

2020

Public Procurement Draft Law in Lebanon

FEBRUARY 2020

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PUBLIC PROCUREMENT DRAFT LAW

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5. *Tender Board* Created by Decree 2460 on November 9th, 1959 (Regulation of the Central Inspection Board)
6. *Competent Authority* The competent authority in charge of engaging expenses in accordance with the laws in force
7. *Person* Natural or legal person.
8. *Public funds* Money owned or disposed of by the State, public institutions, municipalities or other legal persons as described by the common law, or to whom the provisions of this Law shall apply, as well as funds deposited in the Treasury, whether they are originated from budget revenues, loans or donations.
9. *Public procurement* The acquisition of goods, works or services by a procuring entity;
10. *Supplies or Goods* Movables of any kind and description, and related services thereof if their value does not exceed the value of such supplies or goods.
11. *Works* Public works being carried out on an immovable basis including works related to construction, site preparation, demolition, repair, maintenance or renovation of roads, construction of infrastructure or superstructure, installation, or construction works related to excavation, construction and maintenance of buildings, as well as installation of equipment and materials, decoration, and the related services thereof if the value of these services does not exceed the value of such works.
12. *Consulting services* Services that are mainly intellectual or advisory, including but not limited to: engineering, professional, economic, financial or legal studies, and survey work, including design tasks, preparation of specifications, supervision of implementation, evaluation or acceptance.
13. *Non-Consulting services* Services where the contract is based on the performance of a physical work that can be described as non-consulting, such as guarding, cleaning, transport services, insurance, maintenance etc.
14. *Bidder* The party, or the eventual party, that submits a proposal to participate in the procurement or the pre-qualification proceedings, or the participant in such proceedings.

15. *Procurement proceedings* Proceedings related to the procurement from the announcement or solicitation of proposals until the final decision of the competent tender committee, and the conclusion of the contract.
16. *Bid* The proposal submitted by the bidder to provide goods, works or services.
17. *Framework agreement* A valid agreement for a certain period of time between one or more procuring entities and one or more suppliers, contractors, consultants or service providers, with the purpose of defining the terms and conditions of the contract to be concluded within a specified deadline, in particular those terms and conditions related to prices and, where appropriate, quantities thereof.
18. *Contract* An agreement signed between the procuring entity and the supplier, contractor, consultant or service provider, and resulting from the procurement proceedings.
19. *Terms of reference* The conditions that define the goals, objectives, and scope of the consulting mission and provide information in relation to the required service.
20. *Supplier* The person who, under the contract concluded with the procuring entity, provides goods, supplies or services related thereto.
21. *Contractor* The person carrying out works under a contract concluded with the procuring entity, as a result of the procurement proceedings.
22. *Service provider* The person who provides non-consulting services under a contract concluded with the procuring entity.
23. *Consultant* The person contracted to provide consulting services.
24. *Winning bidder* The supplier, contractor, service provider or consultant with whom the procurement contract was concluded.
25. *Force majeure* An event or situation that is beyond the control of the contractual parties, not foreseeable or caused by negligence or absence of due diligence, and entails the impossibility or difficulty of execution of the contract.
26. *Day* Any day of the week.

27. *Working day* Any day of the week except for official holidays and days of forced cessation of work resulting from an event of force majeure.
28. *Bidding documents* (Or Tender documents) All documents related to the procurement, issued to bidders to be used for the purpose of preparing their bids, including technical specifications, other requirements, and procedures to be followed for submitting proposals, including the forms to be used and the terms of the contract.
29. *Electronic means* Use of electronic equipment for processing (including digital compression) and storage of information sent, transmitted and received by wire, radio, optical or other electromagnetic means.
30. *Pre-qualification* The procedure specified in article 19 of this Law, which the procuring entity undertakes and makes public in order 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, in accordance with the requirements and criteria of qualification specified in the pre-qualification documents.
31. *Collusion* An arrangement made between two or more parties before or after the submission of the bid to achieve an illegal purpose or to violate the principles of equal opportunity and fair competition, such as directly or indirectly influencing the actions of another party, including dividing contracts between bidders or fixing the prices of offers, or the manipulation thereof in a non-competitive manner.
32. *Fraud* In addition to the definition thereof provided by the Penal Code, fraud, in relation to public procurement, also includes any act or omission that leads to misleading the other party with the aim of obtaining financial, in-kind or any other benefit, affecting the process, or avoiding the obligation to execute the contract.
33. *Corruption* Any offer, giving, receiving or requesting anything of value, or urging the commission of inappropriate acts, whether directly or indirectly, to unlawfully affect the procurement proceedings or the execution of the contract, including bribery, influence peddling, embezzlement, exploitation of office, abuse of power, illicit enrichment, and any other definition referred to in the laws in force.

34. *Conflict of interest* The concept of conflict of interest includes any situation in which the officers of the contracting authority, one of the bidders, or all bidders, or other parties who have an influence on the outcome of the procurement procedure, have a private, financial, economic or any other interest, directly or indirectly, that threatens the impartiality and independence of the procurement proceedings. The conflict of interest also occurs:
1. Where the bidder had previously worked, directly or indirectly, with any organization or affiliate to provide consultancy services for the preparation of the study, specifications or other documents related to the procurement;
 2. Where bidders have any kind of connection, such as having a common partner in control of their businesses, or the same legal representative in the tender;
 3. Where the bidder has submitted more than one proposal during the procurement process, except where bidding documents so authorize; or
 4. Any of the cases stipulated in the Code of Conduct issued by decree of the Council of Ministers.
- The conflict of interest includes kin relationships as defined by the Civil Procedure Code.
35. *Harm and/or Threat* Causing harm to people or properties thereof, or threatening to harm them, directly or indirectly, to influence their participation in the process of supplying, or in the implementation of a contract.
36. *Emergency and relief cases* Cases of imminent danger declared as such by the law.
37. *Technical specifications* The technical specifications shall mean all the technical or functional instructions contained in the bidding documents, which specify the required functions and specifications for the materials or the characteristics of a product or service.
38. *Deliverables* Goods, services or works delivered during the implementation of the procurement contract.
39. *Publication* Mandatory publication shall take place on the central online platform of the Public Procurement Administration, and on the website of the

procuring entity, if any. In addition, publication may be made through the available traditional means of publication, such as the Official Gazette and newspapers.

40. Notification

The notification or notice is valid in the following cases:

- a. If it is done in accordance with the provisions of notification as specified in the Code of Civil Procedure;
- b. If it is served directly to the person in question in exchange of signing, to acknowledge receipt, an exact copy of the letter of notification;
- c. If it is done by any electronic system, provided that it fulfills all requirements specified in the laws in force.

Article 3 - Scope of application

1. Shall be subject to the provisions of this Law all public procurements of goods, works and services made by procuring entities, whether the contract is financed through budgetary or treasury funds, or internal or external loans, subject to the provisions of the international treaties and agreements duly concluded with the Lebanese State. No procuring entity shall, other than in the cases specified in this Law, perform a procurement unless in accordance with the provisions thereof.
2. A specific procuring entity may perform procurements to meet common needs with other procuring entities, or on behalf of other procuring entities.
3. When the procurement is mixed, that is when it includes two or more types of goods, works and services, the procurement process shall be subject to the provisions related to the bid awarding of the predominating procurement type.

Article 4 – Language

The tender documents and the procuring entity decisions shall be formulated in Arabic. However, the procuring entity may issue all communications, technical specifications or terms of reference in English and / or French.

In case of conflict between the Arabic and foreign texts, the Arabic text shall prevail.

Article 5 - Currency

The bidding documents shall determine the currency of the contract provided that the Lebanese Pound shall be the reference currency pursuant to the Lebanese law, and that the accounting for contracts submitted in a foreign currency shall be made at the exchange rate of such currency in accordance with the laws in force.

Article 6 – Confidentiality

1. The procuring entity and all procurement stakeholders shall not disclose any information related to the protection of essential security interests of the State, or if disclosure of such information would be contrary to the law, would impede law enforcement, would prejudice the legitimate commercial interests of the bidders or would impede fair competition unless disclosure of that information is ordered by the relevant judicial authorities and, in such case, subject to the conditions of such an order.
2. Other than when providing or publishing information pursuant to the laws in force, the procuring entity shall treat applications to pre-qualify and proposals in such a manner as to avoid the disclosure of their contents, including professional and technical secrets, and secrets protected by intellectual property laws, the disclosure of which would cause unlawful harm to bidders, to competing bidders or to any other person not authorized to have access to this type of information.
3. Any discussions, communications, negotiations or dialogue between the procuring entity and a bidder, in all matters that are not inconsistent with the laws in force, shall be confidential. Unless required by law or ordered by the competent courts, no party to any such discussions, communications, negotiations or dialogue shall disclose to any other person any technical, price or other information relating to these discussions, communications, negotiations or dialogue without the consent of the other party.

Article 7- Conditions of bidders' participation

I – Conditions of participation

1. Bidders shall meet the following conditions, in addition to any other criteria deemed appropriate by the procuring entity and relevant to the procurement subject matter:
 - a. That they meet ethical standards generally accepted and stipulated in the relevant provisions;
 - b. That they have the legal capacity to enter into the procurement contract;
 - c. That they have fulfilled their obligations to pay taxes and social security contributions;
 - d. That they have not, and their directors or officers have not, been convicted of any criminal offence related to their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a procurement contract, or corrupting a public procurement or a contract awarding process, or have not been otherwise disqualified pursuant to administrative suspension or debarment proceedings, or have been in a situation of exclusion from participation in public procurements;
 - e. That they are not the subject of legal proceedings for insolvency or bankruptcy;
 - f. That they have not been convicted by a court decision of usury or money laundering;

- g. That they have not participated in the decision making process of the contracting authority or have any conflict of interest, or any material interest linking them to any of the decision makers;
 - h. Any other conditions set forth by the contracting authority in the tender documents that are commensurate with the required works.
2. Rehabilitation or cease of the legal impediment reinstate the right of the bidder to participate in the procurement proceedings.

II – Qualifications of the bidders

1. That they have the necessary professional, technical and environmental qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, experience and human resources to implement the procurement contract;
2. The procuring entity shall establish no criterion, requirement or procedure with respect to the qualifications of bidders that discriminates against or among bidders or against categories thereof, or that is not objectively justifiable.
3. The procuring entity shall evaluate the qualifications of bidders in accordance with the qualification criteria and procedures referred to in the bidding documents.
4. The procuring entity shall disqualify a bidder if:
 - a. it finds at any time that the information submitted concerning the qualifications of the bidder was false or constituted a misrepresentation;
 - b. it finds at any time that the information submitted concerning the qualifications of the bidder was materially inaccurate or materially incomplete;
 - c. if the qualified bidder fails to demonstrate its qualifications again in accordance with the same criteria used to pre-qualify such bidder in accordance with article 19 of this Law.

Article 8- Exclusion of a bidder from the procurement proceedings on the grounds of inducements from the bidder, an unfair competitive advantage or conflicts of interest

1. A procuring entity shall exclude a bidder from the procurement proceedings if:
 - a. The bidder commits any violation, prohibited act or crime specified in the Lebanese laws in force, especially the crimes of influence peddling and bribery, or if he offers, gives or agrees to give, directly or indirectly, to any current or former officer or employee of the procuring entity or other governmental authority a gratuity in any form, an offer of employment or any other thing of service or value, so as to influence an act or a decision of, or procedure followed by, the procuring entity in connection with the procurement proceedings; or
 - b. The bidder has an unfair competitive advantage, a conflict of interest, or a kin relationship in violation of provisions of law in force.

2. Any decision of the procuring entity to exclude a bidder from the procurement proceedings under this article and the reasons therefor shall be included in the record of the procurement proceedings and communicated to the bidder concerned.

Article 9 - Documentary record of procurement proceedings and access to information

1. The procuring entity shall maintain a record of all procurement proceedings, which shall be made available in accordance with the provisions of this article, and considered as an easy-to-access information reference. The record shall include the following information:
 - a. A brief description of the subject matter of the procurement;
 - b. The names and addresses of bidders that submitted proposals, the name(s) and address(es) of the winning bidder(s) with which the procurement contract is entered into and the contract value (and, in the case of a framework agreement procedure, the name(s) and address(es) of the winning bidder(s) with which the framework agreement is concluded);
 - c. A statement of the reasons and circumstances relied upon by the procuring entity for the decision as regards means of announcement;
 - d. If the procuring entity uses a method of procurement other than open tender, a statement of the reasons and circumstances relied upon by the procuring entity to justify the use of such other method;
 - e. In the case of a framework agreement procedure, a statement of the reasons and circumstances upon which it relied to justify the use of a framework agreement procedure;
 - f. If the procurement is cancelled pursuant to paragraphs 1 and 2 of article 25 of this Law, a statement to that effect and the reasons and circumstances relied upon by the procuring entity for its decision to cancel the procurement;
 - g. If any socio-economic policies were taken into consideration in the procurement proceedings, details of such policies and the manner in which they were applied;
 - h. If no standstill period was applied, a statement of the reasons and circumstances relied upon by the procuring entity in deciding not to apply a standstill period;
 - i. In the case of a challenge or appeal under chapter 7 of this Law, all requests of the applications for reconsideration, review or appeal, as applicable, the date and number of the registration thereof, and a copy of all decisions taken in the relevant proceedings, or any withdrawal of challenges, and the reasons therefor, must be expressly indicated;
 - j. A summary of any requests for clarification of the pre-qualification documents, if any, or of the bidding documents and the responses thereto, as well as a summary of any modifications to those documents;
 - k. A copy of the notice of the standstill period given in accordance with paragraph 2 of article 24 of this Law, if applicable;

1. If the procurement proceedings resulted in the award of a procurement contract in accordance with paragraph 8 of article 24 of this Law, a statement to that effect and of the reasons therefor;
- m. The contract value and other principal terms and conditions of the procurement contract, and a copy thereof. In the case of a framework agreement procedure, in addition a summary of the principal terms and conditions of the framework agreement or a copy of any written framework agreement that was concluded;
- n. An evaluation report of the submitted proposals, including at least the following information:
 - i. Information relative to the qualifications, if available, of bidders that presented applications to pre-qualify, if any, or submissions;
 - ii. For each proposal, the price and a summary of the other principal terms and conditions;
 - iii. If a proposal is rejected pursuant to article 27 of this Law, a statement to that effect and the reasons and circumstances relied upon by the procuring entity for its decision;
 - iv. If a bidder is excluded from the procurement proceedings pursuant to articles 7 or 8 of this Law, a statement to that effect and the reasons and circumstances relied upon by the procuring entity for its decision;
 - v. Any preference pursuant to paragraphs 1 and 2 of article 16 of this Law, and the reasons and circumstances on which the procuring entity relied to justify any rejection of bids presented during the procurement;
- o. Where information confidentiality was invoked under paragraph 1 of article 6 or under article 87 of this Law, the reasons and circumstances relied upon by the procuring entity in invoking such confidentiality;
- p. Acceptance reports; and
- q. Other information required to be included in the record in accordance with the provisions of this Law or the laws in force, or the bidding documents.
2. The portion of the record referred to in subparagraphs (a) to (j) of paragraph 1 of this article shall be made available to any person after the provisional award or the cancellation of the procurement, on request, by providing an electronic link to such information on the central electronic platform of the Public Procurement Directorate.
3. Subject to paragraph 4 of this article, or except as disclosed pursuant to paragraphs 4 and 5 of article 55 of this Law, the portion of the record referred to in subparagraphs (o) to (q) of paragraph 1 of this article shall, after the decision on the provisional award has become known to them, be made available, upon request, to bidders that submitted proposals.
4. Except when ordered to do so by the competent courts, and subject to the conditions of such an order, the procuring entity shall not disclose:
 - a. Information from the record of the procurement proceedings if its non-disclosure is necessary for the protection of essential security interests of the State or if its disclosure

- would be contrary to law, would impede law enforcement, would prejudice the legitimate commercial interests and rights of the bidders or would impede fair competition;
- b. Information relating to the opening and evaluation of tenders, other than the summary referred to in subparagraph (n) of paragraph 1 of this article.
5. The procurement entity shall record, file and preserve all documents relating to the procurement proceedings, according to bidding documents or other provisions of law.

