

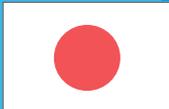
REPORT

GENDER AND PUBLIC PROCUREMENT

PREPARED BY

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REPORT

GENDER AND PUBLIC PROCUREMENT

Gender Analysis of the Public
Procurement Law in Lebanon 244/2021



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INTRODUCTION

INTRODUCTION

Governments around the world are the largest buyers. Procurement spending on goods, works, and services generates trillions of dollars in economic activity. It accounts for 12 percent of global Gross Domestic Product (GDP), representing 10 to 15 percent of the GDP in developed countries and up to 30 to 40 percent in least developed countries¹.

Efficient public procurement systems allow the public sector to achieve better value for money. However, beyond efficiency and value for money principles, public procurement is a lever to realize secondary objectives² important to society and the environment. Countries like Egypt, India, South Africa, Turkey and others where the size of public procurement reaches around 20% of GDP³ have successfully used public markets to generate new jobs and economic activity. Others like Chile, Colombia, etc. have actively pursued broader policy objectives in favor of sustainable development. Their policies proved to have substantive impact in promoting innovation, sustainability, social and gender inclusiveness, as well as supporting small and medium-sized enterprises⁴.

The Addis Ababa Action Agenda (AAAA) considered the establishment of transparent public procurement as a strategic tool to reinforce sustainable development.⁵ Such a global focus is a golden opportunity. Countries in crisis and governments suffering from shortages in budgetary resources have high interest in gearing their public procurement power towards achieving economic, societal and environmental goals. In Lebanon, public procurement accounts for 20% of public expenditures and 6.5% of GDP at central level⁶. It presents theoretically a great potential to advance social change and promote gender equality.

However, requirements favoring gender equality in public contracts are not well known. Obstacles and difficulties have not been sufficiently analyzed. Resistance may be due to deficient knowledge of the benefits that gender procurement may generate but also weak technical knowledge on how to introduce related measures.

Since 2015, Lebanon is engaged in implementing Agenda 2030 and achieving progress on the SDGs. To deliver this commitment, the successive Lebanese Governments (Hariri, 2019 and Diab, 2020) adopted the SDGs as part of the ministerial declarations⁷. A National Committee on SDGs, headed by the Prime Minister and composed of representatives from relevant ministries and public institutions, civil society and private sector was formed to advance the integration of SDGs in national policies. Efforts to develop a national database encompassing SDG indicators for follow-up and assessment purposes were structured. However, the multi-folds crises the country has been facing since October 2019 caused major shifts in government priorities.

1 Bosio, E. and S. Djankov. 2020. "How large is public procurement?". World Bank Blogs. 5 February. <https://blogs.worldbank.org/developmenttalk/how-large-public-procuremen>

2 Institut des Finances Basil Fuleihan, 2021. Fostering economic opportunities for women through public procurement

3 <https://blogs.worldbank.org/developmenttalk/how-large-public-procurement>

4 <https://www.oecd-ilibrary.org/sites/od83e1f9-en/index.html?itemId=/content/component/od83e1f9-en>

5 https://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

6 Institut des Finances Basil Fuleihan (2020). Economic estimate of the size of public procurement in Lebanon.

7 https://sustainabledevelopment.un.org/content/documents/26834Lebanon_General_Debate.pdf

I. Country context related to public procurement reform

Indeed, the current crisis Lebanon is facing is an unprecedented one. Lebanon's economy, although long thought resilient, is in deep crisis. Decades of economic policy mismanagement and entrenched state capture led the Lebanese economy and society to ruins. In October 2019, a financial crisis brought about by a sudden stop in capital inflows, precipitated banking, debt and currency crises. COVID-19 pandemic and the fallout from the deadly August 4, 2020 blast at the port of Beirut, left the country facing a dangerous socio-political crisis, the worst in its history.

