of e-procurement. It is important to acknowledge that e-procurement is interdependent upon both the overall public procurement reform and the e-government strategy and ecosystem.
- Conduct awareness-raising and reach-out activities to key stakeholders to introduce the concepts of virtual markets and secure online transactions and their advantages in terms of efficiency in saving time and money and promoting transparency.
- Systematically register open procurement data at the central and local levels on the online procurement platform and make it accessible to decision-makers and to SMEs, the civil society, researchers and media to enhance integrity and increase confidence of investors and the donor community.

3. Foster transparency and integrity and fight against corruption

- Issue a draft circular in compliance with standard transparency principles that requires the publication of an annual procurement plan with well identified parameters for all types of procurement.
- Endorse the Standard Bidding Procurement Documents (SBPD) prepared by the Ministry of Finance and the Institut des Finances Basil Fuleihan and make their use mandatory.
- Publish procurement information and contract awards online, including projects financed under the CEDRE Conference.
- Improve the oversight of public procurement activities and reporting mechanisms pertaining to the right to access governmental data by giving priority to performance-

based audits, efficiency measurement and transparency through data collected through the unified e-procurement platform.

- Establish an online complaints system to enhance early responsiveness, implement timely and effective corrective measures and allow reporting on the number and nature of complaints.

4. Integrate sustainable procurement practices

- Apply provisions of sustainable public procurement (SPP) in new procurement decrees and laws to promote compliance with social and environmental policies and international agreements ratified by Lebanon.
- Develop a databank of specifications that integrates sustainability criteria for the most common goods, services and works relevant to the Lebanese market.
- Develop a set of indicators to monitor on an annual basis the implementation of the SPP provisions.

5. Build institutional capacity and close the capacity gap

- Provide technical support to the institutional strengthening of the Tender Board and the automation of its activities including online provision of procurement guidelines, bidding documents and product specifications, as well as, the establishment of a national public procurement observatory.
- Develop job descriptions for a full-fledge procurement profession in the public sector, while giving importance to recruitment, career development, performance appraisal and accountability. Also, particular attention should be dedicated to developing procedures pertaining to the protection of public procurement professionals from various pressures and to reduce potential conflicts of interest and other threats to the integrity of the process.
- Establish and implement a compulsory multi-stakeholder, bottom-up and results-driven training policy and change management programs that integrate sustainable public procurement, professional codes of ethics and other good practices and lessons learned from comparable countries which will be approved by the Council of Ministers.
- Invite local universities to develop new academic programs and specializations on public procurement.
- Consider organizing annual or bi-annual public procurement fairs accessible to all stakeholders to discuss and exchange ideas on the most recent developments in Lebanon and abroad.

c. Coordination mechanisms

To yield effective and sustainable results, this multi-stakeholder roadmap towards Public Procurement for Resilience and Sustainable Growth needs to foresee the establishment of a dynamic coordination mechanism in the proposed collaborative form of a **national technical task force** that includes representatives of government stakeholders, the private

sector, civil society, academia, think tanks, media and donors to promote effective and innovative partnerships and the harmonization of efforts.

A statement of commitment should be ratified by each group of stakeholders, defining respective roles and responsibilities and clear and measurable objectives.

The Organizers aspired that this Forum will lay a cornerstone for the continued sharing of practical experience and lessons learned and contribute to the ongoing development of this vital sector in Lebanon.

This report is an integral part of the conference documentation and is available for public reading in order to contribute to the policy debate for modernizing public procurement in Lebanon.

Beirut, June 27, 2018

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