

Public Procurement in Lebanon

Towards a Risk Management Approach



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Towards a Risk Management Approach



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Abstract

This paper aims at supporting Lebanon in developing a tailored public procurement risk management strategy based on its national context and international good practices. It highlights the relevance of a risk management approach in public procurement and provides the country with practical steps to develop a public procurement risk management strategy, in accordance with the principles of the 2015 OECD Recommendation on Public Procurement.

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1. Introduction

Public procurement is a fundamental pillar of strategic governance. The efficient and effective public procurement of goods, services and works is vital to the fulfilment of the basic functions of public administration, which include providing essential services and infrastructures to citizens.

An efficient public procurement system can contribute to the economic recovery as well as restore citizens' trust in the government (World Bank, AFD, IoF, 2021^[1]). Public procurement is no longer considered as merely an administrative activity, but as a strategic policy tool that contributes to the achievement of policy objectives such as protecting the environment, boosting innovation, developing small and medium-sized enterprises, and promoting responsible business conduct.

Public procurement is, however, a high-risk activity given the volume of purchases, the complexity of the processes and the number of stakeholders involved. While many economies have tended to focus on integrity risks, other aspects may affect the functioning of the public procurement system and thus the provision of public services (OECD-HAICOP, 2019^[2]).

In Lebanon, public procurement accounts for, on average, 20% of central government expenditure and 6.5% of GDP (Institut des Finances Basil Fuleihan, 2020^[3]). **Currently, the country is undertaking a major public procurement reform.** The adoption of the new public procurement law by the Parliament in 2021 was one of the major milestones in this reform process. The previous regulatory framework for public procurement was outdated (dating back to 1959/1963) and fragmented (MAPS, 2021^[4]). The ongoing reform process draws heavily on a MAPS assessment carried out in 2019-2020. Despite Lebanon's challenging socio-economic situation, the public procurement reform process has created the conditions for the country to start developing a stronger risk management framework that goes beyond integrity risks.

Indeed, based on the findings and recommendations of the MAPS assessment, Lebanon's Public Procurement Reform Strategy (2021) identified the need to develop a **risk management strategy and tools to efficiently identify and mitigate** procurement risks as one of the Government's short-term priority actions. This policy brief, developed in co-operation with the Institut des Finances Basil Fuleihan (IoF), with support from the Islamic Development Bank, aims to guide Lebanon in developing a tailored public procurement risk management strategy based on its national context and international good practices.

2. The relevance of a risk management approach in public procurement

Public procurement is a crucial pillar of service delivery. Depending on the country's structure, different levels of governments are in charge of delivering a wide range of public services (see Figure 2.1) that rely on different elements, including public procurement. Risks affecting public procurement processes might have concrete consequences on the quality and quantity of services provided by governments. The OECD and the Institut des Finances Basil Fuleihan, national co-ordinator of the public procurement reform in Lebanon, organised a workshop in December 2021 (hereinafter "the workshop") to raise awareness of the relevance of risk management in public procurement. Based on a survey conducted during the workshop, the majority of participants (86%) acknowledged the key role of public procurement in the provision of public services.

Figure 2.1. Providing services to citizens and businesses/ the need for public procurement

Services to guarantee basic physical conditions	Services to guarantee basic social conditions	Services supporting the quality of life
<ul style="list-style-type: none"> • Mobility • Waste disposal • Water • Security • Cleanliness 	<ul style="list-style-type: none"> • Health • Education • Housing • Child and Elderly care 	<ul style="list-style-type: none"> • Culture • Green spaces

Risk management is the identification and systematic positive assessment of threats and opportunities for the best use of resources. Threats and opportunities should be linked to an objective to achieve. Table 2.1 provides an example of objectives related to public procurement activities in the pre-tendering phase.

Table 2.1. Example of objectives of public procurement activities in the pre-tendering stage

Procurement activity	Objective
Needs Analysis	Define the nature and extent of the needs to be met Define needs exhaustively
Market Engagement	Conduct market research in line with the reality of the market Identify the main players of the market Identify the solutions available in the market (existing or upcoming)
Planning and budgeting	Take into account the various elements impacting deadlines Satisfy needs in quality, quantity and in a timely manner Ensure the availability of sufficient funding Ensure the availability of authorisations and prior studies required
Choice of procurement procedure	Achieve the best value for money in a timely manner according to market conditions
Selection and award criteria	Ensure an objective, non-discriminatory assessment proportional to the needs of the public entity and in line with the reality of the market.
Identification of specifications or technical requirements	Respond exclusively to the nature and extent of the needs to be met Ensure equal treatment, free access and non-discrimination of potential bidders/ proposed solutions

Source: adapted from (OECD-HAICOP, 2019^[2]).

Risk management activities have different objectives, and they mainly aim at improving the efficiency and effectiveness of public procurement. They follow some steps simplified and summarised in Figure 2.2.

- i. the identification of risks
- ii. the assessment to risks (evaluation of the likelihood and severity of its impact)
- iii. the implementation of control measures to mitigate the risk impact, and
- iv. the monitoring of risks.