With economic activity contracted by more than 25%⁸, and state revenues dropping by 40% due to economic slowdown and tax evasion, Lebanon's unsustainable public debt exceeded 170% of GDP. The economy's ability to generate formal job opportunities is now near to none. Meanwhile, poverty and crime rates are on the rise while inflation is spiraling. More than 55% of the population are suspected to have fallen below the poverty line by end-2020. Unemployment is rising rapidly (35% among youth), with brain drain becoming an increasingly desperate option leading to the loss of Lebanon's qualified and skilled labour force both in the private sector and public administrations.

The world bank has estimated the net external financing needs over 5 years at around USD10 billion under an optimistic economic scenario, that is most likely far from occurring due to the prolonged and deepening financial and socio-economic crisis⁹.

Building back better and restoring trust in the country and its institutions is dependent on restoring the political process and implementing structural economic, financial and social sector reforms. These are entry points to redirecting international support to put Lebanon back on a recovery track and meeting Agenda 2030 commitments.

Public procurement reform is one key structural reform to which the Government of Lebanon (GoL) is committed. It is one of the CEDRE¹⁰ Conference commitment (2018) and has been emphasized at many occasions by the International Support Group for Lebanon. It was included in the consecutive Lebanese Cabinets' ministerial statements (Hariri, 2019; Diab 2020; and Mikati 2021). Furthermore, due to its large impact on the quality-of-service delivery and its connection to corruption and mismanagement, public procurement reform has topped the list of demands by citizens and civil society groups who were mobilized to ensure efficiency and transparency of public spending. Public procurement reform was also cited as a condition by the international community to unlock support to Lebanon. The deliberations and recommendations of the international conferences held to support the Lebanese economy (international conventions in support of the people of Lebanon following the Port of Beirut explosion) reiterated the importance of advancing this reform.

Indeed, public procurement is a key pillar to enhancing fiscal governance and attracting needed public investments especially in infrastructure in light of the deterioration they are facing. Despite substantial funds allocated, Lebanon's ratio of capital investments-to-GDP is still low (1.8%) compared to the average of other upper middle-income countries (5% in 2018)¹¹ pointing to major inefficiencies and mismanagement.

In 2018, the Ministry of Finance (MoF) committed to public procurement reform, and conducted, through the National Focal Point – Institut des Finances Basil Fuleihan (IoF), the MAPS assessment¹² that resulted in a detailed report¹³ describing the current procurement system's shortcomings, gaps and risks, and presenting recommendations for reform.

8 World Bank sources

9 World Bank, Beirut Rapid Damage and Needs Assessment, August 2020

10 <https://blogs.worldbank.org/developmenttalk/how-large-public-procurement>

11 Lebanese Center for Policy Studies (2020), Public Resource Allocation in Lebanon: How Uncompetitive is CDR's Procurement Process?, URL: https://www.lcps-lebanon.org/publications/1595575975-cdr_article_july2020.pdf

12 Methodology for Assessing Procurement Systems (MAPS) was developed by the OECD to assess the performance of procurement systems, www.mapsinitiative.org

MAPS assessment showed that the degree of compliance of Lebanon's public procurement system with international standards is limited to 5%. It indicated the multitude of gaps within the system across four areas 1) Legal, Regulatory, and Policy Framework, 2) Institutional Framework and Management Capacity, 3) Public Procurement Operations and Market Practices and 4) Accountability, Integrity and Transparency. Some of the gaps that were detected included the lack of a coherent legal framework, with no strategic policy approach to public procurement as tool for financial governance and sustainable development. It pinpointed the absence of electronic procurement, the lack of alignment with international agreements, and an inefficient internal organization of procuring entities. This is coupled with the limited access to training and advice for practitioners/officials, and the no-data collection nor proper documentation of procurement processes.

In parallel, the IoF was mandated by the Minister of Finance to draft a new public procurement law based on MAPS recommendations, wide national consultations and in line with international standards and good practices. Submitted for parliamentary discussions as draft law in February 2020, the Public Procurement Law (PPL) was voted by the Parliament on June 30, 2021 and issued on July 19, 2021¹⁴. The law enters into force in July 2022.