Article 10 - Code of conduct

A code of conduct, good professional ethics, and good citizenship in relation to public procurements processes, shall be enacted for officers and employees of the procuring entities and to the contractors thereof. The code shall include, inter alia, the standards referred to in this Law, in particular such standards related to integrity, transparency and prevention of conflicts of interest, in addition to the rules of good governance, impartiality, fairness, knowledge and competence. The Code shall also include the measures to regulate matters regarding personnel responsible for procurement, and proceedings set to verify behavioral efficiency and good conduct and detect violations. Application of this article shall be determined by a decree issued by the Council of Ministers.

CHAPTER 2: GENERAL RULES FOR THE PREPARATION, CONDUCT AND IMPLEMENTATION OF THE PROCUREMENT PROCESS

Section 1: Planning and needs identification

Article 11: Procurement Planning

1. The provisions of this article apply to procurements projects with an estimated value exceeding /100/ one hundred million Lebanese Pounds. This value can be modified by a decree issued by the Council of Ministers provided that it is not less than the value specified in this paragraph. Shall be excluded from the provisions of this article all confidential procurements related to national security and defense, under paragraph 4 of article 46.
2. The procuring entity shall determine its needs and prepare its annual plan for the coming year while planning its expenditures. The estimated total value shall be determined in accordance with the funds required in its budget proposal. The annual procurement plan shall be prepared on the basis of a unified form and procedures set by the Public Procurement Directorate. A plan can be annual or multi-year in case it involves projects that require scheduling commitments in a medium or long term framework, provided that it contains at least the following information:

- a. Subject matter of the procurement;
 - b. Categories of procurement (goods, works or services);
 - c. The source of funding and the estimated value by parts, where the announcement thereof can be made, as well as the corresponding budget line;
 - d. A brief description of the project requiring the procurement;
 - e. The procurement method;
 - f. Possible date (by indication of the month) of commencement of the procurement proceedings or the solicitation to compete;
 - g. The part within which the estimated value of the procurement subject matter falls;
 - h. Remarks and other useful information that would assist potential bidders to understand and prepare good proposals within the deadlines;
3. The procuring entity shall send its completed plan to the Public Procurement Directorate within ten working days from the date of ratification of the budget. The Public Procurement Directorate shall make comments and consolidate plans in a unified annual procurement plan and shall publish this plan within ten working days.
 4. In the event of modification of the annual procurement plan, the procuring entity shall, in accordance with the announcements deadlines specified in article 12, publish such modification on its website and on the central electronic platform of the Public Procurement Directorate.

Article 12: Announcement of the procurement (Procurement notice)

1. The invitation to tender shall be made by a procurement notice published on the central electronic platform of the Public Procurement Directorate and on the procuring entity website, if available. The procuring entity may also decide to publish the procurement notice in any other media.
2. The duration of the notice shall be determined in sufficient time allowing the bidders to prepare their proposals in accordance with the importance and complexity of the procurement, provided that it is not less than (21) twenty-one days prior to the deadline for submission of proposals. The duration may be reduced to (15) fifteen days by a reasoned decision when such reduction is justified, such as, inter alia, in the case of procurement of goods or services available on the market from many suppliers, or when new tender proceedings are engaged without modification in the terms of the procurement, and the reason thereof shall be recorded in the procurement proceedings record pursuant to article 9 of this Law.
3. The day of the publication of the notice shall not be included in the calculation of the time limit. If the last day for submission of proposals falls on a public holiday or forced cessation of work, the deadline shall be extended to the first working day following the cessation of work without the need for prior notice.

Article 13: Estimated total value of the procurement

1. Each procuring entity shall update its estimation of the value of the procurement project prior to the announcement thereof, except in exceptional cases where this is not possible, provided that the reasons thereof shall be clearly and reasonably stated.
2. The procuring entity prepares the estimated total value of the procurement project based on the actual market prices and price inquiry with other administrations, taking into account any increase that may result from the application of the optional items stated in the bidding documents (for example, increase in quantities, incentives, etc...).
3. With respect to framework agreements, the maximum estimated value of all contracts expected over the life of the agreement shall be taken into account.
4. When procurement is made on the basis of lots, the value of all lots comprising the procurement shall be estimated.
5. The estimated value of the procurement project should be fixed by the procuring entity upon the announcement thereof or the commencement of the procurement proceedings.
6. The procuring entity is not entitled to estimate the value of the procurement project below its actual value in order to avoid the application of the provisions of the law.
7. In calculating the estimated value of the procurement project, all elements required for the execution thereof shall be taken into account, such as, inter alia, commissions, operating costs, etc...
8. The procuring entity shall keep the estimated total value of the procurement project confidential for ex-post audit purposes, or shall announce it according to the nature and circumstances of the procurement project, provided that it shall be communicated after the provisional acceptance or upon request made by the Court of Audit.

Article 14: Division of the procurement

1. A procuring entity is entitled to divide the procurement into independent portions only in the following two cases:
 - a. Where the nature of works, goods or services requires such division and where there are clear justifications like the diversity and the multiplicity of supply sources, or where parts are different in such a way that division will result in a definite benefit, provided that the decision is justified and subject to evaluation by the control authority.
 - b. When implementing government development policies such as encouraging the participation of SMEs in public procurement.
2. Procurement shall not be divided into portions in order to apply specific provisions to each portion thereof or for the purpose of reducing the estimated value of the procurement project, evading control or the application of the provisions of this Law or other laws and regulations.

Article 15: Sustainability and development policies

1. Where possible, procuring entities shall adopt sustainable public procurement to direct the procurement power of the State towards sustainable goods and services with a view to minimize the environmental impact and achieve the economic and social objectives set forth in international agreements and in accordance with national priorities, while ensuring a balance between the potential benefits and achieving the best value of spending public funds in such a way as to provide incentives to SMEs, local production and national expertise.
2. Where possible, bidding shall be made on the basis of lots, and the bidding documents shall specify the number and nature of such lots or groups and the requirements for participation in a lot or group of the procurement and the manner in which the contract is awarded, for the purpose of guaranteeing social and economic benefits. The sustainable public procurement rules and policies shall be set by decrees issued by the Council of Ministers.

Article 16: Domestic Preferences

1. Proposals containing supplies/goods of national origin by virtue of a certificate issued by the competent administration shall be given preference, provided that such preference ratio is not in all cases less than ten percent. When comparing proposals, an amount equal to the preference ratio shall be added to the proposals containing foreign goods.
2. National consulting services providers shall be given preference, provided that their participation is not less in all cases than 20% of the total amount of services related to the implementation of an awarded contract.
3. Bidding documents may not include provisions that exclude supplies/goods manufactured in Lebanon if such supplies are available and the quality thereof meet the technical requirements, by virtue of a certificate issued by the competent administration.

Article 17: Description of the procurement subject matter

1. The procuring entity shall set out in the bidding documents the detailed description of the subject matter of the procurement and the criteria that it will use in the evaluation of tenders, including the minimum requirements that tenders must meet in order to be considered responsive and the manner in which those minimum requirements are to be applied.
2. The description of the subject matter of the procurement shall be objective and generic. It shall set out the relevant technical, quality and performance characteristics of that subject matter. Technical specifications and terms of reference shall be determined according to the following criteria:
 - a. In accordance with national or international standards, technical approvals or official technical specifications for the design, calculation, implementation and use of works and goods; or

- b. On the basis of performance requirements where possible.
3. The description of the subject matter of procurement may include specifications, schemes, drawings, designs, requirements, tests and methods of conducting thereof, packaging, labels or conformity certificates, symbols and terms.
4. The description of the subject matter of the procurement may not refer to a particular trademark, trade name, patent, design, type, origin, or product, or include any reference thereto, except where it is otherwise impossible to describe the subject matter in a way that is precise and understandable enough to describe the characteristics, provided that the description includes the words "or equivalent".
5. Where available, qualities, requirements, symbols and unified terminology shall be used when drafting the description of the procurement subject matter to be included in the bidding or pre-qualification documents, if any, with respect to the technical and qualitative characteristics of the procurement subject matter and its performance characteristics.
6. When contracting authorities adopt the method of reference to the specifications abovementioned in paragraph 2(a), they cannot dismiss a bid on the grounds that the products and services that form the subject matter of the procurement do not meet such specifications requirements when the bidder demonstrates, by any means, that his offer meets the requirements stated in the technical specifications. For that purpose, the bidder may prepare and submit a technical file from the manufacturer or a test report from a trusted body.
7. When contracting authorities adopt the option of setting out specifications standards on the grounds on performance and functional requirements, they cannot dismiss any bid that complies with international or national criteria if the specifications thereof meet the specified performance and functional requirements. The bidder is entitled to demonstrate to the contracting authorities, by any means and on the basis of the criteria, that the works, products or services meet the performance and functional requirements set forth by contracting authorities. For that purpose, the bidder may prepare and submit a technical file from the manufacturer or a test report from a trusted body.
8. Whenever possible, the specific environmental characteristics shall be included by reference to a recognized environmental benchmark that all stakeholders can obtain.
9. The specifications shall be in accordance with the required need and shall not be formulated or drafted in a manner that leads to the exclusion of bidders in an illegal manner.

Article 18 – Evaluation criteria

1. Except for the criteria set out in paragraph 3 of this article, the evaluation criteria shall be related to the subject matter of the procurement.
2. The evaluation criteria related to the subject matter of the procurement may include:
 - a. The price;
 - b. The cost of operating, maintaining and repairing supplies or works; the time for supply of goods, completion of works or provision of services, the characteristics of the subject

- matter of the procurement, such as the functional characteristics of supplies or works, the environmental characteristics, and the terms of payment of the price and the securities thereof;
3. In addition to the criteria set out in paragraph 2 of this article, the evaluation criteria may include any criteria that the procurement regulations or other provisions of law in force authorize or require to be taken into account;
 4. The procuring entity shall set out in the bidding documents:
 - a. All evaluation criteria established and whether award will be on the basis of the lowest price or best offer;
 - b. All evaluation criteria established pursuant to this article, including price as modified by the preference stipulated in article 16 of this Law, or any preference;
 - c. The set ratios of all evaluation criteria;
 - d. The manner of application of the criteria in the evaluation procedure.
 5. In evaluating proposals and determining the successful proposal, the procuring entity shall use only those criteria and procedures that have been set out in the bidding documents and shall apply those criteria and procedures in the manner that has been disclosed in those bidding documents. No criterion or procedure shall be used that has not been set out in accordance with this provision.

Section 2 – Procurement proceedings

Article 19 - Pre-qualification proceedings

1. The procuring entity may engage in pre-qualification proceedings, in the cases provided for by this Law, to identify qualified bidders. The provisions of article 7 of this Law shall apply to pre-qualification proceedings.
2. The invitation to pre-qualify shall be published in accordance with article 12 of this Law.
3. The invitation to pre-qualify shall include the following information:
 - a. The name and address of the procuring entity;
 - b. A summary of the principal required terms and conditions of the procurement contract or the framework agreement to be concluded in the procurement proceedings, including the nature, quantity and place of goods to be supplied, the nature and location of the works to be effected or the nature of the services and the location where they are to be provided, as well as the required time for the supply of goods, the completion of works or the provision of services;
 - c. The criteria and procedures to be used for ascertaining the qualifications of bidders, in conformity with article 7 of this Law;
 - d. The means of obtaining the pre-qualification documents and the place where they may be obtained or viewed;

- e. The manner, place and deadline for presenting applications to pre-qualify and, if already known, the manner, place and deadline for submission of tenders, in conformity with article 20 of this Law.
 - f. The place and time (by hour, day, month and year) of the opening of the pre-qualification submissions;
 - g. Time limits within which bidders should be informed of the pre-qualification results;
 - h. Procedure of notifying bidders of the pre-qualification results;
 - i. All information that the procuring entity decides to include in the invitation.
4. The procuring entity shall provide a set of pre-qualification documents on its website and on the central electronic platform of the Public Procurement Directorate, simultaneously with the publication of the announcement.
 5. The pre-qualification documents shall include the following information:
 - a. Instructions for preparing and presenting pre-qualification applications;
 - b. Any documentary evidence or other information that must be presented by bidders to demonstrate their qualifications;
 - c. The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from bidders in connection with the pre-qualification proceedings;
 - d. References to this Law, the secondary decrees thereof and other laws and regulations directly pertinent to the pre-qualification proceedings, and the secondary decrees thereof;
 - e. Any other requirements that may be established by the procuring entity in conformity with this Law relating to the preparation and presentation of applications to pre-qualify and to the pre-qualification proceedings. These other requirements shall not limit the participation of potential bidders.
 6. The procuring entity shall evaluate the qualifications of each bidder presenting an application to pre-qualify, and take a decision to qualify the bidders who meet the required conditions. In reaching that decision, the procuring entity shall apply only the criteria and procedures set out in the invitation to pre-qualify and in the pre-qualification documents.
 7. Only bidders that have been pre-qualified are entitled to participate further in the procurement proceedings.
 8. The procuring entity shall notify each bidder presenting an application to pre-qualify whether or not the has been pre-qualified.
 9. The procuring entity shall communicate to each bidder that has not been pre-qualified the reasons therefor.

Article 20 - Rules concerning the manner, place and deadline for presenting applications to pre-qualify or for submission of tenders

1. The manner, place and deadline for presenting applications to pre-qualify shall be set out in the invitation to pre-qualify and in the pre-qualification documents. Envelopes containing the proposals shall be sent by hand or by public mail or anonymous private mail to the authorized party. The manner, place and deadline for submission of tenders shall be set out in the bidding documents.
2. The procuring entity shall keep all applications secure, safe and confidential, and ensure that the content thereof is not accessed until they have been duly opened.
3. Deadlines for presenting applications to pre-qualify or for submission of tenders shall be expressed as a specific date and time and shall allow sufficient time for bidders to prepare and submit their applications or proposals, taking into account the reasonable needs of the procuring entity and the delivery circumstances.
4. If the procuring entity issues a clarification or modification of the pre-qualification or tender documents, it shall, prior to the applicable deadline for presenting applications to pre-qualify or for submitting proposals, extend the deadline if necessary or as required under paragraph 4 of article 21 of this Law in order to afford bidders sufficient time to take the clarification or modification into account in their applications or proposals.
5. Notice of any extension of the deadline shall be communicated to each bidder to which the procuring entity provided the pre-qualification or tender documents. Such extension shall also be published on the central electronic platform of the Public Procurement Directorate.

Article 21 –Requests for clarification

I – With regard to bidding documents and pre-qualification documents

1. A supplier or contractor may request a written clarification of the bidding documents or the pre-qualification documents from the procuring entity within (4) four days from the date of notice. The procuring entity shall respond within at least (6) six days prior to the deadline for submission of proposals or pre-qualification applications. The procuring entity shall, without identifying the source of the request, communicate the written clarification to all bidders to which the procuring entity has provided the bidding documents.
2. When necessary, the procuring entity may set a specific date for the eventual bidders to inspect the site.
3. At any time prior to the deadline for submission of proposals or the pre-qualification applications, the procuring entity may for any reason, whether on its own initiative or as a result of a request for clarification by a bidder modify the bidding documents or the pre-qualification documents by issuing an addendum. The addendum shall be communicated promptly to all bidders to which the procuring entity has provided the bidding documents or the pre-qualification documents and shall be binding on those bidders.

4. If as a result of a clarification or modification issued in accordance with this article, the information published in the bidding documents or the pre-qualification documents becomes materially different, the procuring entity shall cause the amended information to be published in the same manner and place in which the original information was published and shall extend the deadline for submission of proposals or pre-qualification applications as provided for in paragraph 4 of article 20 of this Law.
5. If the procuring entity convenes a meeting of bidders, it shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the bidding documents and its responses to those requests, without identifying the sources of the requests. The minutes shall be provided promptly to all bidders to which the procuring entity provided the bidding documents or the pre-qualification documents, so as to enable those bidders to take the minutes into account in preparing their requests or bids.

II – Information related to qualifications and tenders

1. At any stage of the procurement proceedings, the procuring entity may ask, in writing, a bidder for clarification of information related to its qualifications or proposals, in order to assist in the ascertainment of qualifications or the examination and evaluation of proposals.
2. The procuring entity shall correct purely arithmetical errors that are discovered during the evaluation of proposals, in accordance with the bidding documents. The procuring entity shall give prompt notice of any such correction to the bidder.
3. No substantive change to qualification information or to a proposal, including changes aimed at making an unqualified bidder qualified or an unresponsive proposal responsive, shall be sought or permitted.
4. No negotiations shall take place between the procuring entity and a bidder with respect to qualification information or submitted proposals, nor shall any change in price be made pursuant to a clarification that is sought under this article.
5. All communications generated under this article shall be included in the procurement proceedings record, pursuant to article 9 of this Law.