However, there are preliminary actions and steps to implement, including:

- i. Defining the scope of the risk management activities.
- ii. Defining risk criteria. It is essential to establish uniform and specific risk criteria for each public entity. To simplify the implementation of risk management, two criteria are suggested to be used:
 - The likelihood of occurrence or the probability of occurrence of the risk designated by (V).¹
 - The severity or impact of the risk designated by (G).²

The two criteria will enable the public entity to measure the level of criticality of the risk designated by (C) where $C = V \times G$. It evaluates the importance of the risks (OECD, HAICOP, 2020^[5]).³
- iii. Defining the context of each contracting entity. It is necessary to understand the environment in which the procurement operation is carried out, in accordance with the organisation of the public

¹ The likelihood (V) of a risk could be assessed based on different parameters, including the nature of the entity's mission and the availability of historical data. It can be assessed by assigning an annual probability (> 75%.) or a frequency (more than 20 times). After defining the "rating scale" (e.g. 1 to 4), the public entity has to assign to each rating a specific definition. For instance, a rating of 4 could mean that the risk is very likely and it could be defined by a probability > 90%.

² The severity (G) gives an estimate of the consequences of the risk. For example: impact on costs, time and quality, etc. The level of (G) remains specific to each entity. It should be noted that the same risk can generate consequences of varying severity from one public buyer to another, depending on its activities and role. After defining the "rating scale" (eg. 1 to 4), the public entity has to assign to each rating a specific definition. For instance, a rating of 4 could mean that the risk is very severe and it could be defined by an increase in cost/budget > 50%.

³ If $V=4$ and $G=4$, then the level of criticality of risks ($V \times G$) = 16

entity and relevant stakeholders, the mission of the public entity, and the relevance of risk management activities in the procurement system.

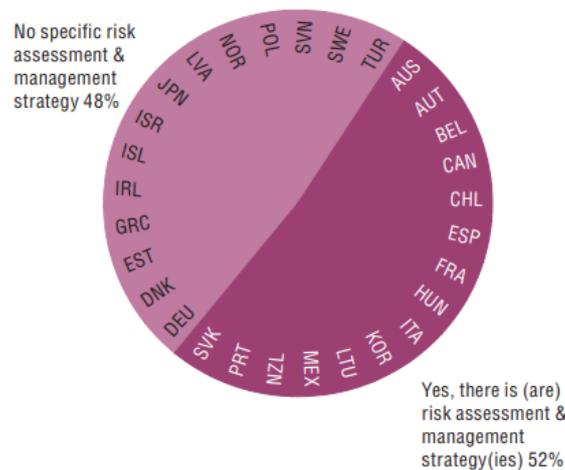
- iv. Establishing the risk tolerance of the entity. The results of the risk assessment should be used to support decision making for the most appropriate treatment option for each risk depending on the risk tolerance of the organisation in relation to its procurement programme and public procurement objectives.

Figure 2.2. The risk management cycle (simplified)



It should be noted that in some cases, "risk management" actions are set up by public buyers without being formalised, communicated or documented, which hampers informed and adequate decision making. During the workshop, the majority of participants (51%) mentioned that their institution did not undertake any risk management actions in public procurement processes and 21% of them did not know. Therefore, to ensure the implementation of a coherent and streamlined risk management approach and to strengthen the resilience and efficiency of the procurement system, it is beneficial to develop a national strategy in this area. 52% of OECD countries developed a strategy for assessment, prevention and mitigation of public procurement risks (see Figure 2.3). The development of these strategies is not limited to OECD countries. For instance, Tunisia developed, with the support of the OECD, a comprehensive strategy on risk management in public procurement" (OECD-HAICOP, 2019^[21]). During the workshop, the vast majority of respondents to a survey considered that Lebanon should develop a tailored risk management strategy in public procurement.

Figure 2.3 Existence of a strategy for assessing, preventing and mitigating public procurement risks, 2018



Source: (OECD, 2019^[6])

The risks that may arise at each stage of the public procurement cycle must be taken into account regardless of their nature. Therefore, the activities of risk management must be carried out in a dynamic approach adapted to the evolving nature of the project for better results (HAICOP, OECD, 2019^[7]). The majority of respondents to a survey (68%) launched during the workshop considered that the pre-tendering phase was the most vulnerable stage to risk and almost half (44%) thought that contract management was the most risk exposed public procurement stage. Only a few participants considered all public procurement stages as vulnerable to risk. In this context, the OECD Recommendation of the Council on Public Procurement recommends adherents to integrate risk management strategies for mapping, detection and mitigation throughout the public procurement cycle. Box 2.1 provides further details on the steps to follow.

Box 2.1. Principle “Risk Management” of the OECD Recommendation on public procurement

The Council recommends that Adherents integrate risk management strategies for mapping, detection and mitigation throughout the public procurement cycle.

To this end, Adherents should

- i) Develop risk assessment tools to identify and address threats to the proper function of the public procurement system. Where possible, tools should be developed to identify risks of all sorts – including potential mistakes in the performance of administrative tasks and deliberate transgressions – and bring them to the attention of relevant personnel, providing an intervention point where prevention or mitigation is possible.
- ii) Publicise risk management strategies, for instance, systems of red flags or whistle-blower programmes, and raise awareness and knowledge of the procurement workforce and other stakeholders about the risk management strategies, their implementation plans and measures set up to deal with the identified risks.

Source: (OECD, 2015^[8])

In addition, public procurement is a cross sectoral and multi-disciplinary area. It is therefore subject to different categories of risks that might impact public procurement outcomes. Beyond risks of fraud and corruption, other risks exist and can affect the effectiveness and resilience of the public procurement system and operations. The MAPS methodology also highlights that different dimensions of risks should be considered, e.g. fiduciary risks, development risks and reputational risks (MAPS initiative, 2018^[9]). A non-exhaustive list of potential risks is provided in Figure 2.4. Adopting a holistic approach to risk will strengthen the resilience of public procurement operations and systems.