The PPL no. 244, issued on July 19, 2021, is a major milestone of the reform process/ It is a positive step for Lebanon as it successfully aligns with international standards namely the UNCITRAL Model Law on Public Procurement (2011) and the OECD Guidelines (2016).

Eight guiding principles constitute the foundation of the PPL: inclusiveness, integration, efficiency and competition, transparency, integrity, accountability,

professionalization, and sustainability. The law also puts emphasis on both digitization and open data as well as economic and social outcomes from government contracts. Both emphases are in line with international standards and practices and have proved to bring large value in many countries such as Chile, Tunisia, Ukraine, the United Kingdom, and others, in the framework of comprehensive and whole-of-government procurement reform¹⁵.

II. Relevance of a gender analysis of the Public Procurement Law no. 244/2021

The commitment to promote gender equality is at the heart of the global development agenda, yet the progress is slow. Furthermore, setbacks due to the covid-pandemic threaten achievements of progress made. In what concerns labor market participation for instance, and despite commitment made by the G20 members before the covid pandemic to reduce the gender gap in the labor market by 25% by 2025¹⁶, gender inequalities are perpetuated, leading to billions of dollars of lost economic growth each year and large losses in gross domestic product across countries at all income levels (Stotsky 2016)¹⁷.

To achieve the goals of the 2030 Agenda for sustainable development, member states had committed to a "significant increase in investments to close the gender gap." At the Third International Conference on Financing for Development, they committed to tracking gender equality allocations and increasing the transparency of public spending. Furthermore, at its 60th session the Commission on the Status of Women called on States to support and institutionalize gender responsive budgeting and tracking public expenditure in this perspective.

13 Lebanon MAPS Assessment Report (2021), URL: http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/03/Lebanon-MAPS-Report-final-revised-Jan2021_comp_compressed.pdf

14 Public Procurement Law no. 244/2021, dated July 19, 2021 (Arabic), URL: <http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/07/Public-Procurement-Law-Official-Gazette-web-1.pdf>

15 Institut des Finances Basil Fuleihan, 2020. Public Procurement: A key lever for sound governance and economic recovery

16 Islamic Development Bank, 2019. Guidance Note on Social, Gender and Sustainable public procurement in Islamic Development Bank financed procurement. <https://www.isdb.org/project-procurement/sites/pproc/files/media/documents/IsDB%20-%20Guidance%20Note%20-%20Gender%20Consideration%20Social%20and%20Sustainable%20Public%20Procurement%20-%20FINAL%20%281%29.pdf>

17 Stotsky, J. 2016. "Gender Budgeting: Fiscal Context and Current Outcomes." IMF Working Paper 16/149, International Monetary Fund, Washington, DC.

This call was echoed in major assessments of public financial management (PFM) systems namely the PEFA framework (Public Expenditure and Financial Accountability). A (PEFA) supplementary framework for assessing gender responsive public financial management (GRPFM)—the PEFA GRPFM framework—is now proposed with a set of supplementary indicators allowing to collect information on the degree to which a country’s public financial management (PFM) system addresses the government’s goals with regard to acknowledging different needs of men and women and promoting gender equality.

Public procurement is about resources management within the PFM cycle. It is thus evident to look at gender and public procurement from a perspective aligned with GRPFM with a focus on the budget planning and budget execution phases. In this case, a well planned and efficiently executed procurement becomes a policy tool to foster gender equality and women empowerment, and a lever to closing the gender gaps in development.

Global statistics have shown that only 5% to 20% of the US\$13 trillion spent annually on public procurement is awarded to women-led businesses¹⁸, mostly in urban areas. International reports pointed to two main challenges: first, a perception that women entertain that they are not “good enough” or “qualified enough” to enter a competitive bidding process. Second, they lacked knowledge about how to access the procurement market and where to find opportunities. Also, there is a disparity between men and women participation in procurement across sectors, pointing to the need to target areas where women lag behind.