Article 22 – Validity of the Proposal

1. The tender documents shall determine the validity of the proposal, provided that it shall not be less than (45) forty-five days from the final date of submission of proposals.
2. Prior to the expiry of the tenders' validity period, the procuring entity may request bidders to extend the period for an additional specified period of time. A bidder may refuse the request without forfeiting its tender security;
3. Bidders that agree to an extension of the validity period of their tenders shall extend the period of effectiveness of bid securities provided by them or provide new bid securities to cover the extended validity period of their tenders. A bidder whose bid security is not extended, or that has not provided a new bid security, is considered to have refused the request to extend the validity period of his tender.

4. A bidder may modify or withdraw its tender prior to the deadline for submission of tenders without forfeiting its bid security. The modification or notice of withdrawal is effective if it is received by the procuring entity prior to the deadline for submission of tenders.

Article 23 – Collective proposals or joint tenders

Several suppliers, service providers or contractors who meet the technical and legal requirements of this Law may participate in the execution of one contract, provided that they appoint a lead partner, and address an official letter to the contracting authority where they commit to all procurement conditions. Other conditions of participation set forth in this article shall be specified in the documents relative to each procurement.

Article 24- Acceptance of the successful tender (or provisional award) and entry into force of the procurement contract

1. The procuring entity shall accept the successful proposal unless:
 - a. The supplier or contractor presenting the successful proposal is disqualified in accordance with article 7 of this Law;
 - b. The procurement is cancelled in accordance with paragraph 1 of article 25 of this Law;
 - c. The proposal found successful at the end of evaluation is rejected as abnormally low under article 27 of this Law; or
 - d. The supplier or contractor presenting the successful proposal is excluded from the procurement proceedings on the grounds specified in article 8 of this Law.
2. Promptly after the successful proposal was ascertained, the procuring entity shall dispatch the notice of award to the bidder that presented that proposal, and publish its decision to accept the successful proposal (or the provisional award) at the end of the standstill period of (10) ten working days starting with the date of the dispatch of the notice. The publication shall contain, at a minimum, the following information:
 - a. The name and address of the bidder presenting the successful proposal (winning bidder);
 - b. The contract total value or, where the successful proposal was ascertained on the basis of price and other criteria, the contract value and a summary of other characteristics and relative advantages of the successful proposal;
 - c. The duration of the standstill period in accordance with this paragraph. The standstill period shall run from the date of the dispatch of the notice under this paragraph.
3. The standstill period shall not apply to awards of procurement contracts:
 - a. Under a framework agreement procedure without second-stage competition;
 - b. Where the contract value is less than the threshold amount set out as a requirement to use the method of procurement by invoice; or

- c. Where the procuring entity determines that urgent public interest considerations require the procurement to proceed without a standstill period. The decision of the procuring entity that such urgent considerations exist and the reasons for the decision shall be included in the record of the procurement proceedings.
4. Within a reasonable time after the expiry of the standstill period, the procuring entity shall dispatch a notice to the winning bidder requesting the signature of the contract within (15) fifteen days.
5. The competent authority in the procuring entity shall sign the contract within (15) fifteen days from the signature thereof by the winning bidder.
6. The procurement contract shall come into force when the contract is signed by the winning bidder and the contracting authority.
7. Between the time when the notice of provisional award is dispatched to the bidder concerned and the entry into force of the procurement contract, neither the procuring entity nor the winning bidder shall take any action that interferes with the entry into force of the procurement contract or with the performance thereof.
8. If the winning bidder fails to sign the contract, the procuring entity may either cancel the procurement or decide to select the next successful proposal from among those remaining in effect, in accordance with the criteria and procedures set out in this Law and in the bidding documents. In the latter case, the provisions of this article shall apply mutatis mutandis to such proposal.

Article 25 - Cancellation of the procurement

1. The procuring entity may cancel the procurement at any time prior to the dispatch of the notice of award to the winning bidder, in the following cases:
 - a. No proposal has been made and / or unacceptable proposals have been made;
 - b. When the contracting authority finds it necessary to make substantial, unforeseen changes to the tender documents after the procurement announcement has been made;
 - c. When unexpected changes occur in the budget of the procuring entity;
 - d. When the need for procurement is no longer required due to unforeseen and objective circumstances. In such case new tender proceedings shall not be engaged under the same budget or during the same fiscal year;
2. The procuring entity may also cancel the procurement after accepting the winning proposal in the case referred to in paragraph 8 of article 24 of this Law. In such case, the procuring entity shall not open any offers or proposals after a decision to cancel the procurement has been made.
3. The decision of the procuring entity to cancel the procurement and the reasons thereof shall be included in the record of the procurement proceedings and communicated to all bidders that submitted a proposal within (5) five days of the decision date of the cancellation of the procurement. The procuring entity shall in addition publish a notice of the cancellation of

the procurement in the same manner and place in which the original information regarding the procurement proceedings was published, and return any bids or proposals that remain unopened at the time of the decision to the bidders that presented them, and redeem the bid securities submitted.

4. Unless the cancellation of the procurement is a consequence of a violation of the proceedings stipulated in this Law, the procuring entity shall incur no liability, solely by virtue of its invoking paragraphs 1 and 2 of this article, towards bidders that have submitted proposals.

Article 26–Regulations related to the public notice of the award of a procurement contract

1. Upon the entry into force of the procurement contract or conclusion of a framework agreement, the procuring entity shall publish notice of the award of the procurement contract or the framework agreement, specifying the name of the winning bidder and the contract value.
2. Paragraph 1 is not applicable to awards where the contract value is less than the threshold amount set out in the conditions of using the method of procurement by invoice. Nevertheless, the procuring entity shall publish accumulative notice of such awards at least once a year. Paragraph 1 is not also applicable to the awarding of confidential contracts related to the national security and defense, according to paragraph 4 of article 46.
3. Information required by this article shall be published on the procuring entity’s website and the central electronic platform of the Public Procurement Directorate.

Article 27- Regulations related to abnormally low tenders (or proposals)

1. The procuring entity may reject a proposal if it determines that the price, in combination with other constituent elements of the proposal, is abnormally low in relation to the subject matter of the procurement and raises concerns with the procuring entity as to the ability of the bidder to perform the procurement contract, provided that:
 - a. The procuring entity has requested in writing from the bidder details of the submitted tender in a way that allows the procuring entity to conclude whether the bidder will be able to execute the procurement contract at the offered price. The details that the buyer can request include, but not limited to:
 - i. Information, samples, etc., to prove the quality of the procurement subject matter made in the proposal;
 - ii. Relevant manufacturing methods;
 - iii. The chosen technical solutions and/ or any exceptionally favorable conditions that are available to the bidder to execute the procurement contract.
 - b. The procuring entity has taken account of any information provided by the bidder,

- but continues, on the basis of all such information, to hold concerns regarding the bidder's ability to perform in a satisfactory manner.
2. The decision of the procuring entity to reject a proposal in accordance with this article, the reasons for that decision, and all communications with the bidders under this article shall be included in the evaluation report. The decision of the procuring entity and the reasons therefor shall be promptly communicated to the bidder concerned.

Article 28– Work sites

Procurement proceedings related to the execution of works can only commence once all legal procedures in relation to work sites have been completed by the procuring entity, including the seizure of such sites.

Section 3 – Execution of the contract

Article 29: The contract value and the conditions of its modification

1. The contract value shall be fixed and the modification and review thereof shall not be authorized unless such modification and review are approved during the contract execution in conformity with specific controls required by the conditions of modification and review, and explicitly stipulated in the bidding documents and in the following exceptional cases:
 - a. The application of formulas based on official domestic price indexes and, where appropriate, international, when such formulas are not covered within the contract value;
 - b. The application of amendments to the VAT law;
 - c. Where additional quantities of supplies, equipment, technology or services from the same supplier or contractor are required, for reasons of standardization of the specifications or the need for compatibility with existing supplies, equipment, technology or services, taking into account the efficiency of the original procurement process in meeting the needs of the procuring entity, provided that the value of addition does not exceed 30% of the original contract value, provided that the addition is allowed for in the bidding documents;
 - d. When laws or decrees that affect the contract value are enacted, provided that such modification is justified by a report submitted by the procuring entity, and that the value of the addition does not exceed 30% of the original contract value.
2. The conditions of announcement provided for in article 26 of this Law are taken into account upon modification of the contract value.

Article 30– Subcontracting

1. The main contractor shall personally execute the contract and shall remain liable to the contracting authority for the execution of all the terms and conditions thereof, and shall be forbidden from subcontracting the entire contract to other parties.
2. For contracts of works and services, and if the tender documents so authorize, the contractor may enter into contract with a subcontractor to execute part of the contract provided that the information related to each subcontract or is communicated to the contracting authority in advance, and the subcontract value remains within the percentage stipulated in the tender documents, and does not exceed 50% of the contract value.

Article 31 – Supervision of the execution and statements of works

I – Supervision

In works contracts, and in other contracts that require supervising such as services and manufacturing contracts for the benefit of the contracting authority, supervision shall be carried out in conjunction with the execution of the required works in such a way as to ensure the continuity of work and achieve the required specifications and the desired results before the date of provisional acceptance.

Supervision shall be carried out by the person designated by the contracting authority from among those having the competence and the ability to conduct periodic follow-ups of works, from inside the contracting authority, or from outside the contracting authority. The supervising function shall be independent.

The supervisor shall submit periodic reports on the progress of work and the execution, and notify the contracting authority of any violations or irregularities occurring at the work sites.

The supervisor shall come to the work site in a way to ensure the relevance and the continuity of work, and attend the process of handing over the work sites and the provisional and final acceptances, and give his/her opinion regarding the suggestions of the contractor and the required modifications to works, give his/her own suggestions as to the execution of the work in a more appropriate manner, and submit a relevant report to the contracting authority in order to take the appropriate decision.

II – Statements of works

The tender documents shall determine:

- a. The obligation of submitting statements of works and supplies by the contractor, or the obligation of preparing such statements by the contracting authority;

- b. The maximum time limit within which the contracting authority should prepare, approve or amend such statements,
- c. The maximum time limit within which the payment order must be issued.

Article 32 – Execution of the contract and acceptance

1. Goods, works and services shall be received by the acceptance committee referred to in article 79 of this Law. The committee shall submit its report within (30) thirty days, unless the nature and size of the project require a longer period, provided that such period is in conformity with the technical requirements and specifications stipulated in the contract.
2. The provisional acceptance may be suspended pending the repair of certain defects or the completion of other procedures. The committee may also completely and definitively refuse to take receipt of the goods, works or services.

Article 33: Reasons for the termination of the contract and the results thereof

I – Debarment

1. The supplier or contractor shall be considered to be debarred in the two following cases:
 - a. If the supplier or contractor violates the terms of the contract or the provisions of the bidding documents, and after a warning to comply with all obligations had been formally dispatched to the supplier or contractor by the contracting authority, within a (5) five to (15) fifteen days' time limit, and if such time limit expires without compliance by the supplier or contractor.
 - b. If, during the execution, the supplier or contractor becomes liable for a certain amount, in accordance with the provisions of the tender documents, the contracting authority shall have the right to deduct such amount from the performance security and require the supplier or contractor to compensate it within a specified period. Failure to compensate shall lead to debarment of the supplier or contractor.
2. Debarment of the supplier or contractor pursuant to paragraph 1 of this section shall be considered a reason for breach of contract without notice, and the debarment provisions stipulated in paragraph 1 of section 4 of this article shall apply.

II – Termination

1. The contract shall be terminated without notice in any of the two following cases:
 - a. Upon the death of the supplier or contractor, unless the contracting authority accepts to continue the execution of the contract by the deceased heirs, the creditors or the liquidator.
 - b. If the supplier or contractor becomes bankrupt or insolvent, in which case the provisions of paragraph 2 of section 4 of this article shall apply.
2. The contracting authority may terminate the contract if the supplier or contractor fails to perform any of its contractual obligations as a result of the force majeure.

III –Breach of contract

1. Shall be considered reasons for breach of contract without notice the following cases:
 - a. If the supplier or contractor commits any crime of corruption, collusion, fraud, money laundering, terrorist financing, conflict of interest, forgery, or fraudulent bankruptcy.
 - b. If any of the cases referred to in article 8 of this Law applies.
2. If any of the reasons stipulated in paragraph 1 of this section leads to a breach of contract, the provisions of paragraph 1 of section 4 of this article shall apply.

IV – Results of the termination of the contract

1. If any of the cases of debarment or termination specified in this article applies, the contracting authority shall either engage in new tender proceedings as required by this Law, or execute the contract by its own means if it has sufficient qualifications and resources, without resorting to subcontracting. If engaging in new tender proceedings or execution of the contract by the contracting authority own means results in cost savings, the savings shall be returned to the Treasury, if it results in a cost increase, the increase shall be incurred by the debarred bidder. In all cases, the security bid shall be temporarily forfeited until liquidation of the procurement.
2. If the state of bankruptcy of the supplier or contractor or the insolvency thereof has been confirmed, the following procedure shall be applied, contrary to any other provision:
 - a. The performance security shall be temporarily forfeited to the benefit of the Treasury.
 - b. The contracting authority shall organize a detailed statement of the executed works, supplied goods, provided services, or stocked materials prior to the date of filing for bankruptcy and the value of such statement shall be temporarily disbursed in the name of the Treasury.
 - c. The contracting authority shall engage in new tender proceedings as required by this Law, or execute the contract by its own means if it has sufficient qualifications and resources, without resorting to subcontracting. If engaging in new tender proceedings or execution of the contract by the contracting authority own means results in cost savings, the savings shall be returned to the Treasury, and the performance security and the value of the statement stipulated in the preceding paragraph shall be paid to the trustee in bankruptcy. If the new awarding or execution of the contract by the contracting authority own means results in a cost increase, the increase shall be deducted from the performance security and the value of the statement, and the remaining sum shall be paid to the trustee in bankruptcy. If the performance security and the value of the statement are not enough to cover the totality of the cost increase, only such performance security and value of the statement shall be seized.
3. The decision of the termination of the contract and the reasons thereof shall be published on the contracting authority website and the central electronic platform of the Public Procurement Directorate.

Section 4 – Financial aspects and securities

Article 34 – Bid Security (or Bid Guarantee)

1. The bid security is defined as an amount that guarantees the bidder's seriousness and takes into account the value and importance of the procurement project without limiting competition, provided that such security is a lump sum estimated at about three percent of the estimated total value of the procurement project.
2. The performance guarantee shall not be mandatory to the procurement projects estimated at less than (50) fifty million Lebanese pounds. This value can be modified by a decree issued by the Council of Ministers, provided that it shall not be less than the amount specified by this paragraph.
3. The performance guarantee shall not be mandatory in the cases of direct contracting specified in paragraphs 6 and 7 of article 46.
4. The validity of the bid security is determined by adding (28) twenty-eight days to the validity of the proposal.

Article 35 – Performance Guarantee (or performance Bond)

1. The amount of the performance guarantee is set to at least ten percent of the procurement value, and can be increased according to the complexity of the contract.
2. Shall be exempted from the performance guarantee all contracts concluded through direct contracting, which cases are specified in paragraphs 6 and 7 of article 46.

Article 36 – Method of payment of guarantees

The bid security as well as the performance guarantee are paid either in cash to the Treasury fund or to the contracting authority, or by an irrevocable letter of guarantee issued by a Lebanese approved bank, indicating that such security is payable upon request.

Article 37 – Payment of the contract value

1. The contract value shall be paid in Lebanese currency, pursuant to the provisions of article 5 of this Law.
2.
 - a. The contract terms may specify a payment method according to the stages of execution or to deliverables, provided that payments are proportionate to deliverables, and that they do not exceed nine-tenths of the amount due. The tenth shall be withheld in the Treasury until final acceptance.