Figure 2.4. Examples of risks impacting the public procurement system and activities.



3. State of play in Lebanon

Lebanon has already identified as part of the Public Procurement Reform Strategy, the need to develop a risk management strategy and tools to efficiently identify and mitigate procurement risks. Understanding the risk management environment in public procurement requires a clear understanding of the socio-economic environment of the country and the main gaps of the public procurement regulatory and institutional framework.

3.1. Context and background

3.1.1. An extremely fragile socio-economic environment

As highlighted in the MAPS assessment, Lebanon faces a confluence of challenges, covering a wide range of economic, social and political issues, including a deep economic crisis, increasing poverty and worsening food security, a social and financial crisis, and a lack of capacity within public institutions, all exacerbated by the COVID-19 pandemic (MAPS, 2021^[4]) (World Bank, 2020^[10]).

The explosion of the port of Beirut in August 2020 highlighted Lebanon's <https://www.linguee.fr/anglais-francais/traduction/unsustainable+situation.html>, deepening a crisis of trust stemming from repeated governance failures and the inability to undertake critical reforms (World Bank, 2020^[10]). The explosion highlighted a number of public sector governance failures, making the need to address them even more pressing in order to rebuild trust between the citizens and the state (OECD, 2020^[11]). Since then, the socio-economic situation has been worsening, and the political situation remains unstable.

The financial and economic crisis has further amplified Lebanon's fragmentation. According to the latest World Bank Economic Monitor, the economic and financial crisis in Lebanon will most probably rank in the top 3 of the most severe crises episodes since the mid nineteenth century (World Bank, 2021^[12]). Lebanon's GDP fell from close to USD 55 billion in 2018 to an estimated USD 33 billion in 2020 (World Bank, 2021^[13]).

The social impact of the crisis could also become disastrous. Indeed, the majority of the workforce in Lebanon is paid in Lebanese pound and therefore sees its purchasing power massively decline (World Bank, 2021^[13]). Households have difficulties accessing food and health care services, further aggravating the risk to social and civil unrest.

The COVID-19 pandemic aggravated the socio-economic and political situation in Lebanon, coming as a crisis within crises (Abi-Rached and Diwan, 2021^[14]). The pandemic and the collapse of the health system highlighted the weaknesses of an already fragile public procurement system, unable to ensure the delivery of essential goods such as diesel, fuel and medication (MSF, 2021^[15]).

3.1.2. A fragmented public procurement regulatory framework

As Lebanon tried to recover from the port explosion in Beirut, the outdated and inefficient public procurement framework was seen as a key enabler of corruption and waste (Siren Associates, 2020_[16]).

In Lebanon, before the adoption of the new public procurement law in 2021, several texts regulated public procurement with incoherent and inconsistent provisions (MAPS, 2021_[4]). Public procurement provisions were scattered with different pieces overlapping, contradicting or ambiguous, and applicable to several public procurement entities (MAPS, 2021_[4]) (Siren Associates, 2020_[16]). The primary legislation was mainly constituted of the Public Accounting Law issued in 1963 (Decree No 14969 December 30, 1963) and the Tender regulation issued in 1959 (Decree No 2866 December 16, 1959). It comprised general provisions applicable to public procurement but also allowed for a number of exceptions that were not systematically precisely defined. The public procurement regulatory framework was not unified and did not cover all aspects of public procurement for all types of public contracts (MAPS, 2021_[4]). In addition, the regulatory framework was weak regarding some of the public procurement key principles, including effective competition, transparency, and equal treatment (OMSAR, 2021_[17]).

The absence of reforms for many years in Lebanon, especially in the area of public procurement, amplified public procurement risks. The outdated regulatory framework led to unproductive spending as well as significant and widespread fiscal leakages, undermining value-for-money in the country's procurement (World Bank, 2020_[10]) and contributing to the biggest economic and financial crisis in the country's history (Siren Associates, 2020_[16]). For the period 2005-2016, spending used an improvised approach, characterised by lack of adequate oversight and accountability (World Bank, 2020_[10]). These practices have anchored a culture of non-transparency, creating space for corruption and other risks of public resources mismanagement. In addition, public oversight institutions have been absent both in terms of internal control and audit functions (World Bank, 2020_[10]). The public procurement system in Lebanon also lacks a procurement complaint mechanism allowing to challenge a decision regarding the procurement process and ensuring fair competition and transparency. **The need to prepare and adopt a comprehensive and modern public procurement framework has therefore become pressing.** (Institut des Finances Basil Fuleihan, 2020_[18]).

3.1.3. A new public procurement framework more conducive to a risk management culture

In the context of an uncertain and unstable socio-economic environment coupled with public discontent, an efficient and transparent public procurement system can be a way, among others, to restore citizens' trust in the government, by providing visibility and accountability over public spending and linking it to socio-economic development priorities and goals. For many years, numerous initiatives have attempted to reform the public procurement system in Lebanon but the parliament has never been able to pass any law regarding public procurement (Siren Associates, 2020_[16]).