A good example of government investment in the supply chain in pursuit of secondary objectives is the experience of ChileCompra¹⁹ which runs the ‘Mercado Publico’, a public procurement platform for SMEs on which the equivalent of 4.2% of Chile’s GDP was traded in 2016. ChileCompra used the platform to

launch a women’s certification scheme and successfully pushed the government to advise that gender criteria be included in all government purchases.

Another example is Colombia where additional political attention was given to the importance of gender-responsive procurement after the outbreak of the COVID-19 pandemic that led to higher unemployment of women. The government started to publish gender-disaggregated data about its public procurement operations using the Open Contracting Data Standards (OCDS). The collected data was used to analyze the difference in women’s participation by sector, region and value of contracts, and to gear public policies in that respect.

In Lebanon, economic competitiveness (88 out of 141 countries) has been on the decline. The country’s ranking on the ease of doing business is deteriorating (143 out of 190 countries) steadily. The current economic and financial crisis has aggravated the situation, with deterioration of revenues, closure of businesses and an unprecedented hemorrhage of human capital out of the country.

Women-led businesses in Lebanon are currently facing tremendous challenges, coupled with existing barriers to access new markets. According to the World Bank Enterprise Survey (2019), the share of firms in Lebanon that are co-owned by women is 9.9%²⁰, concentrated in lower value sectors and they struggle to grow, finding it hard to access finance and markets. Women have fewer opportunities to access finance for their business operations than men do. In terms of securing financing, only 31% of female-led firms have a bank loan or line of credit compared to male-led firms (40%). Access to finance is identified as a main constraint to female-led businesses.²¹ The gender gap in Lebanon is pronounced in the fields of economic participation and opportunity. Female labor force participation in Lebanon is still very low (25% at the end of 2019, representing a third of the male labor force participation rate).

18 Open Contracting Partnership

19 Chile Compra is the public procurement agency managed by Chile’s Ministry of Finance.

20 <https://arabstates.unwomen.org/en/digital-library/publications/2020/10/brief-overview-of-recovery-support-for-women-owned-businesses-impacted-by-the-beirut-blast>

21 World Bank; UN Women. 2021. The Status of Women in Lebanon : Assessing Women’s Access to Economic Opportunities, Human Capital Accumulation and Agency. World Bank, Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/36512> License: CC BY 3.0 IGO.

In addition, there are several structural constraints that carry the seeds of discrimination and women's vulnerability are rooted in laws and regulations, sectarian dynamics, socio-cultural values, decision-making structures, public policies and development strategies, ongoing conflict and security problems, and a rise in social conservatism. More recently, the Status of Women report issued by the World Bank stated that 'despite progress made to date, gender inequality is endemic to all aspects of life in Lebanon, starting with its legal foundation'. There is ambiguity surrounding the gender-based discrimination provisions of the country's national supreme law. With a score of 52.5 out of 100 in the Women Business and the Law Index, Lebanon scores slightly higher than the regional average but notably lower compared to the average of upper-middle-income countries. Lebanon's low ranking is reflected in its legal framework.

In a country where SMEs constitute more than 95% of enterprises, government contracts have been awarded to a cartel of large companies, mostly dominated by politically connected male executives, leaving little space for effective competition²², leading to mismanagement of procurement and blocking market diversification. According to the World Bank²³, barriers to SMEs participation in public contracts include the inadequate capacity to participate, delayed payments, lack of access to credit, the fragmented legal framework, the inadequate access to procurement opportunities, fraud and corruption, the lack of standardized procedures and the absence of efficient complaints mechanisms. Changing the rules of the game and reforming public procurement thus holds large potential for women led businesses. It is a door opened for women economic empowerment by breaking previous barriers to equal participation opportunities²⁴. This is hoped to lead to increased participation of WSMEs in public procurement and thus the promotion of decent well-paying job opportunities for women. Indeed, Lebanon by women is estimated at 9.9%²⁵.