- b. Such withheld amounts shall be refunded upon final acceptance if the contract does not specify a warranty period for the goods, works or services, and after the supplier or contractor has paid all liabilities incurred in accordance with the provisions of the contract. The contracting authority may stop withholding tenths of the due amounts when the guarantees given are deemed to cover the remaining parts of the contract, and is entitled to replace such withheld amounts by a parallel guarantee.
 - c. When payments are made in accordance with the provisions of this paragraph, it shall be taken into consideration that the necessary amounts required to pay the advances referred to in paragraph 3 below.
- 3.
- a. The contract may allow the contracting authority to pay the supplier or contractor advances not exceeding (20) twenty percent of the contract value, provided that they do not exceed in any way (50) fifty million Lebanese pounds. This value can be modified by a decree issued by the Council of Ministers, provided that it shall not be less than the amount specified by this paragraph. The Minister of Finance may, at the request of the competent minister, and if the tender documents so stipulates, pay the supplier or contractor advances in exchange for bank guarantees.
 - b. The bank guarantee referred to in this paragraph shall be reimbursed to the supplier or contractor when the full amount of the advances has been deducted.

Article 38– Penalties

The contractor shall comply with the time limits set forth in the contract, subject to payment of the penalties specified therein.

Penalties shall be incurred by the supplier or contractor as soon as soon as he violates the provisions of the contract, without the need to demonstrate that damages occurred. However, the contracting authority may, if no damage was suffered, exempt the supplier or contractor in whole or in part from penalties by a reasoned decision notified by the Court of Audit and the Central Inspection and registered in the record of the procurement proceedings provided for in article 9 of this Law.

Article 39– Deduction from a security

If, during the execution, the supplier or contractor becomes liable for a certain amount, in accordance with the provisions of the tender documents, the contracting authority shall have the right to deduct such amount from the performance guarantee and require the supplier or contractor to compensate it within a specified period. Failure to compensate shall lead to debarment of the supplier or contractor, and the debarment provisions of article 33 of this Law shall apply.

Article 40– Exclusion

1. The debarred supplier or contractor, pursuant to the provisions of article 33, shall be excluded from public procurements by a reasoned appealable decision issued by the Public Procurement Directorate and published on its central electronic platform:
 - a. For three months when such provisions apply for the first time, starting from the date of publication of the first exclusion decision.
 - b. For one full year when such provisions apply for the second time starting from the date of publication of the second exclusion decision.
 - c. Definitely when such provisions apply for the third time.
2. Shall be definitely excluded from public procurements the supplier or contractor against whom a court decision was issued, in relation to any of the termination cases, referred to in article 33.
3. The exclusion decision shall be communicated by the contracting authority to the excluded supplier or contractor.
4. The Public Procurement Directorate shall regularly update the exclusion records on its central electronic platform, and write off the names of the suppliers or contractors whose rights to participate in public procurements have been restored, with time lapse or upon request.

CHAPTER 3 - PROCUREMENT METHODS

Article 41– Procurement methods

1. The procuring entity may conduct procurement by means of:
 - Open tender
 - Two-stage tendering
 - Request for quotations
 - Request for proposals for consulting services
 - Direct contracting
 - Shopping (or by invoice)
2. The procuring entity may engage in a framework agreement procedure in accordance with the provisions of chapter 8 of this Law.

Article 42- General rules applicable to the selection of a procurement method

1. Except as otherwise provided for in articles 43 to 48 of this Law, a procuring entity shall conduct procurement by means of open tender.

2. If the open tendering is not possible, and the procuring entity uses another method, which requirements are met, the procuring entity shall seek to maximize competition to the maximum extent practicable.
3. If the procuring entity uses a method of procurement other than open tendering, it shall include in the record required under article 9 of this Law a statement of the reasons and circumstances upon which it relied to justify the use of that method.

Section 1 – Conditions for the use of methods of procurement

Article 43– Conditions for use of the two-stage tendering

A procuring entity may engage in procurement by means of two-stage tendering in accordance with section 3 of this chapter where:

1. The procuring entity assesses that dialogue with bidders is needed to improve certain aspects of the subject matter of the procurement and to formulate them with the required accuracy in accordance with article 17 of this Law, and obtain the most satisfactory solution to its procurement needs; or
2. An open tender was engaged in but no tenders were presented or the procurement was cancelled by the procuring entity pursuant to paragraph 2 of article 25 of this Law, and where, in the judgment of the procuring entity, engaging in new open-tendering proceedings or a procurement method under chapter 3 of this Law would be unlikely to result in a procurement contract.

Article 44- Conditions for use of the request for quotations

A procuring entity may engage in procurement by means of request for quotations in accordance with section 4 of this chapter if the estimated value of the procurement project does not exceed (100) one hundred million Lebanese pounds. This value may be modified by a decree issued by the Council of Ministers, provided that it is not less than the amount stipulated in this paragraph.

Article 45- Conditions for use of request for proposals for consulting services

A procuring entity may engage in procurement by means of request for proposals for consulting services in accordance with section 5 of this chapter, when the procuring entity is purchasing consulting services which main theme is to provide intellectual services.

Intellectual services include, but are not limited to:

- Training, control, IT software programming projects and other specialized consultancy work.
- Preparation of studies, designs and Terms of Reference and controlling the execution of works and projects.

In this case, the procuring entity shall examine the financial aspects of the proposals separately and only after the technical, qualitative and performance characteristics of the proposal have been examined and evaluated.

Article 46– Conditions for direct contracting

A procuring entity may engage in direct contracting in accordance with the provisions of section 7 of this chapter in the following exceptional circumstances:

1. The subject matter of the procurement is available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive intellectual rights in respect of the subject matter of the procurement, such that no reasonable alternative or substitute is possible;
2. Owing to a catastrophic event, there is an extremely urgent need for the subject matter of the procurement, and engaging in any other method of procurement would be impractical because of the time involved in using those methods;
3. When the procuring entity needs additional goods, works or services to be delivered while executing the contract to the main contractor to prevent delays in execution or for reasons of standardization or due to the need for compatibility with existing goods, equipment, technology or services, provided that additions shall not change the basic contract's objective or the nature thereof in a way that leads to harm competition, and that the bidding documents have taken this possibility into account, in the following two cases:
 - a. if goods, works or services are considered to be complementary to the original procurement and form a constituent thereof and were not foreseeable in the initial procurement proceedings;
 - b. If works have to be executed in the work place and they were not foreseeable at the beginning of the procurement proceedings and form a supplementary constituent of the procurement.
provided that the changes do not exceed 30% of the original contract.
4. When procuring goods or services or when carrying out works that the obligations of public safety, security or national defense require preserving their confidential nature, in accordance with a decision taken by the Council of Ministers on the proposition of the competent authority that determines the confidential nature of the procurement, or the public safety reasons and the reasons for the direct contracting;
5. When purchasing work supplies manufactured by people with special needs who are duly registered;
6. Goods, works or services that may be entrusted to municipalities or federations of municipalities provided that:
 - a. They are located within the area of the municipality or the federation of municipalities,
 - b. The municipality or the federation of municipalities shall execute the contract by its own means, without resorting to subcontracting.

7. Goods, works or services that may be entrusted to public institutions and international organizations when two conditions are met:
 - a. That the execution thereof is linked to the function of the contracted public institution or international organization;
 - b. That the execution thereof shall be carried out by the contracted public institution or international organizations.
8. If the prices of the items to be purchased, regardless of their value, are specified in a tariff issued by a public administration within whose competence is the establishment of an official tariff for the priced items, or by an international body recognized by the Lebanese State, and a lower price cannot be obtained.

Article 47– Conditions for use of shopping (or procurement by invoice) method

The procuring entity may use the shopping (or procurement by invoice) method in accordance with section 6 of this chapter, if the estimated value of the procurement project does not exceed (10) ten million Lebanese pounds. This value may be modified by a decree issued by the Council of Ministers, provided that it is not less than the amount stipulated in this paragraph.

Article 48 - Conditions for use of a framework agreement procedure

1. A procuring entity may engage in a framework agreement procedure in accordance with section 8 of this chapter where it determines that:
 - The need for the subject matter of the procurement is expected to arise on an indefinite or repeated basis during a given period of time; or
 - By virtue of the nature of the subject matter of the procurement, the need for that subject matter may arise on an urgent basis during a given period of time.
2. The framework agreements shall be concluded in accordance with the provisions of the law, and the contracting authorities shall not use them to prevent or limit competition.
3. The procuring entity shall include in the record required under article 9 of this Law a statement of the reasons and circumstances on which it relied to justify the use of a framework agreement procedure and the type of framework agreement selected.

Section 2 – Procedures of the open tender

Article 49– Solicitation of open tender

Every procurement made using the open tender method shall be preceded by a public announcement, in accordance with the provisions of article 12 of this Law, except for the procurements preceded by a pre-qualification in conformity with article 19.

Article 50- Contents of solicitation to open tender

The solicitation to submit tenders shall include the following information:

- a. The name and address of the procuring entity;
- b. A summary of the principal required terms and conditions of the procurement contract including the nature, quantity and place of the goods to be supplied, the nature and location of the construction to be effected or the nature of the services and the location where they are to be provided, as well as the desired or required time for the supply of the goods, the completion of the construction or the provision of the services;
- c. The basis on which the tender shall be engaged in;
- d. A summary of the criteria and procedures to be used for ascertaining the qualifications of suppliers or contractors, and of any documentary evidence or other information that must be submitted by bidders to demonstrate their qualifications, in conformity with article 4 of this Law;
- e. The amount of the bid security, if it applies;
- f. The means of obtaining the bidding documents and the place where they may be obtained;
- g. The date and location where the bidding documents can be accessed;
- h. The price charged by the procuring entity for the bidding documents, if any, and the means and currency of payment;
- i. The language or languages in which the bidding documents are available;
- j. The entity with which proposals are deposited or to which they are addressed;
- k. The manner, place and deadline (by hour, day, month and year) for submission of tenders;
- l. The location and date of bid opening, provided that the date is fixed by hour, day, month and year;
- m. All data and information that the procuring entity decides to include in the announcement;

Article 51– Provision of bidding documents

The procuring entity shall make the bidding documents available to bidders on its website and on the central electronic platform of the Public Procurement Directorate simultaneously with the announcement of the procurement. If pre-qualification proceedings have been engaged in, the procuring entity shall make available a set of bidding documents to each bidder that has been pre-qualified and that pays the price, if any, charged for those documents. The price that the procuring entity may charge for the bidding documents shall reflect only the cost of providing them to bidders.

Article 52– Contents of bidding documents

1. The bidding documents shall include the following information:
 - a. Instructions for preparing tenders;
 - b. The criteria and procedures, in conformity with the provisions of article 7 of this Law, that will be applied in the ascertainment of the qualifications of bidders and in any further demonstration of their qualifications;
 - c. The requirements related to the qualifications demonstrating documents or other information that bidders have to submit to demonstrate their qualifications;

- d. A detailed description of the subject matter of the procurement, in conformity with article 17 of this Law; the quantity of the goods; the services to be performed; the location where the goods are to be delivered, works are to be executed or services are to be provided; and the desired or required time, if any, when goods are to be delivered, works are to be executed or services are to be provided;
- e. The terms and conditions of the procurement contract, and the form of the contract, if any, to be signed by the parties;
- f. If alternatives to the characteristics of the subject matter of the procurement, the contractual terms and conditions or other requirements set out in the bidding documents are permitted, a statement to that effect and a description of the manner in which alternative tenders are to be evaluated;
- g. If suppliers or contractors are permitted to submit tenders for only a portion of the subject matter of the procurement, a description of the portion for which tenders may be presented;
- h. The manner in which the tender price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement itself, such as any applicable transportation and insurance charges, customs duties and taxes;
- i. The currency or currencies in which the tender price is to be formulated and expressed;
- j. The language or languages, in conformity with article 4 of this Law, in which tenders are to be prepared;
- k. Any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any bid security to be provided by bidders submitting tenders in accordance with articles 34 and 35 of this Law, and any such requirements for any security for the performance of the procurement contract to be provided by the supplier or the contractor that enters into the procurement contract, including securities such as labor and material bonds;
- l. The manner, place and deadline for submission of tenders, in conformity with article 20 of this Law;
- m. The means by which, pursuant to article 21 of this Law, bidders may seek clarification of the solicitation documents and a statement as to whether the procuring entity intends to convene a meeting of bidders at this stage;
- n. The period of time during which tenders shall be valid, in conformity with article 22 of this Law;
- o. The manner, place, date and for the opening of tenders, in conformity with article 54 of this Law;
- p. The criteria and procedure for evaluating tenders against the description of the subject matter of the procurement in conformity with articles 18 and 55 of this Law;
- q. The currency that will be used for the purpose of evaluating tenders;

- r. References to this Law and to secondary decrees (if any) and other laws and regulations directly pertinent to procurement proceedings, including those applicable to procurement involving classified information;
- s. The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly and to receive direct communications from the bidders in connection with the procurement proceedings;
- t. Notice of the right provided for in chapter 7 of this Law to challenge or appeal decisions or actions taken by the procuring entity that are allegedly not in compliance with the provisions of this Law, together with information related to the duration of the applicable standstill period and, if none will apply, a statement to that effect and the reasons therefor;
- u. Any formalities that will be required once a successful tender has been accepted in order for a procurement contract to enter into force pursuant to article 24 of this Law;
- v. Any other requirements established by the procuring entity in accordance with this Law and the secondary legislation thereof.

Article 53- Submission of tenders

- 1. Tenders shall be presented in the manner, at the place and by the deadline specified in the bidding documents.
- 2. A tender shall be presented in writing, signed and in a sealed envelope;
- 3. The procuring entity shall provide to bidder with a receipt showing the date and time when the bidder tender was submitted;
- 4. The procuring entity shall preserve the security, integrity and confidentiality of a tender and shall ensure that the content of the tender is examined only after it is opened in accordance with this Law.
- 5. A tender received by the procuring entity after the deadline for submission of tenders shall not be opened and shall be returned unopened to the bidder that presented it.

Article 54- Opening of tenders

- 1. Tenders shall be opened in public session at the time and place and in accordance with the manner and procedures specified in the bidding documents. That public session shall be held once the deadline for presenting tenders has expired.
- 2. All bidders that have submitted tenders, or their representatives, shall be permitted by the procuring entity to participate in the opening of tenders.
- 3. The name and address of each bidder whose tender is opened and the tender price shall be announced to those persons present at the opening of tenders, communicated on request to bidders that have submitted tenders but that are not present or represented at the opening of tenders, and included in the record of the procurement proceedings required by article 9 of this Law.

4. Minutes of tender openings shall be prepared in writing and included in the record of the procurement proceedings in accordance with article 9 of this Law.

Article 55– Evaluation of tenders

1. Subject to paragraph 2 of this article, the procuring entity shall regard a tender as responsive if it conforms to all requirements set out in the bidding documents in accordance with article 17 of this Law;
2. If the information or documents submitted in the tender were incomplete or wrong, or if a particular document is missing, the procuring entity may ask the bidder for clarifications in connection with his tender, in writing, or ask the bidder to present or complete the information or the relevant documents within a specific period, provided that transparency and equal treatment among bidders are observed in requests for clarification or completion of documents, subject to the provisions of article 21 (part II, paragraph 3) of this Law;
3. The procuring entity shall reject a tender:
 - a. If the bidder is not qualified as per the qualifying conditions in tender documents or in application to article 7 of this law;
 - b. If the bidder does not accept a correction of an arithmetical error made pursuant to article 21 of this Law;
 - c. If the tender is not responsive;
 - d. In the circumstances referred to in article 8 or 25 of this Law.
4. The procuring entity shall evaluate the tenders that have not been rejected in order to ascertain the successful tender, as defined in the bidding documents. No criterion or procedure shall be used that has not been set out in the bidding documents;
5. The successful tender shall be:
 - a. Where price is the only award criterion, the tender with the lowest price; or
 - b. Where there are price and other award criteria, the most advantageous tender ascertained on the basis of the criteria and procedures for evaluating tenders specified in the bidding documents in accordance with article 18 of this Law.
6. The procuring entity shall evaluate the tenders within a reasonable time limit consistent with the validity period of the proposal and the nature of the procurement, and shall prepare minutes of such evaluation, to be included in the record of the procurement proceedings in accordance with article 9 of this Law.

Article 56- Prohibition of negotiations with bidders

Negotiations between the procuring entity and a bidder with respect to a tender submitted by the bidder shall be prohibited.