As part of a major public procurement reform in Lebanon, the General Assembly passed the new public procurement law in June 2021. The law will enter into force in July 2022. The new Government of Lebanon's Declaration, issued on September 16, 2021, clearly commits to pursue efforts to reform Public Procurement including issuing secondary legislations necessary for enactment (Institut des Finances Basil Fuleihan, 2021_[19]). The adoption of this law is a key milestone to embed a culture of fiscal governance and quality of public services, accountability and transparency, efficiency and good management of public funds. For instance, one key measure of the new public procurement law is the introduction of a central electronic platform (chapter 4 of the public procurement law (The Lebanese Parliament, 2021_[20])). This e-platform will help mitigate risks in public procurement operations. It will strengthen the transparency and the integrity of the procurement system and will contribute to identify and mitigate cases of

mismanagement, fraud and corruption and is therefore a key accountability mechanism for integrity (OECD, 2017^[21]). In addition, the data on public procurement processes generated through the e-procurement system at state level can also be used by Lebanon as a tool to identify other potential risks and to measure the performance of the public procurement system (OECD, 2017^[21]).

It is worth noting that the implementation of an e-procurement platform is not without risks, indeed other risks might be considered, including those related to the capacity of the different stakeholders in using the platform but also the failure is using the information technology (IT) infrastructure due to different reasons such as electricity cuts (OECD, 2019^[6]).

In addition, adopting a risk management approach in procurement activities will support the achievement of **the four medium to long term objectives of Lebanon's procurement reform objectives** (World Bank, AFD, IoF, 2021^[1]):

- i. bringing the regulatory and policy framework in line with good international practices,
- ii. creating an institutional framework for successful procurement management and building corresponding capacity,
- iii. ensuring economy and efficiency in procurement operations and practices,
- iv. Promoting accountability, integrity and transparency in public procurement.

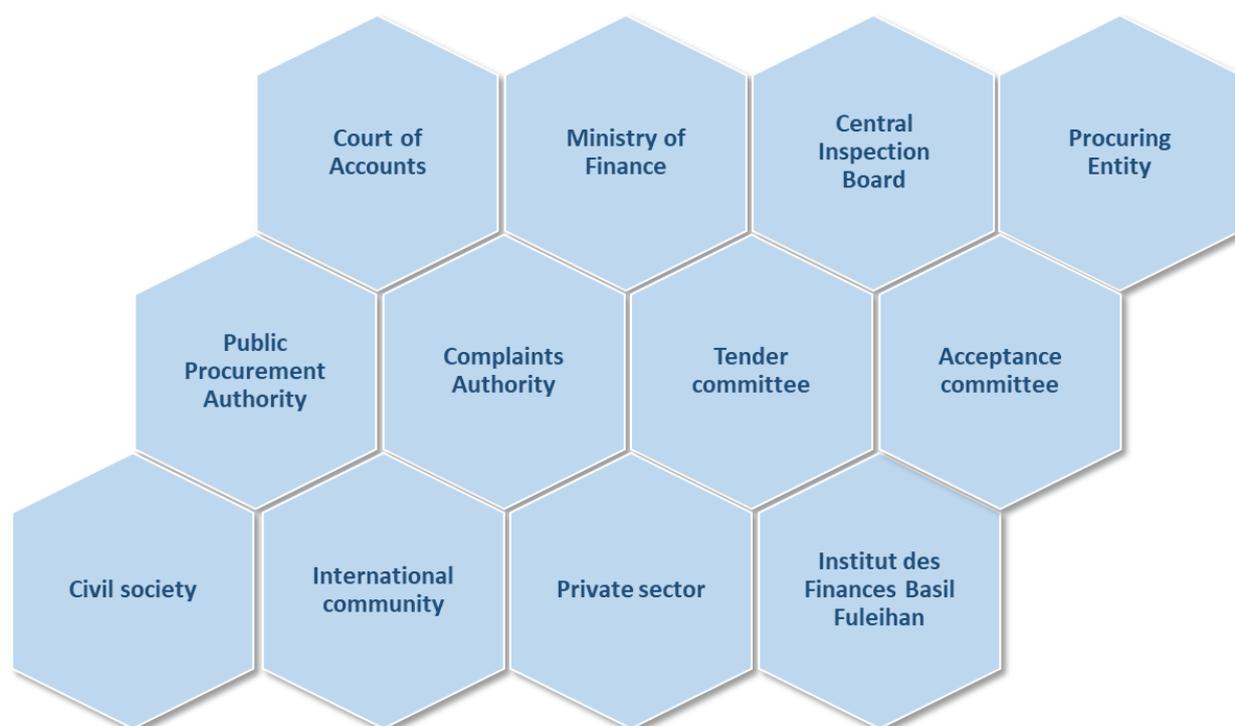
The new public procurement law therefore seems to be more conducive to a risk management culture and includes several mentions of the risk topic. For instance, Article 102 mentions that contracting authorities shall make plans to manage risks and achieve sustainable development goals in public procurement. The section on professionalisation and the one on integrity also highlight the key role of risk management for the well-functioning of the procurement system (The Lebanese Parliament, 2021^[20]). **The reform strategy provides for greater emphasis on procurement risk prevention rather than on correction actions.**

3.1.4. An improved institutional framework but some gaps remain

A well-functioning public procurement system and the good management of procurement risks need to be grounded in a sound institutional framework. The Institut des Finances Basil Fuleihan (IoF) has been mandated by the Ministry of Finance (MoF) and supported by several international organisations such as the OECD-SIGMA, the World Bank and the Agence française de développement (AFD) to modernise and unify the law for public procurement and its institutional framework (Institut des Finances Basil Fuleihan, 2021^[19]). IoF is also leading the development of the national Public Procurement Reform Strategy that mentions the need to develop a risk management strategy and tools to efficiently identify and mitigate procurement risks.