22 Lebanese Center for Policy Studies (2020), Public Resource Allocation in Lebanon: How Uncompetitive is CDR's Procurement Process?, URL: https://www.lcps-lebanon.org/publications/1595575975-cdr_article_july2020.pdf

III. Gender analysis matrix summary

1. **The Public Procurement Law no. 244/2021, although not explicit on gender considerations, provides all legal foundations necessary to inspire a transformative conceptualization of gender-responsive procurement policies** that support both equal market opportunities for women's enterprises to access public markets, and equal outcomes for women in the labor market. It allows the setting up of a GRP ecosystem, prerequisite for the transformation, and paves the way for concrete ways to make this vision a reality.
2. **Based on these foundations, a number of actions may be proposed to the relevant authorities** to advance gender-responsive procurement (GRP) and to broaden as well the scope from a focus on only promoting women's enterprises to also include gender-responsive enterprises. These actions encompass secondary legislations, awareness, training, guides, etc.
3. The Law is deeply rooted in the international norms set out by UNCITRAL and the OECD. It emphasizes competitive practices, and sustainability considerations as per below:

A- Enhanced frameworks for competitions:

The PPL includes provisions that contribute to **guaranteeing equal and fair opportunities to all potential suppliers** to participate in procurement on competitive basis through:

- a. **Ensuring that competitive measures are the general rule** and the standard procurement method, as a means to enhancing efficiency and fighting corruption; this was not the case previously.
- b. Adopting strict controls to limit the **recourse to mutual agreements**;

23 <https://blogs.worldbank.org/governance/gender-and-equality-public-procurement>

24 <https://sdgs.un.org/goals>

- 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 of all;
- 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. This replaces an old and archaic "classification" process that was ill governed and acted as a barrier for entry of new comers into the public markets.

B- Sustainability is one of the Law's guiding principles

It is explicitly aligned with the global development agenda while providing room for strategic approaches to public procurement to address economic and societal challenges through the power of public spending. The PPL:

- a. 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;
- b. **Directs** the Lebanese government procurement capacity, when possible, **towards sustainable goods and services** with a view to minimize the environmental impact and achieve economic and social objectives, while ensuring a balance between potential benefits and achieving the best value for money;
- c. **Provides incentives to SMEs**, local production and national expertise;
- d. **Allows for procurement to be divided into lots**, when possible, for the purpose of guaranteeing social and economic benefits;
- e. **Provides preference regulations with regard to domestic products, consulting services and expertise**, and guarantees that such products, services and expertise shall not be excluded if they are available and their quality thereof meet technical requirements;

- f. **Uses clear, integrated and standardized bidding documents**, binding for all parties;
- g. **Provides an appropriate range of procurement methods** that include competitive procedures, to ensure best value for money and only eligible bidders are involved.

In addition, there are several structural constraints that carry the seeds of discrimination and women's vulnerability are rooted in laws and regulations, sectarian dynamics, socio-cultural values, decision-making structures, public policies and development strategies, ongoing conflict and security problems, and a rise in social conservatism. More recently, the Status of Women report issued by the World bank stated that 'despite progress made to date, gender inequality is endemic to all aspects of life in Lebanon, starting with its legal foundation'. There is ambiguity surrounding the gender-based discrimination provisions of the country's national supreme law. With a score of 52.5 out of 100 in the Women Business and the Law Index, Lebanon scores slightly higher than the regional average but notably lower compared to the average of upper-middle-income countries. Lebanon's low ranking is reflected in its legal framework.

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DETAILED ANALYSIS

To understand in details the potentials that the law holds, a detailed analysis from a gender perspective of relevant articles of the Public Procurement Law no.244/2021 is below presented, pinpointing underlying opportunities for women and women-led businesses.

The English unofficial translation of the PPL was used to identify and pinpoint articles within the Law that could set the ground for a gender-responsive public procurement in Lebanon.