Section 3 – Two-stage tender

Article 57- Procedures for two-stage tender

1. The provisions of section 2 of this chapter shall apply to open tender with dialogue proceedings, except to the extent that those provisions are derogated from in this section.
2. The solicitation documents shall call upon bidders to present, in the first stage of two-stage-tendering proceedings, initial tenders containing their proposals without a tender price. The solicitation documents may solicit proposals relating to the technical, quality or performance characteristics of the subject matter of the procurement, as well as to contractual terms and conditions of supply and, where relevant, the professional and technical competence and qualifications of the suppliers or contractors.
3. The procuring entity may, in the first stage, engage in discussions with bidders whose initial tenders have not been rejected Law concerning any aspect of their initial tenders. When the procuring entity engages in discussions with any supplier or contractor, it shall extend an equal opportunity to participate in discussions to all bidders.
4.
 - a. In the second stage of two-stage-tendering proceedings, the procuring entity shall invite all suppliers or contractors whose initial tenders were not rejected in the first stage to present final tenders with prices in response to a revised set of terms and conditions of the procurement;
 - b. In revising the relevant terms and conditions of the procurement, the procuring entity may not modify the subject matter of the procurement but may refine aspects of the description of the subject matter of the procurement by:
 - i. Deleting or modifying any aspect of the technical, quality or performance characteristics initially provided and adding any new characteristics that conform to the requirements of this Law;
 - ii. Deleting or modifying any criterion for examining or evaluating tenders initially provided and adding any new criterion that conforms to the requirements of this Law, only to the extent that the deletion, modification or addition is required as a result of changes made in the technical, quality or performance characteristics of the subject matter of the procurement;
5. Any deletion, modification or addition made pursuant to subparagraph (b) of this paragraph shall be communicated to suppliers or contractors in the invitation to present final tenders;
6. A supplier or contractor not wishing to present a final tender may withdraw from the tendering proceedings without forfeiting any tender security that the supplier or contractor may have been required to provide;
7. The final tenders shall be evaluated in order to ascertain the successful tender as defined in paragraph 5(a) of article 55 of this Law.

Section 4 – Request for quotations

Article 58– Procedures for request for quotations

1. The provisions of section 2 of this chapter shall apply to the request for quotations proceedings, except for the provisions of article 49(invitation to open tender).
2. The procuring entity shall specify the suppliers or contractors it wishes to invite to participate in the competition in accordance with article 44of this Law, and send them direct invitations by a fast and safe way. For this purpose, lists prepared by the procuring entity shall be adopted, and the selected list shall be included in the record of procurement proceedings provided for in article 9 of this Law. This list shall be regularly updated to include new bidders.
3. The number of invited bidders shall not be less than three except in some special cases and with a reasoned decision. The reasoned decision shall be included in the record provided for in article 9 of this Law.
4. The period between the date of notification and the time limit to submit bids shall not be less than (10) ten days. In cases of justified emergency, this period can be decreased to (5) five days.

Section 5 – Request for proposals for consulting services

Article 59– Procedures for request for proposals for consulting services

1. When a procuring entity engages in procurement by means of request for proposals for consulting services in accordance with article 45, the invitation to participation shall be caused pursuant to article 12 of this Law.
2. The invitation shall include:
 - a. The name and address of the procuring entity;
 - b. A detailed description of the subject matter of the procurement, in conformity with article 17of this Law, and the date and location for the provision of such subject matter;
 - c. The terms and conditions of the procurement contract and the form of the contract, if any, to be signed by the parties;
 - d. The criteria and procedures to be used for ascertaining the qualifications of bidders and any documentary evidence or other information that must be presented by suppliers or contractors to demonstrate their qualifications;
 - e. The criteria and procedures for opening the proposals and for evaluating the proposals in accordance with articles 15 and 18 of this Law, including the minimum requirements with respect to technical, quality and performance characteristics that proposals must meet in order to be considered responsive in accordance with article 17of this Law, and a statement that proposals that fail to meet those requirements will be rejected as non-responsive;
 - f. A declaration pursuant to article 12 of this Law;

- g. The means of obtaining the request for proposals and the place where it may be obtained;
 - h. The price, if any, to be charged by the procuring entity for the request for proposals;
 - i. If a price is to be charged for the request for proposals, the means and currency of payment;
 - j. The language or languages in which the request for proposals is available;
 - k. The manner, place and deadline for presenting proposals.
3. The procuring entity shall issue the request for proposals on its website and the central electronic platform at the Public Procurement Directorate:
- a. To each bidder responding to participate in the request-for-proposals-for-consulting-services in accordance with the procedures and requirements specified therein;
 - b. In the case of pre-qualification, to each bidder pre-qualified in accordance with article 19 of this Law;
4. The request for proposals shall include, in addition to the information referred to in subparagraphs (a) to (e) and (k) of paragraph 2 of this article, the following information:
- a. Instructions for preparing and submitting proposals, including instructions to bidders to present proposals to the procuring entity in two envelopes simultaneously: one envelope containing the technical, quality and performance characteristics of the proposal, and the other envelope containing the financial aspects of the proposal;
 - b. If bidders are permitted to present proposals for only a portion of the subject matter of the procurement, a description of the portion or portions for which proposals may be presented;
 - c. The currency or currencies in which the proposal price is to be formulated and expressed;
 - d. The manner in which the proposal price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement itself, such as reimbursement for transportation, lodging, insurance, use of equipment, duties or taxes;
 - e. The means by which, pursuant to article 21 of this Law, bidders may seek clarification of the request for proposals, and a statement as to whether the procuring entity intends to convene a meeting of bidders at this stage;
 - f. References to this Law, the secondary legislation thereof and other laws and regulations directly pertinent to the procurement proceedings;
 - g. The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from bidders in connection with the procurement proceedings;
 - h. Notice of the right provided under section 7 of this Law to challenge or appeal decisions or actions taken by the procuring entity that are allegedly not in compliance with the provisions of this Law;

- i. Any formalities that will be required, once the successful proposal has been accepted, for a procurement contract to enter into force, including, where applicable, the approval by another authority pursuant to article 24 of this Law, and the estimated period of time following the dispatch of the notice of award that will be required to obtain the approval;
 - j. Any other requirements that may be established by the procuring entity in conformity with this Law and the secondary legislation thereof.
5. Before opening the envelopes containing the financial aspects of the proposals, the procuring entity shall examine and evaluate the technical, quality and performance characteristics of proposals in accordance with the criteria and procedures specified in the request for proposals.
6. The results of the examination and evaluation of the technical, quality and performance characteristics of the proposals shall immediately be included in the record of the procurement proceedings.
7. The proposals whose technical, quality and performance characteristics fail to meet the relevant minimum requirements shall be considered to be non-responsive and shall be rejected on that ground. A notice of rejection and the reasons for the rejection, together with the unopened envelope containing the financial aspects of the proposal, shall be dispatched to each respective bidder whose proposal was rejected.
8. The proposals whose technical, quality and performance characteristics meet or exceed the relevant minimum requirements shall be considered to be responsive. The procuring entity shall communicate to each bidder presenting such a proposal the score of the technical, quality and performance characteristics of its respective proposal. The procuring entity shall invite all such bidders to the opening of the envelopes containing the financial aspects of their proposals.
9. The score of the technical, quality and performance characteristics of each responsive proposal and the corresponding financial aspect of that proposal shall be read out in the presence of the bidders invited, in accordance with paragraph 8 of this article, to the opening of the envelopes containing the financial aspects of the proposals.
10. The procuring entity shall compare the financial aspects of the responsive proposals and on that basis identify the successful proposal in accordance with the criteria and the procedure set out in the request for proposals. The successful proposal shall be the proposal with the best combined evaluation in terms of: (a) the criteria other than price specified in the request for proposals; and (b) the price.
11. The procuring entity shall publish the result of the bid award.

Section 6 – Procurement method of shopping (by invoice)

Article 60– Invitation for shopping (by invoice) procurement

1. Where the procuring entity engages in procurement by this means in accordance with article 47 of this Law, it shall request quotations from as many suppliers and contractors as practicable, but from at least two. Each supplier or contractor from which a quotation is requested shall be informed whether any elements other than the charges for the subject matter of the procurement itself, such as any applicable transportation and insurance charges, customs duties and taxes, are to be included in the price.
2. Each bidder is permitted to give only one price quotation and is not permitted to change its quotation. No negotiations shall take place between the procuring entity and a bidder with respect to a quotation presented by the bidder.

Article 61– The successful quotation in the shopping (by invoice) procurement method

The successful quotation shall be the lowest-priced quotation meeting the needs of the procuring entity as set out in the request for quotations.

Section 7 – Direct contracting

Article 62– Procedures for direct contracting

Where the procuring entity engages in single-source procurement in accordance with article 46 of this Law:

1. The procuring entity shall announce the direct contracting procurement project and publish the relevant documents thereof on its website and on the central electronic platform of the Public Procurement Directorate at least (21) twenty-one days prior to the date of the conclusion of the agreement;
2. The procuring entity shall solicit a proposal or a price quotation from a single bidder, engage in negotiations with the bidder unless such negotiations are not feasible in the circumstances of the procurement concerned.
3. The procuring entity may award the procurement contract to the bidder without engaging any competitive procedures.

Section 8 – Framework agreements

Article 63- Award of a framework agreement

1. The procuring entity shall award a framework agreement:
 - a. By means of open-tender proceedings, in accordance with provisions of section 2 of this chapter, except to the extent that those provisions are derogated from in this section; or

- b. By means of other procurement methods, in accordance with the relevant provisions of sections 1, 3 and 4 of this chapter, except to the extent that those provisions are derogated from in this section.
2. The provisions of this Law regulating pre-qualification and the contents of the solicitation in the context of the procurement methods referred to in paragraph 1 of this article shall apply mutatis mutandis to the information to be provided to bidders when first soliciting their participation in a framework agreement procedure. The procuring entity shall in addition specify at that stage:
 - a. That the procurement will be conducted as a framework agreement procedure, leading to a framework agreement;
 - b. Whether the framework agreement is to be concluded with one or more than one supplier or contractor;
 - c. If the framework agreement will be concluded with more than one supplier or contractor, any minimum or maximum limit on the number of suppliers or contractors that will be parties thereto;
 - d. The form, terms and conditions of the framework agreement in accordance with article 67 of this Law.
3. The provisions of article 24 of this Law shall apply mutatis mutandis to the award of a framework agreement.

Article 64- Requirements for framework agreements

1. A framework agreement shall be concluded in writing and shall set out:
 - a. The duration of the framework agreement, that shall not be less than one year or exceed four years. This duration shall not be extendable or renewable and the conditions thereof cannot be changed;
 - b. The description of the subject matter of the procurement and all other terms and conditions of the procurement established when the framework agreement is concluded;
 - c. To the extent that they are known, estimates of the terms and conditions of the procurement that cannot be established with sufficient precision when the framework agreement is concluded;
 - d. Whether, in a framework agreement concluded with more than one supplier or contractor, there will be a second-stage competition to award a procurement contract under the framework agreement and, if so:
 - i. A statement of the terms and conditions of the procurement that are to be established or refined through second-stage competition;
 - ii. The procedures for and the anticipated frequency of any second-stage competition, and envisaged deadlines for presenting second-stage proposals;
 - iii. The procedures and criteria to be applied during the second-stage competition, including the relative weight of such criteria and the manner in which they will be

- applied, in accordance with articles 15 and 18 of this Law. If the relative weights of the evaluation criteria may be varied during the second-stage competition, the framework agreement shall specify the permissible range;
- iv. Whether the award of a procurement contract under the framework agreement will be to the lowest-priced or to the most advantageous tender; and
 - v. The manner in which the procurement contract will be awarded.
2. A framework agreement with more than one supplier or contractor shall be concluded as one agreement between all parties unless:
 - a. The procuring entity determines that it is in the interests of a party to the framework agreement that a separate agreement with any supplier or contractor party be concluded;
 - b. The procuring entity includes in the record required under article 9 of this Law a statement of the reasons and circumstances on which it relied to justify the conclusion of separate agreements; and
 - c. Any variation in the terms and conditions of the separate agreements for a given procurement is minor and concerns only those provisions that justify the conclusion of separate agreements.
 3. The framework agreement shall contain, in addition to information specified elsewhere in this article, all information necessary to allow the effective operation of the framework agreement, including information on how the agreement and notifications of forthcoming procurement contracts there under can be accessed and appropriate information regarding connection, where applicable.

Article 65- Second stage of a framework agreement procedure

1. Any procurement contract under a framework agreement shall be awarded in accordance with the terms and conditions of the framework agreement and the provisions of this article.
2. A procurement contract under a framework agreement may be awarded only to a supplier or contractor that is a party to the framework agreement.
3. The provisions of article 24 of this Law, except for paragraph 2, shall apply to the acceptance of the successful tender under a framework agreement without second-stage competition.
4. In a framework agreement with second-stage competition the following procedures shall apply to the award of a procurement contract:
 - a. The procuring entity shall issue a written invitation to submit proposals, simultaneously sent to:
 - i. Each supplier or contractor party to the framework agreement; or
 - ii. Only to those suppliers or contractors who are parties to the framework agreement then capable of meeting the needs of that procuring entity in the subject matter of the procurement, provided that at the same time notice of the second-stage

competition is given to all parties to the framework agreement so that they have the opportunity to participate in the second-stage competition;

- b. The invitation to tender shall include the following information:
 - i. A restatement of the existing terms and conditions of the framework agreement to be included in the anticipated procurement contract, a statement of the terms and conditions of the procurement that are to be subject to second-stage competition and further detail regarding those terms and conditions, where necessary;
 - ii. A restatement of the procedures and criteria for the award of the anticipated procurement contract, including their relative weight and the manner of their application;
 - iii. Instructions for preparing tenders;
 - iv. The manner, place and deadline for submission of tenders;
 - v. If suppliers or contractors are permitted to submit proposals for only a portion of the subject matter of the procurement, a description of the portion or portions for which proposals may be presented;
 - vi. The manner in which the submission price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement itself, such as any applicable transportation and insurance charges, customs duties and taxes;
 - vii. Reference to this Law, the secondary legislation thereof and other laws and decrees directly pertinent to the procurement proceedings, including those applicable to procurement involving classified information, and the place where those laws and regulations may be found;
 - viii. The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from suppliers or contractors in connection with the second-stage competition;
 - ix. Notice of the right provided under article 81 of this Law to challenge or appeal decisions or actions taken by the procuring entity that are allegedly not in compliance with the provisions of this Law, together with information about the duration of the applicable standstill period and, if none will apply, a statement to that effect and the reasons therefor;
 - x. Any formalities that will be required once a successful proposal has been accepted for a procurement contract to enter into force, including, where applicable, the execution of a written procurement contract pursuant to article 24 of this Law;
 - xi. Any other requirements established by the procuring entity in conformity with this Law and the secondary legislation relating to the preparation and submission of proposals and to other aspects of the second-stage competition;

- c. The procuring entity shall evaluate all proposals received and determine the successful proposal in accordance with the evaluation criteria and the procedures set out in the invitation to tender;
- d. The procuring entity shall accept the successful proposal in accordance with article 24 of this Law.

CHAPTER 4 – ELECTRONIC PROCUREMENT

Article 66– Electronic procurement system (E-procurement)

The Public Procurement Directorate shall establish and operate a central electronic platform for public procurement using digital information means and technologies to meet the needs of the procuring entities for goods, works and services.

The e-procurement platform shall include an electronic registration mechanism that allows suppliers, contractors and service providers to register online to be eligible to participate in public procurement.

The platform shall allocate special pages to submit and receive proposals electronically. Such pages shall be functioning only from the date of running the competition until its closing. The closing date and time of the electronic biddings shall be the same as the closing date and time of the conventional biddings.

The E-procurement system shall include the procurement notice, submitting and opening bids, electronic contracting, as well as a virtual marketplace, and shall be a single portal for conventional announcements, and for publishing standard documents and statistics.

Article 67– E-procurement proceedings

E-procurement proceedings shall be subject to the highest degree of privacy, confidentiality, security and transparency of information. Electronic exchanges shall have a probative value. The E-procurement system shall ensure the confidentiality and integrity of transactions on an open information network without discrimination between users, and shall be subject to the legislative and regulatory provisions related to electronic exchange.

The electronic signature of documents by users shall apply in conformity with the legislation in force related to electronic signature.

Article 68– Registration with the electronic system

Users shall register with the e-procurement system in order to access it. This registration entitles each user to obtain a personal ID that enables such user to exploit the E-procurement system.

When submitting registration requests and bids electronically the system shall confirm the transmission and the date and time thereof.

Article 69– Electronic submission of proposals

When the offer exceeds the maximum size allowed for technically, part of the offer can be submitted by conventional methods within the deadlines for accepting requests or proposals.