Figure 3.1 provides a list of key stakeholders of the public procurement system under the newly adopted regulatory framework (World Bank, AFD, IoF, 2021^[1]). The 2021 new public procurement law reorganised the public procurement institutional framework with the dissolution of the central tender board (CTB), which acted as a central procurement body since 1959, and the creation of new entities such as the Public Procurement Authority (PPA) and the Complaints Authority which are not yet established. **The previous institutional framework was incomplete and incoherent, with many gaps and overlapping mandates which further exacerbated the likelihood and impact of some risks** (MAPS, 2021^[4]).

Figure 3.1. Key public procurement stakeholders in Lebanon under the new public procurement regulatory framework (Law 244/2021)



Source: (MAPS, 2021^[41]), (The Lebanese Parliament, 2021^[20])

The creation of the PPA with clearly defined functions (policy making, regulatory development, capacity building, monitoring, control and reporting) and a wider scope of action than CTB – that suffered from a lack of political support, funding and competent staffing (MAPS, 2021^[41]) – will reduce challenges of overlapping mandates, gaps and conflicts of roles. (World Bank, AFD, IoF, 2021^[11]). Its missions are detailed in article 76 of the new public procurement law (The Lebanese Parliament, 2021^[20]).

The new public procurement law also formalises the creation of tender committees and acceptance committees within each procuring entity with a definition of the missions, role distribution and responsibilities of procurement officials in procuring entities. The tender committees, in each procuring entity, are in charge of studying the tendering documents, opening and evaluating bids, and determining the most suitable tenderer (The Lebanese Parliament, 2021^[20]). The acceptance committees are in charge of determining whether the contracted works, goods or services have been executed or delivered in accordance with the terms and conditions of the contract (Article 101 of the (The Lebanese Parliament, 2021^[20]). The creation of these two committees could be considered as internal control measures aiming at mitigating a certain number of risks.

The public procurement cycle involves other key stakeholders such as civil society organisations, the private sector and the international community. The private sector is well-developed in Lebanon (OECD, 2018^[22]) but faces numerous barriers to participate in public procurement, including difficulties in learning about business opportunities, understanding the requirements and the procedures, mobilising enough resources for preparing tenders with the required documentation, and having payments processed on time (MAPS, 2021^[41]). All these challenges reinforce the lack of trust in the public system and further

reduce the participation of private actors in public procurement (MAPS, 2021^[4]) (World Bank, AFD, IoF, 2021^[1]). The private sector has become more fragile with the COVID-19 crisis, reaching a significantly low level of sales in 2020 with a drop of 45% between 2019 and 2020 (ESCWA, 2021^[23]). It is difficult to estimate the direct effect of COVID-19 on the private sector as the economic crisis was already impacting businesses since 2019 (Abi-Rached and Diwan, 2021^[14]). However, a survey reveals that when asked about the main reasons for disruptions of their work activities since COVID-19, the main reason put forward by the interviewees was business closure or reduction in staff (WFP, 2020^[24]).

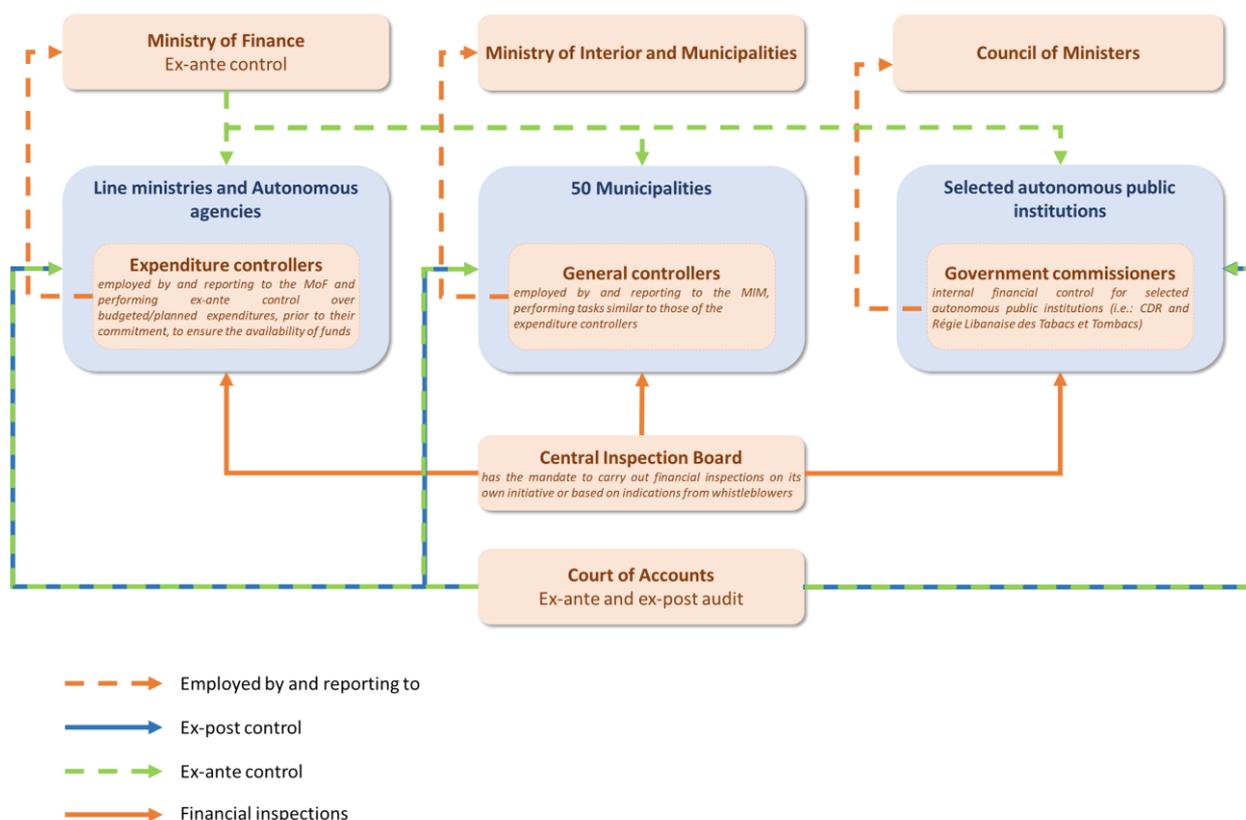
In addition to economic operators and business associations, Lebanon has a vibrant and very diverse civil society that calls for better service delivery, key reforms, political accountability and transparency (World Bank, 2020^[10]). The involvement of civil society in public procurement processes and decisions can support the mitigation of certain risks such as those related to integrity, participation and transparency (OECD, 2019^[25]).