Gender Analysis of Public Procurement Law no. 244/2021

Article Number	Article title and paragraph	Analysis
1	<p>Objectives and General Principles of the Law</p> <p>This Law shall set out the rules for conducting, implementing and controlling public procurement. It shall be based on the following principles:</p> <ol style="list-style-type: none"> 1. Application of competitive proceedings as a general rule; 2. Providing for equal opportunities to participate in public procurement; 3. Providing for the fair treatment, transparency and equal opportunities to all bidders and contractors; 4. Integrity, public aspect and professionalism of the procurement proceedings, in such a way to enhance control and accountability; 5. Promoting the local economy development and national production, based on the best value for public money, while maintaining maximum efficiency. <p>Procurements shall be subject to good governance rules and take into consideration the requirements of sustainable development.</p> <p>No exceptions shall be applied to this law.</p>	<ul style="list-style-type: none"> • The objectives and general principles of the new PP law set out by Article 1 include competition, equal opportunity, fair treatment of bidders, integrity, professionalism, and promotion of the local economy; <p>Article 1 consolidates the law as one that gives women and men equal rights and ensures “fair treatment” conforming to international standards.</p> <p>This article sets the basis for the governance of the procurement system in alignment with the principles of sustainable development.</p> <p>It constitutes a solid legal foundation on which legal arguments can be built / incorporated in secondary legislations to encourage women-led startups/businesses and SMEs where the concentration of women is higher, to participate in public procurement opportunities.</p>
3	<p>Scope of Application</p> <ol style="list-style-type: none"> 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, or unrestricted donations, subject to the provisions of the international treaties and agreements 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 of this Law. 	<p>Section 1 of Article 3 defines the scope of application of the PPL. The PPL is applied to all types of procurement, whatever is the source and mode of financing. Furthermore, the law applies to ALL spenders. The “procuring entity” is defined in Article 2 of the PPL to be “The State and the administrations and public institutions thereof, independent administrative bodies, courts having their own budgets, bodies, councils, funds, municipalities and federations of municipalities, security and military entities (institutions, administrations and units thereof), diplomatic legations abroad, regulatory bodies, companies where controlling stakes are owned by the State and working in a monopoly environment, public utilities run by private companies for the benefit of the State, and any common law persons spending public funds”.</p> <p>Consequently, the scope of application of the PPL is large and covers various government levels and economic sectors. This clause increases the chances of businesses including women-led businesses to access the market and provide goods and services to the State, and potentially execute public works.</p>

Article Number	Article title and paragraph	Analysis
7	<p>Conditions of Bidders Participation</p> <p>II - Qualifications of bidders: 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.</p>	<p>Articles 7 ensures that no discriminative criteria exist between bidders, ultimately making the public procurement process a fairer one. The country has an uncompetitive procurement track record where 60% of total CDR spending (2008-2018)—or \$1.9 billion—was granted to only 10 companies, owned and mostly led by politically-connected figures reflecting favoritism and unbalanced market conditions.²⁶</p> <p>It will take a long time to regain trust in the system and for women and men to test the impartiality of the new public procurement procedures in Lebanon.</p>
8	<p>Exclusion of a bidder from the procurement proceedings on the grounds of inducements from the bidder, an unfair competitive advantage or conflicts of interest</p> <p>1. A procuring entity shall exclude a bidder from the procurement proceedings if: a. The bidder commits any violation, prohibited act by virtue of this Law, infamous crime or any crime covered by the Anti-Corruption law, 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 in violation of the provisions of this Law and the laws in force.</p> <p>2. Any decision of the procuring entity to exclude a bidder from the procurement proceedings under this article and the reasons therefore shall be included in the record of the procurement proceedings and communicated to the bidder concerned.</p>	<p>Given the previous record of corruption, political interference, and fraud creating major barriers to entry, this article is of major importance.</p> <p>Article 8 encourages more businesses and startups to participate in PP opportunities by calling for a fair and honest selection process between bidders, who, as the article lays out, could be subject to exclusion from the procurement proceeding on grounds of inducements from the bidder, unfair competitive advantage or the presence of a conflict of interest.</p> <p>This article thus guarantees that all bidders would compete on equal grounds therefore raising women’s chances of being selected for or awarded public contracts.</p> <p>Furthermore, this Article provides grounds for trust in the system since every exclusion decision would be explained and documented in the national record of procurement proceedings itself accessible to all.</p>