Article 70– Electronic opening and evaluation of the bids

The opening and evaluation of bids shall be subject to the provisions stipulated in this Law. An electronic public session shall be held through virtual communication tools. Awarding, contracting and work orders shall be performed electronically.

The electronic reverse auction or the dynamic purchasing system may be adopted in E-procurement, for goods and supplies with prices that are easy to compare.

Article 71- Application of the E-procurement

The regulations for application of the electronic procurement system shall be determined by a decree issued by the Council of Ministers based on the proposal of the Prime Minister.

CHAPTER 5 – PROFESSIONALIZATION AND CAPACITY BUILDING

Article 72– Professional training

1. Public procurement officers shall be subjected to mandatory annual training run by the Ministry of Finance – Institut des Finances Basil Fuleihan— for the preparation of procurement plans and the connection thereof with the preparation of the general budget and multi-year funding. They shall also undergo permanent technical training.
2. Training shall be mandatory to all officers directly responsible for the procurement process and members of the tender and acceptance committees.
3. The training shall be coordinated with internal and external stakeholders, and an independent part thereof may be aimed at the private sector in conjunction with competent economic bodies, while maintaining the principles of synergy and complementarity of roles

between various institutes and training centers responsible for the development of capacities at the national level and maintaining the cooperative approach with centers of knowledge such as universities, research centers or policy centers to improve the skills and qualifications of the procurement officers.

4. The training includes programs to enhance the integrity of procurement officials, in public and private sectors, to raise awareness about the risks of lack of integrity, such as corruption, fraud, collusion, discrimination, and the sanctions therefor, and to develop knowledge about ways to confront such risks.
5. The training includes supporting the implementation of the Sustained Development Goals through appropriate planning and basic analysis for the development of action plans, implementation guidelines, risk assessment, and measurement of the burden associated with achieving such goals.

Article 73– Professionalization and Job Description

1. Public procurement shall be a specific, self-contained profession within the Lebanese public service organizational structure. Secondary legislation shall define the qualifications frameworks, the recruitment and promotion conditions of the procurement units' personnel, including scientific qualifications, skills, professional experience and behavior. They shall also provide attractive, competitive and merit-based career options for procurement officers.
2. A public procurement unit shall be created in the organizational structure of the procuring entity, formed of specialists and skilled personnel. The number of staff of such unit and the skills thereof shall be appropriate with the size and type of the procurement executed by the procuring entity.
3. The procurement unit shall directly:
 - a. Plan the annual needs of the procuring entity pursuant to article 11 of this law, and implement such plan in accordance with the established standards;
 - b. Follow-up of the implementation of contracts concluded, receive and send the necessary notifications, and take appropriate measures in accordance with the provisions of this Law and its secondary decrees and the provisions of the contracts concluded;
 - c. Coordinate with relevant administrations and authorities, prepare and submit all required statements and reports;
 - d. Perform all other tasks stipulated in this Law and its secondary decrees.
4. In some administrations that do not make substantial procurements, procurement may be assigned to an officer usually responsible for other tasks that do not conflict with the procurement subject matter.

CHAPTER 6 – PUBLIC PROCUREMENT GOVERNANCE

Section 1: Public Procurement Directorate

Article 74: Creation of the Public Procurement Directorate

1. The appellation "Tender Board" shall be replaced by "Public Procurement Directorate". The Public Procurement Directorate shall be administratively attached to the Presidency of the Council of Ministers, and have full functional independence.
2. The staff of the Public Procurement Directorate shall be expanded in accordance with the attached table for the second and third grades.
3. The staff of the remaining grades shall be defined by a decree issued by the Council of Ministers based on the proposal of the Public Procurement Directorate.
4. All legal provisions related to immunities and indemnities applicable to the presidents of the supervisory authorities (such as the Central Inspection Board, the High Disciplinary Council and the Civil Service Board) shall be applicable to the president of the Public Procurement Directorate.
5. The president of the Public Procurement Directorate shall exercise administrative and financial powers defined by a decree issued by the Council of Ministers.
6. The Public Procurement Directorate shall not be subject to the supervision of the Central Inspection Board or the Civil Service Board. However, it shall be subject to ex-post audit of the Court of Audit with regard to financial matters.

Article 75: Functions of the Public Procurement Directorate

The Public Procurement Directorate shall undertake, in coordination with the different relevant administrations, the organization, supervision, control and development of the quality management of public procurement. The tasks entrusted to the Public Procurement Directorate include, inter alia:

1. To suggest general public procurement policies;
2. To manage and operate the central electronic platform of public procurement and E-procurement;
3. To collect the annual procurement plans received from the procuring entities in a standardized form issued by the Public Procurement Directorate, classify and duly publish such plans on the electronic portal, in accordance with article 11 of this Law; provided that such plans include detailed information about types, quantities, contracting methods and relevant sectors, in a way that allows the market to prepare for competition;

4. To publish, in accordance to procedures, all announcements and notifications related to procurements and procurement proceedings on the central electronic platform of the Public Procurement Directorate;
5. To prepare and update a list of supplies and services centrally purchased, such as office supplies, stationery, consumables, cleaning services, and the like, and suggest an entity responsible for the central procurement of supplies and services;
6. To organize the framework agreements referred to in this Law;
7. To provide interpretations and clarifications related to the procurement legislation in force, and publish manuals and guidelines related thereto;
8. To monitor and evaluate the application of public procurement laws and rules, prepare and submit reports to the Presidency of the Republic, the Parliament and the Council of Ministers, and publish such reports where necessary;
9. To consolidate data related to public procurement operations, at all levels, in its central database, including types and methods of contracting, participating economic sectors, data related to the implementation of projects funded by donors, etc.;
10. To keep and update public contract records and publish such records on its website;
11. To take, maintain and publish exclusion decisions in a public record of exclusion on its central electronic platform, in addition to the responsibility to update this record, in accordance with article 40 of this law;
12. To keep and update the awarding committees' records;
13. To process and analyze information related to the public procurement transactions and to prepare and publish analytic and statistical reports;
14. To propose standard documents and forms for public procurement procedures, including bidding documents, and make such documents available for use by all stakeholders;
15. To prepare guidelines, manuals and comments in relation to public procurement rules and procedures, give advice and assistance to procuring entities and potential bidders, and provide information to civil society and researchers;
16. To design a training strategy related to public procurement that includes all stakeholders;
17. To make suggestions with regard to the means of developing and encouraging innovation, the improvement of implementations, and the amendment of laws and regulations;
18. To survey the private sector and the civil society opinion when proposing regulatory or legal amendments to the public procurement system, and explain the options that have been adopted;
19. To cooperate with international organizations and other bodies locally and internationally to develop the public procurement system;
20. To submit an annual performance report to the Presidency of the Republic, the Parliament, and the Council of Ministers.

Article 76: Structure of the Public Procurement Directorate

Three administrative units shall be created at the Public Procurement Directorate:

1. The unit of General Secretariat;
2. The unit of Monitoring and Analysis;
3. The unit of Legal affairs.

The units' functions shall be defined by a decree issued by the Council of Ministers.

Section II – Review and complaints committee

Article 77 – Functions of the Review and complaints committee

1. A committee shall be created at the Public Procurement Directorate for reviews and complaints. Such committee:
 - a. Shall be chaired by an eight's grade - or above- judge of the Court of Audit, delegated by the Supreme Justice Board upon suggestion of the president of the Court of Audit;
 - b. Shall have as members: a representative of the Chamber of Commerce, the contractors' union, the Order of Engineers, or the Association of industrialists, according to the nature of the procurement.
 - c. Shall also have as member an expert delegated by the Minister of Finance, with a minimum of ten years' experience in the public procurement, and a specialization diploma.
2. The committee' sterm shall be of three years, non-renewable.
3. A delegate of the Public Procurement Directorate shall attend the committee's meetings, without being entitled to vote;
4. Contrary to any other provision, the committee shall be the sole adjudicator of any pre-contractual challenge.

Section III – Tender Committees and Acceptance Committees

Article 78 – Tender committees: methods of formation and functions

I – Formation of tender committees

1. The tender committee shall consist of a chairperson and two original members, at least, and an alternate chairperson and two alternate members who shall complete the Committee in the absence of the chairperson or a member. The chairperson or the members shall not be subject to any situation of conflict of interest with the participants in the tender. The committee shall act independently of the contracting authority when making decisions or expressing opinions.
2. Prior to October each year, the competent authority at the procuring entity shall suggest a list of employees' names from the administration thereof. Such employees shall have the

necessary expertise and experience, and fill the requirements specified in the secondary decree n°..., attached herewith, if applicable. Then, the competent authority at the procuring entity shall submit the list to the Public Procurement Directorate, who shall, prior to November of the same year, prepare one consolidated list and send it to the Central Inspection Board, in order to inquire about the suggested names, and remove any name associated with any kind of violation. Such list shall be made available to all procuring entities and on the electronic platform at the Public Procurement Directorate.

3. When implementing its annual plan for the following year, the procuring entity shall be responsible for choosing names from the consolidated list prepared by the Public Procurement Directorate, to form one tender committee or more.

II – Functions of tender committees

1. Tender committees shall exclusively study the pre-qualification files, open and evaluate the tenders, then determine the most suitable tender.
2. The chairperson of the committee and each of its members shall notify the competent authority of any situation of conflict of interest they are – or expect to be – subject to as soon as they become aware of such situation and shall resign from the aforementioned committee.
3. The tender committee may seek the assistance of experts from within or outside the Administration to assist in the financial and technical evaluation if necessary, by a decision of the competent authority at the procuring entities. Experts shall maintain confidentiality and impartiality in their work and shall not be entitled to decide on behalf of the committee or participate in the deliberations thereof. They may be invited by competent authorities to be heard and to provide explanations, and shall submit a written report to the committee.

Article 79 – Acceptance committees: formation and functions thereof

1. An acceptance committee of experienced and skilled staff shall be formed for every procurement. Such committee shall be responsible for the provisory and the final acceptances, and prepare duly signed minutes thereof.
2. The acceptance committee is appointed by decision of the director general in public administrations and institutions, and of the decision making authority in the municipalities and other bodies. The acceptance committee is different from the tender committee in terms of its constitution and members. Each committee shall at least consist of a chairman and two members from within the administration, and include experienced and skilled personnel.
3. The committee shall determine whether the contracted goods or services have been delivered in accordance with the terms of the contract, and that all obligations incumbent upon the winning bidder had been performed. The committee shall confirm upon acceptance of goods that the items received and the numbers thereof are in conformity with

the technical requirements and specifications stipulated in the contract, valid, defect-free and that the numbers thereof match the delivery schedule, and shall record in the minutes the date and time at which the delivery takes place.

4. If the acceptance committee considers that the contract was generally executed in accordance with the terms of the tender documents, despite the presence of some minor deficiencies or defects that do not preclude the acceptance, it may conclude the acceptance. In the event of contracts which value exceed (300) three hundred million Lebanese pounds, this paragraph can be executed according to conditions specified by a decree issued by the Council of Ministers. This value can be modified by a decree issued by the Council of Ministers, provided that it is not less than the amount specified in this paragraph.
5. If at least one of the acceptance committee's members does not have the required expertise to perform the acceptance in a good manner, the committee may request the assistance of an external technical expertise, provided that such request is made in advance to the competent authority at the contracting authority.
6. In the event of resorting to external technical expertise, the expert shall submit a written report to the acceptance committee.

Section IV – Contracting authorities

Article 80– Contracting authorities

Contracting authorities shall:

1. Plan their public procurements and include annual procurement plans in their respective budgets in such a way to ensure that funds are available, and schedule such procurements in multi-year plans if necessary;
2. Send information and data to the Public Procurement Directorate, in accordance with the provisions of this Law and its secondary legislation;
3. Publish the required information in accordance with the provisions of this Law and its secondary legislation, on their websites and on the central electronic platform at the Public Procurement Directorate in such a way as to guarantee transparency and the right to access information;
4. Prepare market studies in accordance with the provisions of this Law;
5. Prepare and make the tendering documents available in accordance with the provisions of this Law;
6. Duly announce their procurements in accordance with article 12 of this Law and on the central electronic platform at the Public Procurement Directorate;
7. Perform other functions specified in this Law and other laws and regulations.

CHAPTER 7 – CHALLENGE PROCEEDINGS

Article 81- Right to challenge and appeal

1. Any stakeholder having a standing legal quality has the right to challenge any decision or action taken by the procuring entity as part of the procurement proceedings that is allegedly not in compliance with the provisions of this Law.
2. Challenge proceedings shall start with the submission of:
 - a. An application for reconsideration to the procuring entity pursuant to article 83 of this Law, or
 - b. An application for review to the Review and complaints committee pursuant to article 84 of this Law, or
 - c. An application to appeal the decision of the Review and complaints committee before the State Council.

Article 82- Effect of a challenge

1. The procuring entity shall not take any measure (prohibition period) that would bring into force a procurement contract or framework agreement in the procurement proceedings:
 - a. Where it receives an application for reconsideration within the time limits under paragraph 1 of article 83; or
 - b. Where it receives notice of an application for review from the Review and complaints committee under paragraph 5 (b) of article 84; or
 - c. Where it receives a notice of appeal from the State Council, in accordance with the laws in force.
2. The prohibition period referred to in paragraph 1 shall end (2) two working days after the decision of the procuring entity, the Review and complaints committee or the State Council has been communicated to the applicant or appellant, as the case may be, to the procuring entity, where applicable, and to all other participants in the challenge proceedings.
3.
 - a. The procuring entity may at any time request the Review and complaints committee or the State Council to authorize it to enter into the procurement contract or framework agreement during the prohibition period on the ground that urgent public interest considerations so justify;
 - b. The Review and complaints committee, upon consideration of such a request, may authorize the procuring entity to enter into the procurement contract or framework agreement where it is satisfied that urgent public interest considerations so justify. The decision of the Review and complaints committee and the reasons therefor shall be

made part of the record of the procurement proceedings, and shall promptly be communicated to the procuring entity, to the applicant, and to all other participants in the challenge proceedings. The decision of the Review and complaints committee shall be published.

Article 83- Application for reconsideration before the procuring entity

1. The application for reconsideration shall be submitted to the procuring entity in writing within the following time periods:
 - a. Applications for reconsideration of the terms of solicitation, pre-qualification or decisions or actions taken by the procuring entity in pre-qualification shall be submitted at any time prior to the deadline for submission of tenders;
 - b. Applications for reconsideration of other decisions or actions taken by the procuring entity in the procurement proceedings shall be submitted within the standstill period applied pursuant to paragraph 2 of article 24 of this Law, or, where none has been applied, at any time prior to the entry into force of the procurement contract or the framework agreement.
2. Promptly after receipt of the application, the procuring entity shall publish a notice of the application and shall, not later than three (3) three working days after receipt of the application:
 - a. Decide whether the application shall be entertained or dismissed and, if it is to be entertained, whether the procurement proceedings shall be suspended. The procuring entity may dismiss the application by a reasoned decision and based on legal grounds. Such a dismissal constitutes a decision on the application;
 - b. Notify all participants in the procurement proceedings to which the application relates about the submission of the application and its substance;
 - c. Notify the applicant and all other participants in the procurement proceedings of its reasoned decision on whether the application is to be entertained or dismissed, and whether it will decide the suspension of the procurement proceedings and the duration thereof, and publish the reasoned decision;
3. If the procuring entity does not give notice to the applicant as required in paragraphs 2(c) and 7 of this article within the time-limit specified in paragraph 2 of this article, or if the applicant is dissatisfied with the decision so notified, the applicant may commence a challenge in the Review and complaints committee under article 84 of this Law. Where such challenge is commenced, the competence of the procuring entity to entertain the application ceases.
4. In taking its decision on an application that it has entertained, the procuring entity may overturn, correct, vary or uphold any decision or action taken in the procurement proceedings to which the application relates.

5. The decision of the procuring entity under paragraph 4 of this article shall be issued within (5) five working days after receipt of the application. The procuring entity shall immediately thereafter communicate the decision to the applicant.
6. If the procuring entity does not communicate its decision to the applicant in accordance with the requirements of paragraphs 5 and 7 of this article, the applicant is entitled immediately thereafter to commence a challenge in the Review and complaints committee under article 84 of this Law. Where such challenge is commenced, the competence of the procuring entity to entertain the application ceases.
7. All decisions of the procuring entity under this article shall be in writing, and state the action taken and the reasons therefor. They shall be published on its website and the central electronic platform of the Public Procurement Directorate, and shall promptly be made part of the record of the procurement proceedings, together with the application received by the procuring entity under this article.