The international community is also a major stakeholder in the public procurement area in Lebanon, both in terms of cooperation for the development of the procurement reform and in terms of international aid. The international aid funds disbursed in Lebanon between 2018 and 2020 amounted to more than USD 1 billion 500 million each year, with a peak of USD 1 billion 700 million in 2020 (UN, 2021^[26]). The development and implementation of a risk management strategy in public procurement can reassure development partners when funding public procurement projects (OECD, 2017^[27]).

As highlighted in the three lines of defence model, a robust control system, comprising effective internal control, risk management and audit, is fundamental to better governance, safeguarding of taxpayers' money, and to preserving public trust (OECD, n.d.^[28]). **The oversight system in Lebanon is weak and inefficient** (MAPS, 2021^[4]), **with significant gaps and overlaps**, which constitutes serious risks to the efficiency and integrity of the public procurement system (MAPS, 2021^[4]). Some overlapping mandates are illustrated in Figure 3.2, which describes the roles of the entities exercising control and audit functions such as the MoF, the Ministry of Interior and Municipalities (MoIM) and the Council of Ministers. These entities employ controllers (MoF and MoIM) or delegate commissioners (Council of Ministers) respectively in line ministries, 50 municipalities and selected autonomous public institutions. The lack of coordination of controls and audit in public procurement, especially with the Court of Accounts (CoA) creates delays as well as additional administrative costs (MAPS, 2021^[4]). The Central Inspection Board (CIB) ensures ad-hoc inspection in case of reported financial malpractice (MAPS, 2021^[4]).

To ensure appropriate oversight of procurement operations (reception, bids opening, evaluation, award, contract management, compliance, effectiveness and efficiency of procurement operations), the control framework should consider four factors: i) internal controls, ii) independent internal audit function, iii) external audits and iv) competent oversight bodies (OECD, 2019^[29]).

Figure 3.2. The control and audit bodies in Lebanon: redundant, overlapping and conflicting roles



Source: (MAPS, 2021^[4])

According to the findings of the MAPS assessment, external audit is mainly performed by the CoA, which is responsible for ex-ante and ex-post audit of higher value contracts. The ex-ante audit of the CoA overlaps with the role of the MoF in controlling expenditures, which has a negative impact on the efficiency of the system as it delays procedures and makes them more costly (MAPS, 2021^[4]) (OMSAR, 2021^[17]). The MAPS assessment also highlighted that the duplicated audit functions are not efficient in reducing the level of fraud and corruption. (MAPS, 2021^[4]). **In addition, the overlapping roles of the supervisory bodies strongly dilute the responsibility of the procuring entities and create uncertainty about who should be held accountable** (MAPS, 2021^[4]). In practice, as mentioned in the MAPS assessment, the risk cannot be mitigated or managed because “there is always someone else who can be blamed and, in the end, not much can be done about it” (MAPS, 2021^[4]).

There is no internal audit function in place yet in Lebanon, nor has it any institutional organisation or job descriptions in the Lebanese public administration (MAPS, 2021^[4]). The new public procurement law (Article 111) introduces internal audit in all procuring entities at central and local levels of government (The Lebanese Parliament, 2021^[20]) which constitutes a major step towards an enhanced risk management framework. Indeed, internal control/audit systems are needed to ensure reliable financial reporting; compliance with laws, regulations and policies; and economical, effective and efficient government operations (OECD, 2017^[30]).