26 Lebanese Center for Policy Studies (2020), Public Resource Allocation in Lebanon: How Uncompetitive is CDR’s Procurement Process?, URL: https://www.lcps-lebanon.org/publications/1595575975-cdr_article_july2020.pdf

Article Number	Article title and paragraph	Analysis
9	<p>Documentary record of procurement proceedings</p> <p>1. The procuring entity shall establish a record of all information related to the procurement process, where all procurement proceedings shall be kept, and relevant files shall be created and saved. This record shall be made available in accordance with the provisions of this Article, and considered as an easy-to-access information reference, and shall be saved electronically, if available, and shall include the following information:</p> <p>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;</p>	<p>Section 1.g under Article 9 reflects the importance of application of socio-economic policies across procurement operations. These shall be observed by procuring entities when documenting these operations in the record.</p> <p>What is interesting is the possibility to use the documentary records for the purpose of evaluation, monitoring and adjustments of policies based on the results of their application.</p>
10	<p>Code of Conduct</p> <p>The Public Procurement Authority shall enact, by virtue of a regulatory decision, a code of conduct, good professional ethics, and good citizenship in relation to public procurements processes, for all officers of the procuring entities and contractors thereof, provided that such code includes, inter alia, the standards referred to in this Law, in particular such standards related to integrity, transparency and prevention of conflict 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.</p>	<p>Along with other integrity provisions across the PPL, Article 10 contains an obligation to have, for the first time in Lebanon for public procurement particularly, a unified and recognized code of conduct to foster the culture of integrity, transparency and accountability</p> <p>The particularity of this article is that it concerns both public and private entities, i.e. both sides the demand and supply, of the procurement market.</p> <p>Operating in an environment that fosters integrity is another condition for building trust.</p>

Article Number	Article title and paragraph	Analysis
11	<p>Procurement Planning</p> <p>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 Authority. 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:</p> <ol style="list-style-type: none"> 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; 	<p>Procurement planning is a practice that helps the procuring entity better forecast its future needs and inform the market about them.</p> <p>Within the planning exercise, the procuring entity may consider pursuing specific policy goals and objectives such as gender mainstreaming or environmental sustainability. It is during the planning stage that procuring entities may harness the power of public procurement to shape markets to promote the development of women's entrepreneurship and women's economic empowerment.</p> <p>Procurement planning proceeds the preparation of the budget and thus allows the budgeting exercise to become an opportunity for reflecting on gender-equitable distribution of resources.</p>
14	<p>Division of the procurement into lots</p> <p>1. A procuring entity is entitled to divide the procurement into independent portions only in the following two cases:</p> <ol style="list-style-type: none"> 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. 	<p>Allowing for the division of procurement into independent lots (Point 1 of Article 14) ultimately increases the number of public procurement opportunities available for WSMEs to participate. WSMEs in Lebanon usually lack access to finance and operate on a smaller scale. Traditionally they were excluded from the procurement market because allotment was not permitted and large suppliers favored.</p> <p>This provision of the law which allows division of the procurement into lots makes it possible for small businesses to submit bids for the specific lot that is within its capacity and area of specialization.</p> <p>Also, point 1b of Article 14 specifies that allotment is to be used when a development policy is to be applied and this specific points paves the ground for using allotment that may serve gender-responsive policies.</p>