Article 84- Application for appeal before the Review and complaints committee

1. An application for review may be made before a quasi-judicial Review and complaints committee, formed by virtue of article 77 of this Law, for the review of a decision or an action taken by the procuring entity in the procurement proceedings, or “any decision taken by the procuring entity in relation to the reconsideration application” or of the failure of the procuring entity to issue a decision under article 83 of this Law within the time limits prescribed in that article.
2. Applications for review shall be submitted to the Review and complaints committee in writing within the following time periods:
 - a. Applications for review of the terms of solicitation, pre-qualification or of decisions or actions taken by the procuring entity in pre-qualification proceedings shall be submitted prior to the deadline for submission of tenders;
 - b. Applications for review of other decisions or actions taken by the procuring entity in the procurement proceedings shall be submitted:
 - i. Within the standstill period applied pursuant to paragraph 2 of article 24 of this Law; or
 - ii. Where no standstill period has been applied, within (7) seven working days after the publication of the decision to accept the successful bid, pursuant to paragraph 2 of article 24, but not later than (7) seven working days after the entry into force of the procurement contract or the framework agreement or a decision to cancel the procurement;
 - c. Notwithstanding subparagraph (b)(i) of this paragraph, an applicant may request the Review and complaints committee to entertain a review filed after the expiry of the standstill period, but not later than (5) five working days after the entry into force of the procurement contract or the framework agreement, or a decision to cancel the procurement, on the ground that the application raises significant public interest

considerations. The Review and complaints committee may entertain the application where it is satisfied that significant public interest considerations so justify. The decision of the Review and complaints committee and the reasons therefor shall promptly be communicated to the applicant for review;

- d. Applications for review of the failure of the procuring entity to issue a decision under article 83 of this Law within the time limits prescribed in that article shall be submitted within (5) five working days after the decision of the procuring entity should have been communicated to the applicant in accordance with the requirements of paragraphs 2, 5 and 7 of article 83 of this Law, as appropriate.
3. Following receipt of an application for review, the Review and complaints committee may, subject to the requirements of paragraph 4 of this article:
 - a. Order the suspension of the procurement proceedings at any time before the entry into force of the procurement contract; and
 - b. Order the suspension of the performance of a procurement contract or the operation of a framework agreement that has entered into force;

If and for as long as it finds such a suspension necessary to protect the interests of the applicant unless the Review and complaints committee decides that urgent public interest considerations require the procurement proceedings, the procurement contract or the framework agreement, as applicable, to proceed. The Review and complaints committee may also order that any suspension applied be extended or lifted, taking into account the aforementioned considerations.

4. The Review and complaints committee shall:
 - a. Order the suspension of the procurement proceedings for a period of ten (20) twenty working days where an application is received prior to the deadline for submission of tenders; and
 - b. Order the suspension of the procurement proceedings or the performance of a procurement contract or the operation of a framework agreement, as the case may be, where an application is received after the deadline for submission of tenders and where no standstill period has been applied;

Unless the Review and complaints committee decides that urgent public interest considerations require the procurement proceedings, the procurement contractor the framework agreement, as applicable, to proceed.

5. Promptly upon receipt of the application, the Review and complaints committee shall:
 - a. Suspend or decide not to suspend the procurement proceedings, or the performance of a procurement contract or the operation of a framework agreement, as the case may be, in accordance with paragraphs 3 and 4 of this article;
 - b. Notify the procuring entity and all identified participants in the procurement proceedings related to the review of the application and the substance thereof;

- c. Notify all identified participants in the procurement proceedings to which the review relates of its decision on suspension. Where the Review and complaints committee decides to suspend the procurement proceedings, or the performance of a procurement contract or the operation of a framework agreement, as the case may be, it shall in addition specify the period of the suspension. Where it decides not to suspend them, it shall provide the reasons for its decision to the applicant and to the procuring entity; and
 - d. Publish a notice of the application for review on the central electronic platform at the Public Procurement Directorate.
6. The Review and complaints committee may dismiss the application for review and shall lift any suspension applied, where it decides that The application for review is without any legal grounds. The Review and complaints committee shall promptly notify the applicant for review, the procuring entity and all other participants in the procurement proceedings of the dismissal and the reasons therefor and that any suspension in force is lifted. Such a dismissal constitutes a decision on the application for review.
7. The notices to the applicant for review, the procuring entity and other participants in the procurement proceedings under paragraphs 5 and 6 of this article shall be given no later than three (3) working days after receipt of the application for review.
8. Promptly upon receipt of a notice under paragraph 5 (b) of this article, the procuring entity shall provide the Review and complaints committee with effective access to all documents relating to the procurement proceedings in its possession.
9. In taking its decision on an application for review that it has entertained, the Review and complaints committee may declare the legal rules or principles that govern the subject matter of the review, shall address any suspension in force and shall take one or more of the following actions, as appropriate:
 - a. Prohibit the procuring entity from acting, taking a decision or following a procedure that is not in compliance with the provisions of this Law; or
 - b. Require the procuring entity that has acted or proceeded in a manner that is not in compliance with the provisions of this Law to act, to take a decision or to proceed in a manner that is in compliance with the provisions of this Law; or
 - c. Overturn in whole or in part an act or a decision of the procuring entity that is not in compliance with the provisions of this Law other than any act or decision bringing the procurement contract or the framework agreement into force; or
 - d. The procuring entity shall be bound to revise a decision by the procuring entity that is not in compliance with the provisions of this Law [other than any act or decision bringing the procurement contract or the framework agreement into force]; or
 - e. Confirm a decision of the procuring entity; or
 - f. Overturn the award of a procurement contract or a framework agreement that has entered into force in a manner that is not in compliance with the provisions of this Law

- and, if notice of the award of the procurement contract or the framework agreement has been published, order the publication of notice of the overturning of the award; or
- g. Order that the procurement proceedings be terminated; or
 - h. Dismiss the application for review; or
 - i. Require the payment of compensation for any reasonable costs incurred by the applicant for review as a result of an act or a decision of, or procedure followed by, the procuring entity in the procurement proceedings that is not in compliance with the provisions of this Law, and for any loss or damages suffered, which shall be limited to the costs of the preparation of the submission or the costs relating to the application for review, or both; or
 - j. Take such alternative action as is appropriate in the circumstances.
10. The decision of the Review and complaints committee under paragraph 9 of this article shall be issued within (20) twenty working days after receipt of the application for review. The Review and complaints committee shall immediately thereafter communicate the decision to the procuring entity, to the applicant for review, to all other participants in the review proceedings and to all other participants in the procurement proceedings.
11. All decisions of the Review and complaints committee under this article shall be in writing and reasoned, shall state the action taken and the reasons therefor and shall promptly be published and made part of the record of the procurement proceedings, together with the application for review received by the Review and complaints committee under this article.

Article 85 - Rights of participants in challenge proceedings

1. Any person participating in the procurement proceedings to which the application for reconsideration or review relates, as well as any governmental authority whose interests are or could be affected by such application, shall have the right to participate in challenge proceedings under articles 83 and 84 of this Law. A person duly notified of the proceedings that fails to participate in such proceedings is barred from subsequently challenging under articles 83 and 84 of this Law the decisions or actions that are the subject matter of the application.
2. The procuring entity shall have the right to participate in challenge proceedings under article 84 of this Law.
3. The participants in challenge proceedings under articles 83 and 84 of this Law shall have the right to be present, represented and accompanied at all hearings during the proceedings; the right to be heard; the right to present evidence, including witnesses; the right to request that any hearing take place in public; and the right to seek access to the record of the challenge proceedings subject to the provisions of article 86 of this Law.

Article 86- Confidentiality in challenge proceedings

No information shall be disclosed in challenge proceedings and no public hearing under articles 83 and 84 of this Law shall take place if so doing would impair the protection of essential security

interests of the State, would be contrary to law, would impede law enforcement, would prejudice the legitimate commercial interests of the suppliers or contractors or would impede fair competition.

CHAPTER 8 – SANCTIONS AND INTEGRITY

Article 87– Transparency

1. The contracting authorities shall adopt a mandatory publication policy whereby they shall announce their plans and the details of execution thereof, including the progress of the procurement process, awarding proceedings, contract, result of acceptance, execution and final value of the procurement, in accordance with the provisions of this Law and the secondary legislation.
2. The contracting authorities shall use all means of publishing available to announce the aforementioned information, including the conventional means such as the official gazette and local newspapers, or the modern means such as websites of the procuring entity and the Public Procurement Directorate and on the central electronic platform after the establishment thereof.
3. Shall be prohibited from publishing any procurement information of a confidential nature with connection to a professional secret or a patent in accordance with the laws in force, or if the procurement subject matter was related to the security of the State or to public safety (including but not limited to procurements of weapons or security systems).
4. Free access to public procurement information through the central electronic platform in the Public Procurement Directorate shall be authorized to the civil society and the public.
5. Public procurement data, at all levels, shall be collected into a central database at the Public Procurement Directorate, including types and methods of contracting, participating economic sectors, donor-funded project implementation data, etc. This database shall be accessible to all stakeholders and to the public through digital media.

Article 88– Integrity

1. The contracting authority shall commit its procurement officers not to disclose any information or data related to technical or commercial secrets and confidential aspects of the proposals, or to provide in a beneficial manner information which they may have obtained in the performance of their duties.

2. The contracting authority shall require from all contractors thereof to commit to the highest ethical and good citizenship standards during the period of procurement and execution of the contract. Failing to comply to such requirements shall lead to exclusion decisions in accordance with article 8 of this Law. In order to achieve this policy, the contracting authority and the contractors thereof shall avoid any corruptive, fraudulent or collusive practices, as well as any harm, threat, or conflict of interests such as those terms are defined in article 1 of this Law.
3. The contracting authority shall exclude from participating in the procurement procedures any officer responsible for evaluating or concluding a procurement contract or monitoring its execution that violated the provisions of this Law, subject to the provisions of the Penal Code and the disciplinary sanctions specified in the relevant laws in effect.
4. The contracting authority shall commit its officers to pursue training programs for enhancing integrity, in order to raise awareness about the risks of lack of integrity, such as corruption, fraud, collusion, discrimination, and the sanctions therefor, and to develop knowledge about ways to confront such risks and promote a culture of integrity.
5. The contracting authority shall require from all contractors to abide by the highest standards of professional ethics and good citizenship during the period of the procurement and the execution of the contract, subject to the application of exclusion decisions according to article 8 of this Law. In order to achieve this policy, the contracting authority and all contractors shall avoid the following practices:
 - a. “Corrupt practice” means the offering, receipt or solicitation of anything of value, either directly or indirectly, to influence the work of a public official in the procurement process or in the execution of the contract;
 - b. “Fraudulent practice” means the misrepresentation or omission of facts to affect the procurement process or the execution of the contract;
 - c. “Collusive practices” means any scheme or arrangement between two or more bidders with the aim of offering prices at false and non-competitive levels;
 - d. “Coercive practices” means harming persons or their property, or threatening to harm them, directly or indirectly, to influence their participation in the procurement processor to influence a contract.
6. The contractor, its partners or employees shall not be entitled to receive any other remuneration, commissions, rebates or payments related to the project other than the amounts due and set forth in the contract concluded with the contracting authority.

Article 89 – Control and sanctions

The supervisory authorities shall exercise their role in the control of public procurement in accordance with their respective regulatory laws. Crimes committed in this context are subject to the general provisions of the Penal Code.

Each procuring entity shall apply internal control on public procurement in accordance with regulations specified in an implementation decree issued upon the proposal of the Prime Minister.

CHAPTER 9 – FINAL TRANSITORY PROVISIONS

Article 90– Existing files

Existing procurement files announced prior to the entry into force of this Law shall be processed in accordance with the laws in force on the date of procurement announcement.

Article 91– Repeal of contrary provisions

The articles of the Public Accounting Law in force by decree 14969 of 30 December 1963 and the amendments thereof that are contrary to this Law shall be repealed. Any provision contrary to this Law or inconsistent with the content thereof shall be repealed.

Article 92 – Minutes of implementation

The minutes of application of this Law shall be determined, where necessary, by secondary legislation issued by the Council of Ministers on the proposal of the Prime Minister, and until such decrees are issued, the current regulations and decisions issued pursuant to the Public Accounting Law shall remain valid and applicable in so far as they do not conflict with this law.

Article 93 - Entry into force of the law

This Law shall come into force six months after its promulgation.

Ratio Legis of the Public Procurement Draft Law in Lebanon

RATIO LEGIS OF THE PUBLIC PROCUREMENT DRAFT LAW IN LEBANON

Whereas the Lebanese legal framework lacks a modern and unified public procurement law, and is qualified of a scattered and outdated framework including several provisions, the most important of which is the Public Accounting Law (Decree 14969 of December 30, 1963, modified), and the Tender Regulation (Decree 2866 of December 16, 1959, modified on 02/10/1962), in addition to several texts regulating procurement in municipalities, public institutions, security agencies, the army and other agencies and councils,

Whereas the Lebanese provisions regulating public procurement do not adopt clear standards that reflect international trends in terms of 1) promoting competition, mainly for SMEs, 2) ensuring respect of integrity and transparency standards by both the procuring entity and the private sector, 3) allocating specialized human resources capable of carrying out procurement functions and managing public funds with highest degree of professionalism, effectiveness and integrity, and 4) achieving the sustainable development (economic, environmental and social) goals that the Lebanese government has committed to,

Whereas studies and surveys, with the most recent and comprehensive one being the international Methodology for Assessing Procurement Systems (MAPS), have pointed out gaps related to the need to unifying procedures and adopting a clear set of criteria. This is largely due to the existence of multiple texts and provisions in force, as well as the lack of effective review and complaint mechanisms. The assessment also indicated the absence of sets of criteria and documents (standard bidding documents or contracts templates), the excessive recourse to mutual agreements, the overlapping roles of stakeholders, as well as the recourse to exceptions which are in direct contradiction with applicable laws and regulations and the relevant general guidelines, and multiple interpretations which increases the risks of selective and inconsistent practices and negatively affects the oversight system. Moreover, several gaps were identified at the level of institutional capacities, technological infrastructure, inefficiency of information management systems and limited investment therein to improve such systems, thus hindering proper access to information, reducing oversight efficiency and increasing the risk of corruption and the cost on public funds (taxpayers' money) resulting from the said gaps, and failure to attract new economically-efficient suppliers,

Whereas in parallel, international standards adopted in public procurement have evolved significantly over the past twenty years, notably due to the improvement of model laws, principles, guidelines and good practices by the United Nations, the World Bank, the Organization For Economic Cooperation and Development (OECD), the European Commission, the European Bank for Reconstruction and Development (EBRD), and other international organizations,

Whereas several attempts that took place in Lebanon to propose draft laws and decrees didn't reach an end, including the Public Procurement draft law that the Lebanese Government withdrew from the Parliament on 27/3/2018, after it was submitted by Decree 9506 of 12/12/2012. The "*Facing Challenges*" Government committed in its ministerial statement, namely in Section II, Article 5 "*to*

pursue efforts undertaken by the Ministry of Finance to reform the public procurement apparatus including finalizing the MAPS II exercise, validating and adoption of its recommendations and work towards immediate adoption of a modern public procurement law in consultation with various stakeholders.”