3.1.5. A pressing need to enhance the capacity and capabilities of the procurement workforce

The MAPS assessment and the deteriorating socio-economic situation of the country revealed the lack of capacity within public institutions, including in the public procurement area. Furthermore, the MAPS assessment highlighted the absence of an official capacity building strategy, nor one for providing guidance in response to queries, and there are no obligations to use the public procurement training currently available (MAPS, 2021^[4]). It also highlighted that there is no stand-alone procurement profession with clear competencies and job description in the Lebanese civil service. In this context, the new public procurement law (Article 73) stipulates that public procurement shall be included as a specific profession within the Lebanese civil service organisational structure, with a public procurement unit to be created in the organisational structure of the procuring entity; this unit shall be composed of trained personnel. In addition, according to Article 72, mandatory annual training shall be offered by the Ministry of Finance - Institut des Finances Basil Fuleihan to public procurement officials, and to other stakeholders including the private sector (The Lebanese Parliament, 2021^[20]). Lebanon also identified the professionalisation of public procurement stakeholders as a key component of the Public Procurement Reform Strategy (World Bank, AFD, IoF, 2021^[1]).

This is particularly relevant in the context of implementing risk management actions in public procurement activities as the effective implementation of a comprehensive and structured risk management system requires a capable and trained workforce. Indeed, as explained in section 2. , risk management activities follow a specific methodology that requires technical knowledge on both risk management and public procurement.

3.2. Preliminary risk identification of the public procurement system in Lebanon

There are many risks related to the implementation of the new public procurement regulatory framework. This section focuses on the main public procurement risks identified in Lebanon. Table 3.1 classifies the risks into four categories:

- I. Financial (budget availability, respect of the budget)
- II. Conformity, operational, technological (regulatory compliance, capacity, organisational aspects, public procurement process, use of e-procurement tools)
- III. Economic, political, social/environmental (geopolitical environment, market trends, positions of market players, respect and protection of the environment and social conditions)
- IV. Integrity (reputation, corruption, conflict of interest)

Table 3.1. Example of public procurement risks in Lebanon

Public procurement Stage	Categories of risks in public procurement			
	Financial	Conformity, operational, technological	Economic, political, social/environmental	Integrity
Pre-tendering	<ul style="list-style-type: none"> Lack of budget Devaluation of the Lebanese Pound and hyperinflation 	<ul style="list-style-type: none"> Weak, inaccurate, incomplete or erroneous (in terms of quantity and performance) assessment of needs Insufficient market analysis/lack of benchmarking activities Lack of adequate planning Unreasonable pre-qualification requirements Splitting contract (to manipulate thresholds) Abuse of non-competitive procedures Ambiguous incomplete or misleading specifications Narrow specifications 	<ul style="list-style-type: none"> Political interference Disasters Environmental impact in large construction projects 	<ul style="list-style-type: none"> The elite allocation of state resources to connected firms in exchange for political support
Tendering	<ul style="list-style-type: none"> Unreasonably high bids 	<ul style="list-style-type: none"> Lack of sufficient time to respond to procurement opportunities Lack of transparency when publishing tender documents Limited numbers of bids received Lack of transparency in bid-opening procedures Unreasonable disqualifications 		<ul style="list-style-type: none"> Undisclosed award criteria Supplier collusion Conflict of interest in the evaluation process
Contract management	<ul style="list-style-type: none"> Late payments and invoices Devaluation of the Lebanese Pound and hyperinflation 	<ul style="list-style-type: none"> Poor contract management and supervision Delivery of poor quality goods, works or services 	<ul style="list-style-type: none"> Political interference to extend contract duration/amend contract terms 	<ul style="list-style-type: none"> Reception of wrong invoices Unjustified contract amendments Non delivery or delivery of poor quality goods, works or services

Source: (MAPS, 2021^[4]) (World Bank, AFD, IoF, 2021^[11]). (Mahmalat, Atallah and Maktabi, 2021^[31]).

4. The way forward: Developing a risk management strategy in public procurement

To instil a risk management culture in the public procurement field, Lebanon could develop a dedicated risk management strategy. The development of such a strategy requires following concrete steps and taking into account different parameters that are developed in this section. Some steps are closely linked with some actions identified in the action plan of the national Public Procurement Reform. Any delay or changes in this action plan might impact the development and implementation of the risk management strategy.

4.1. Creating a steering committee

The effective development of a risk management strategy requires having in place a steering committee. This committee should be composed of the main stakeholders. Such a committee will enable to anchor the strategy in the public sector and ease its adoption and implementation (OECD, 2016^[32]). The Public Procurement Reform Strategy in Lebanon provides for the creation of an inter-ministerial committee (IMC) and supported by a National Technical Committee (NTC) composed of key stakeholder representatives and coordinated by the Institut des Finances Basil Fuleihan (IoF) (World Bank, AFD, IoF, 2021^[1]). IMC will be responsible for facilitating and monitoring the implementation of the Public Procurement National Reform Strategy. The steering committee specifically in charge of the risk management strategy should therefore coordinate its action in line with the strategic objectives and priorities set for the procurement reform implementation, and in close coordination with the NTC.

In this context, it is particularly relevant to identify, within the risk management strategy, the key actors that will play a major role, using the RACI methodology. This methodology enables the understanding of the roles and responsibilities required for various tasks, processes and assignments. The following criteria were used:

- R = Responsible – the individual who carries out the work.
- A = Accountable – the individual who holds the ultimate accountability for the work being carried out and/or decision making.
- C = Consulted – individuals who should be informed and referred to prior to decision making or task completion.
- I = Informed – individuals who should be informed once decisions are made or upon work completion

4.2. Defining the context and objective of the risk management strategy

The context will provide the rationale for the development and implementation of the strategy on risk management in public procurement. Different elements mentioned in section 2. , including the state of play, could support the definition of the context.