Whereas the Lebanese State has committed at the CEDRE Conference held in Paris (April 2018), to undertake sectoral and other cross-sectoral reforms, mainly fighting corruption and modernizing public procurement, and whereas the International Support Group for Lebanon (ISG) emphasized in its last meeting in Paris on 11/12/2019 the importance of implementing such commitments in light of the financial and economic challenges that the country is going through. The ISG also underlined public procurement as one of the most critical structural reforms needed to strengthen financial governance, improve the quality of public services, attract investments, enhance transparency, support the undertaken measure to fighting corruption and waste of public funds. These reforms are a prerequisite for financing the Capital Investment Plan in key economic sectors,

Whereas the Lebanese civil society in general, and the popular movement in particular, have been calling for decades, and especially since October 17, 2019, to fight corruption and ensure the rule of law to uphold the fundamental rights and freedoms and noble principles such as integrity, transparency, accountability, justice, fairness and equality,

Therefore, we submit the Public Procurement draft law, prepared by the Institut des Finances Basil Fuleihan after being commissioned by the Minister of Finance. The draft law was prepared in line with international regulations, principles and good practices, and following a methodological approach based on comparative and evidence-based analysis, which the latest was provided by MAPS assessment, in addition to consultations with stakeholders, and recommendations made by international experts and specialists. The draft law is founded on eight principles for public procurement, inspired by the twelve principles defined by the OECD, namely:

1. **Comprehensiveness:** the provisions of this law include public services or the management of public facilities, financed by the budget or Treasury funds, or by subventions, or loans for all types of public procurement, i.e. the implementation of works, the supply of goods and the provision of services, including internal or external consulting services, in accordance with the provisions of international treaties and agreements duly concluded with the Lebanese State.
2. **Planning and budgeting** by encouraging medium-term planning processes in preparing budgets to improve the design and planning of the procurement cycle.
3. **Accountability** through the application of clear control and oversight mechanisms, at all stages of procurement, which include the development of a new and effective complaint framework within specific deadlines, to issue decisions and decide on appropriate disciplinary measures \to increase trust in the system’s performance.
4. **Effectiveness and competition**, i.e. ensuring that competitive procedures are the general rule and the standard method for procurement as a means for enhancing efficiency, promoting fair and equal treatment for all potential suppliers, fighting corruption, adopting

strict controls to limit recourse to mutual agreements and providing new procurement methods that are in line with the modernization requirements.

5. **Integrity** through a clear definition of “integrity” and “conflict of interest” and identifying the cases thereof as well as the types and degrees of penalties for the private sector employees and public servants, that are commensurate with the gravity of the acts perpetrated or the lack thereof.
6. **Transparency**, through the mandatory publication on the central electronic platform, thus allowing access to information and data to all interested parties and stakeholders, while maintaining the obligation of confidentiality as defined in the provisions of the draft law.
7. **Professionalization** through the allocation of highly professional human resources to carry out procurement, with continuous training to maintain a high level of professionalism and integrity.
8. **Sustainability** through procurement operations that take into account sustainable development goals in their economic, social and environmental dimensions, in a balanced manner with primary objectives of public procurement.

The draft law takes into account the public interest requirements at various levels, seven of which shall be detailed hereinafter:

I – The macroeconomic and financial framework

Public procurement is at the heart of the State's financial activity and fundamentally linked to the scheduling the State's financial obligations on the medium and long terms when preparing public budgets, including meeting financial liabilities resulting from contracts' implementation, and the association thereof with the availability of financial resources in the Treasury, and meeting the State's financial liabilities in accordance with the due dates thereof. The volume of public procurement in Lebanon is estimated at 20% of government expenditures and 7% of GDP (around USD 3.6 billion) at the central level, excluding the volume of procurement made by public institutions, municipalities, federations of municipalities.

On one hand, Lebanon suffers the burden of a structural fiscal deficit and an enormous debt, with a debt ratio to GDP estimated at 176% in 2019. The country's capital investment space did not exceed 2% of 2020 Budget law, and 4% in 2019, due to debt service volume that accounts for one-quarter of public spending, as well as wages, salaries and benefits, estimated to 50% thereof. Lebanon is also witnessing an estimated negative growth (-6.9%) in 2019, that may reach -12%, for 2020.

On the other hand, Lebanon's ranking on the ease of doing business indicator is deteriorating; it ranks 143 out of 190 countries, mainly due to corruption, lack of infrastructure efficiency and quality, knowing that the country ranks 130 out of 137 on the quality of infrastructure indicator. Lebanon's high level of readiness to the use of technology and innovation as tools to improve

economy competitiveness is considered an untapped potential due to poor performance and absence of an attractive environment for businesses and investors.

International experience and the recommendations of OECD indicate that the country's financial management should be integrated, coherent and subject to strict controls, specifically in terms of anticipating and managing budget and treasury operations, especially in light of the challenging financial and economic situation that Lebanon has been facing recently and expectedly in the medium term,

In light of the above, and with the shift in the international theories of public procurement from a purely traditional administrative approach to a strategic one related to the financial objectives of the State, and since the current legal framework does not define a path according to which the procurement needs are determined, assessed, classified, categorized, and linked to the budget preparation process, and to the planning of the current and future financing needs, which would put the country at fiduciary risk in scheduling its obligations within a medium or long-term framework, this Law proposes the following:

- a. In the objective of budget integration of public procurement all procuring entities are required to plan and budget their procurement in a way that ensures the best value for money, the sustainability of economic, environmental and social resources, as well as the effective systems and frameworks for accountability.
- b. Determine the needs and prepare annual plans of the following year simultaneously with planning public expenditures, based on standardized forms and procedures issued by the Public Procurement Directorate.
- c. The possibility of establishing an annual or multi-annual procurement plan where the implementation of projects requires scheduling of obligations within a medium or long-term framework. The plan shall include information related to the procurement subject matter, the source of financing and the estimated total value, a brief description of the project, the procurement method, and its expected date.

II – The performance of the public procurement system

International reports describe the low quality of the public procurement system in Lebanon compared to the Arab countries and the world, it is estimated that the modernization of this system would achieve annual savings of USD 500 million, which would increase the fiscal space for public investments and improve the quality of services provided to citizens, opportunities for the private sector's participation, and the trust in performance. Therefore, to fill those gaps in the system, which were also identified by MAPS assessment, the draft law includes substantial updates, the most important of which (besides the above mentioned comprehensiveness) are:

- a. Introducing a modern governance for public procurement through a homogeneous institutional and organizational framework in which the roles of concerned institutions are clearly defined in order to prevent ineffective functional overlaps, thus allowing focus on

objectives and verification of the quality of services, leading to efficiency and effectiveness while reducing administrative burdens. This process includes the creation of two main new institutions:

- i. The Public Procurement Directorate, which is an independent regulatory administration assuming an organization and supervision function, inexistent in the current system, and;
 - ii. The Review and complaints committee, which is a quasi-judicial committee that follows specified procedures to make decisions with regard to reviews and complaints, and issues its own rulings during the pre-contract stage, in a fair, transparent and timely manner.
- b. Including provisions in relation to supervision, oversight, clear notification, and effective disciplinary measures;
 - c. Defining procedures and measures, internationally proven, that contribute to the standardization of procedures and promote efficient and good practices.

III - Effectiveness and competition

The Lebanese economy suffers from a steady decline in competitiveness, from 80th rank in 2018 to 88th rank in 2019 (out of 141 countries). In this context, the draft law includes provisions that contribute to guaranteeing equal and fair opportunities to all potential suppliers to participate in procurement on competitive basis. These provisions include:

- a. Ensuring that competitive measures are the general rule and the standard procurement method, as a means to enhancing efficiency and fighting corruption;
- b. Adopting strict controls to limit the recourse to mutual agreements;
- c. Working 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 for all of them;
- d. Providing equal opportunities for all bidders wishing to participate in the pre-qualification proceedings according to a clear and detailed process allowing to determine the bidder's eligibility and capacity to implement the contract;
- e. Using clear, integrated and standardized bidding documents, that shall be binding for all parties subject to the Public Procurement Law;
- f. Including provisions that detail how the subject matter of the procurement shall be described, in an objective and relevant way, including setting technical or other specifications in a way that does not limit competition; as well as provisions which regulate requests for clarification in a manner that guarantees the bidder's rights and avoids collusion;

- g. Setting procurement methods that include competitive procedures, and other procurement methods with less competitive procedures (in exceptional cases specified in the draft law) thus providing an appropriate range of options to ensure the best value for money and only eligible bidders are involved;
- h. Setting clear and detailed rules for evaluating the offers submitted not only on the basis of the lowest price but also on the basis of specific criteria such as environmental criteria or the product life cycle, with specific conditions and controls for adjusting the contract value when necessary.

IV – Transparency, integrity and accountability

Global indicators show that 57% of government transactions subject to corruption are linked to public procurement. In this context, Lebanon’s position on the Corruption Perceptions Index has declined, ranking 137 out of 180 countries in 2019. Therefore, the Public Procurement draft law aims at fulfilling the commitment of the Lebanese State to fighting corruption and enhancing transparency. The draft law also stresses on the importance of the information and data infrastructure at the procuring entities and the Public Procurement Directorate’s levels, by creating a central electronic platform as a basis for an effective system of disclosure and oversight, knowing that several Arab countries have succeeded in installing a binding e-procurement system. Since the public interest is first priority, therefore the Law addresses gaps that may constitute a breach to the principles of transparency, integrity and accountability, by:

- a. Creating a central electronic platform at the Public Procurement Directorate, requiring procuring entities to publish basic information related to the procurement process on this platform, and allowing free access to procurement information to all stakeholders, including potential local and foreign suppliers, civil society and the general public, except when confidentiality is the case as mentioned by the Law;
- b. Reducing the risk of conflict of interest, and establishing the obligation to disclose information, by setting clear definitions of conflict of interest, corruption, fraud and collusion, and detailing ways to respond to each of the abovementioned cases and exclude bidders accordingly;
- c. Imposing high levels of integrity on all procurement stakeholders by expanding the standards listed in the integrity frameworks and codes of conduct and applying them to those involved in all procurement stages, and providing integrity training for both the public and private sectors;
- d. Applying procedures aiming at unifying practices at procuring entities level, while considering the integration of digital technology in the replacement or redesign of paperwork at all procurement stages;
- e. Respecting the principles of objectivity and transparency when preparing bidding documents;

- f. Involving the private sector and the civil society when developing suggestions or preparing draft amendments or draft regulations;
- g. Setting a procedure for records, documents and data keeping during procurement implementation, to facilitate control and access to information;
- h. Providing the legal introduction of e-procurement and data management.

V –Professionalization of public procurement

The Lebanese State suffers a significant shortage of capacities and competencies at all levels, and inconsistency between required skills and those currently available, as 48% of procurement practitioners are not familiar with good international practices. In general, public procurement is not a stand-alone profession, as there is neither job description nor a clear competency framework for procurement in the Lebanese civil service. International reports indicated that the lack of financial competencies in general and the incompatibility thereof with international standards represent a major fiduciary risk for the Government, directly affecting performance.

This is due to the fact that not all concerned officers are subject to mandatory training or to a continuous update of their knowledge in line with the requirements of modern and sound financial management and international developments, which weakens the State's ability to manage and reform the public financial management system. Such deficiency is considered one of the main characteristics of the weak financial governance, and the problem would become even more serious. Achieving a high degree of professionalism among civil servants involved in public procurement is considered essential to achieve the objectives that the Public Procurement law aspires to. The draft law presents provisions for:

- a. The inclusion of public procurement as a stand-alone profession within the State's functional structure, so that every procuring entity creates a specialized unit, the number of staff and skills of which shall be appropriate with the volume of its procurement, without a need for additional employment or contracting except when necessary;
- b. The definition, through secondary legislation, of the competency frameworks, terms of recruitment and promotion for the procurement profession, as well as its related scientific qualifications, skills, experience, code of conduct and ethics;
- c. All public procurement officers are subjected to mandatory annual training at “Institut des Finances Basil Fuleihan” covering budgeting and preparation of procurement plans, in addition to ongoing technical training in accordance with their respective tasks and responsibilities. The training shall be binding for officers directly responsible for procurement, and members of the tender and acceptance committees;
- d. Ensuring that all public procurement officers or those involved in any of its stages, including members of the tender and acceptance committees, meet high professional standards;

- e. Making available public procurement practical and procedural guides available for procuring entities;
- f. Involving the private sector, relevant economic bodies, specialized knowledge centers and other concerned stakeholders across the civil society in the capacity development process at the national level;
- g. Raising awareness on the principles of integrity, transparency and sustainable development.

VI – Sustainability and local development

Whereas sustainable public procurement is part of good international practices globally adopted and intended to encourage SMEs to access the public procurement market, enhance competition and innovation and meet the requirements of sustainable development in line with the 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25 September 2015. SMEs in Lebanon account for 93 to 95% of enterprises, and employ 51% of the workforce, but remain unable to participate effectively in government contracts for various reasons, the most important of which are: their inadequate capacity to participate (88% of cases), delayed payments by procuring entities (75%), lack of access to information related to public procurement and conditions of participation, as well as the difficulty to joint venture (63%). Therefore, the draft law addresses these gaps and challenges as:

- a. It 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 (eco-friendly standards), balanced economic development (support of women’s economic participation, rural development, etc.), and social responsibility (prevent child labor, compulsory insurance against work accidents, etc.);
- b. It directs the Lebanese State’s procurement capacity, when possible, towards sustainable goods and services with a view to minimize the environmental impact and achieve economic and social objectives set in international charters, treaties and agreements endorsed by Lebanon, and in accordance with national priorities, while ensuring a balance between potential benefits and achieving the best value for money, while providing incentives to SMEs, local production and national expertise;
- c. It allows for procurement to be divided into lots, when possible, for the purpose of guaranteeing social and economic benefits, provided that the bidding documents specify the number and nature of such lots or groups and the requirements for participation and the conditions for contract award;
- d. It provides for 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, by virtue of a certificate issued by the competent authority;

- e. It allows for the development of public procurement regulations and policies.

VII – Institutional framework – The Public Procurement Directorate and the decentralized system

The current legal and regulatory framework does not define a normative function regulating public procurement, and therefore there is no authority or authorities specifically designed to perform such function, nor is there any national administration, institution or body in charge of public procurement at the national level. Hence, the current procurement system does not encourage the development of public procurement policies, advising procuring entities and stakeholders, providing reference documents, setting guidelines, collecting information at all levels of procurement and making it available to stakeholders and the general public through a unified platform, and pushing forward the development of such system by proposing reforms and drafting amendments to the legal and regulatory framework, in line with international standards and modern best practices.

The Central Tender Board, at the Central Inspection Board, currently carries out the procurement of goods, works and some types of services for the benefit of ministries. Such procurements are made by the open tender method (for procurement value exceeding 100 million LBP) or by the request for quotations method. The Central Tender Board authority does not handle procurements made by public institutions (such as the Council for Development and Reconstruction, Electricite du Liban, etc.), the Ministry of National defense, Internal Security Forces and General Security or other bodies. The Central Tender Board performs its duties based on the annual program of tenders approved by the Council of Ministers, and is in charge of reviewing and auditing the tender documents to check for any irregularities or violations (Article 17 of the Tender Regulation), presenting a non-binding opinion to the administration for which the procurement is being made, the announcement of the procurement and the receiving of proposals, opening and evaluation of bids. The Central Tender Board has no oversight role, since such role is entrusted to the Court of Audit, responsible for the ex-ante and ex-post audit of procurement operation. The role of the Central Tender Board has not evolved in accordance with the increase of the State's needs to acquire goods and services and execute works to keep pace with developments and economic, social, human and technological evolution; it has not been granted autonomy and the required institutional, human, financial and technical capacities, thus hampering its effective functioning and preventing it from meeting the requirements of technological progress and internationally approved standards. The regulatory role of the Central Tender Board and its supervision and policy making roles were absent in favor of an executive role, knowing that it is globally recommended to separate operational functions from the supervision and policy making functions.

As such, the draft law regulates public procurement on a decentralized basis at all procuring entities levels, in parallel with the development and expansion of the powers of the Central Tender Board to become the Public Procurement Directorate with a regulatory role that does not exist in the current system, all while organizing, directing and ensuring that the principles and criteria specified in the applicable laws and regulations are abided by, especially the principles of

visibility, accountability and transparency set by the OECD, which recommend that procurement should be public and clear and that its related information and data should be published across all channels, including digital ones, in a way that ensures equal treatment to all potential suppliers. The Public Procurement Directorate also contributes to standardizing procedures by preparing standard forms and bidding documents. Its role also includes objecting to procurement processes when they are in conflict with the requirements of public interest, identifying shortcomings and intervening where and when necessary, including issuing exclusion decisions, keeping them in a public record, publishing such decisions on the central electronic platform, and reporting to the Presidency of the Republic, the Parliament, and the Council of Ministers.

In addition to the above, the draft law entrusted the Public Procurement Directorate with the task of cooperating with international institutions and other local and international authorities to develop the public procurement system.

Consequently, the draft law provides the upgrade of the Central Tender Board's role to become the "Public Procurement Directorate", with monitoring, regulatory and supervisory role on procurement in coordination with the various concerned administrations. The expansion of its powers is necessary and essential, while granting it financial and functional autonomy and necessary resources to perform its duties with objectivity.