In addition, the development of a risk management strategy should identify clear objectives to reach that are linked also to the national context. For instance, given the national context, the Tunisian strategy on risk management in public procurement identified five main objectives (HAICOP, OECD, 2019^[7]):

- 1) Strengthening the principle of good governance in public procurement.
- 2) Improving the efficiency and effectiveness of public procurement
- 3) Formalising and standardising the risk management methodology and tools across Tunisian public entities
- 4) Optimising the public procurement control system by focusing on high-risk areas.
- 5) Strengthening risk management capacities in public procurement in Tunisia

The objectives will also have an impact on the subsequent elements (i.e. scope of the strategy, implementation timeline, measures to implement, etc.)

4.3. Defining the scope of the risk management strategy

Depending on the context and the objective, the strategy could have a different scope. To guide governments in defining the scope of the risk management strategy, different elements need to be considered, including:

- The entities that will be subject to the strategy (i.e. all contracting authorities, only central level, etc.)
- The type of procurement procedures considered (i.e. all procedures, open tenders, direct award, all procurement above a certain value, etc.)
- The procurement stage considered (i.e. the whole procurement cycle, the pre-tendering stage, the tendering stage, etc.)

4.4. Setting a timeline for the implementation of the strategy

Depending on the objectives and the national priorities, especially in a procurement reform context, the scope of the strategy and the resources available (or committed), the strategy should include a detailed implementation timeline. It is usually recommended to adopt a progressive approach. For instance, Tunisia decided to implement the strategy within a timeframe of 5 years starting with some key public entities (the pilots) before progressively targeting other entities from the central and then the local level (HAICOP, OECD, 2019^[7]).

4.5. Identifying impacts on organisational settings within public entities

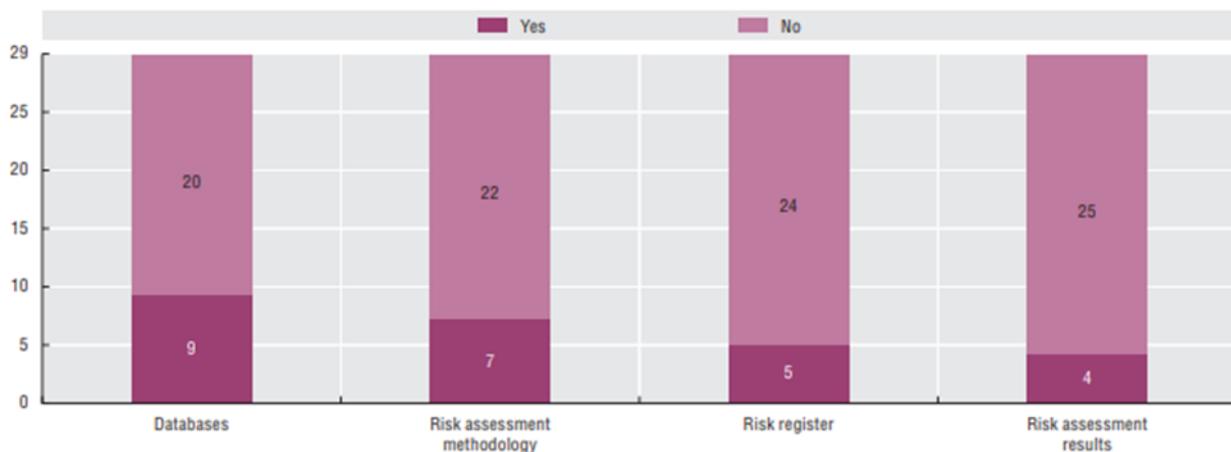
The implementation of a risk management strategy in public procurement requires a strong and lasting commitment from managers and senior management, which has to be communicated to all stakeholders involved in the public procurement system. In addition, the implementation of the strategy will have an impact on the organisational setting within public entities. Indeed, a specific risk management committee or working group composed of a multidisciplinary team needs to be formed. In addition, the formalisation

of the risk management approach might lead to increased workload for some officials . While the benefits of adopting a risk management approach outweighs its potential cost, all these institutional or organisational impacts need to be taken into account and accounted for.

4.6. Identifying implementation measures and financing

An efficient strategy forces the prioritisation of objectives and contemplated outputs that are conceivable in a reasonable timeframe and with limited resources. The first step is to understand the available and potential resources that could be available, and to work on the mobilisation of the needed resources. Once this has been evaluated, governments need to identify the adequate implementation measures. These measures include capacity building activities, practice sharing, the development of manuals and tools. Regarding tools, despite the increasing number of countries that have developed a risk management strategy in public procurement, a significant number (43%) still did not implement any tool to assess public procurement risks (OECD, 2021^[33]). Among the tools that have been implemented, 9 out of 29 OECD countries (31%) had developed risk databases, 7 (24%) had a risk assessment methodology, 5 (17%) have a risk register and 4 (14%) have risk assessment results (see Figure 4.1). In this context, countries might need to consider the role of the e-procurement platform for the collection and analysis of information and the dissemination of tools.

Figure 4.1. Number of countries with tools in place to assess public procurement risks, 2018



Source: (OECD, 2021^[33])

In addition, some countries such as Tunisia are considering integrating the risk management approach in the public procurement regulatory framework to mandate contracting authorities to follow this approach.

4.7. Monitoring

Monitoring the implementation of the risk management strategy is necessary to identify best practices or unsuccessful solutions and eventually to adapt the strategy (OECD, 2016^[32]). This evaluation needs to be undertaken regularly and involve the steering committee.

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