Article Number	Article title and paragraph	Analysis
15	<p>Sustainability and development policies</p> <p>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.</p> <p>2. 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.</p>	<p>Article 15 recognizes the need for the public sector to constantly pursue sustainable development policies when it comes to public procurement operations. This opens wide the possibility to use procurement in a strategic way to support women’s enterprises through for example a “buy from women-owned” approach, focusing on enterprises certified to be owned or led by women.</p> <p>Based on this article, secondary legislations may be developed to setting aside 20% of public contracts for women-owned businesses, opening procurement opportunities for targeted sectors where the concentration of women-led and owned businesses is higher or setting tax exemption policies for WSMEs winning public contracts.</p> <p>This encourages more women to open up businesses, enter into the market and participate in public procurement projects; that promote local production and strengthen the economy.</p> <p>To maximize the benefits of such practices, they need to be regulated through decrees to be issued by the Council of Ministers at the suggestion of the Public Procurement Authority.</p>
16	<p>Domestic Preferences</p> <p>1. Contrary to any other provision, proposals containing supplies or services of national origin may be given a ten (10) percent ratio preference over proposals containing foreign supplies or services. Preference shall be given to proposal components of national origin. National supplies and services and the specifications thereof required to benefit from such preference are determined according to the rules of origin.</p> <p>2. It is forbidden to include, in the bidding documents or pre-qualification documents, provisions that exclude supplies/goods manufactured in Lebanon or Lebanese consulting and intellectual services if such supplies or services are available and the quality thereof meet the technical requirements.</p>	<p>Article 16 provides for incentives to the participation and selection of domestic businesses or locally produced supplies, goods or services.</p> <p>This article serves in favor of promoting SMEs/WSMEs, namely national industry and know-how. It is a particularly advantageous article, an opportunity to cease.</p> <p>The PPL clearly provides an incentive to Lebanese products and services by protecting them from exclusion when they meet technical requirements, which encourages industrialists, businesses, creatives, producers, etc... to continue providing high quality products and innovative solutions to better compete and extend their shares in the procurement market.</p>
22	<p>Validity of the proposal</p> <p>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 when it is received by the procuring entity prior to the deadline for submission of tenders.</p>	<p>Article 22 stipulates that in case of a bidder’s withdrawal from the tendering procedures he/she does not have to lose the bid security, which is an element encouraging SMEs, including WSMEs. to participate in public procurement by protecting them from the risk of piling on unnecessary losses.</p>

Article Number	Article title and paragraph	Analysis
23	<p>Collective proposals or joint tenders</p> <p>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.</p> <p>Other conditions of participation set forth in this article shall be specified in the documents relative to each procurement.</p>	<p>Article 23 supports SMEs, including WSMEs, by making it possible for two contractors/suppliers/service providers to collaborate on the execution of one contract through collective proposals or joint tenders.</p> <p>It makes it possible for small businesses to work together to deliver a specific part of a project/bid that within its capacity and area of specialization.</p> <p>This article provides SME/WSME with the opportunity to build their portfolio with a track record in public markets. This would in turn qualify them to bid for larger projects/opportunities.</p> <p>This article is also beneficial in the case of local government procurement (municipalities and unions of municipalities). Local government Procurement is:</p> <ul style="list-style-type: none"> - perfect for local businesses that operate on a small scale and cannot meet large nationwide government contracts requirements - an opportunity for SMEs to acquire a steady stream of profit which they could then re-invest into their businesses and contribute to local economic development.
30	<p>Subcontracting</p> <p>2. For contracts of works and services, if the bidding documents so authorize, the contractor may contract a subcontractor to execute part of the contract within the allowed percentage thereof specified in the bidding documents, provided that such percentage does not exceed 50% of the contract value. The contractor shall seek prior approval for subcontracting from the contracting authority, which shall reach a decision of approval or justified rejection within a period of time specified in the terms of the contract. Once such a period has expired, silence of the contracting authority shall be considered as an implicit decision of acceptance.</p>	<p>Article 30 supports the increased participation of small businesses. By making it possible for the main contractor to subcontract another contractor to execute a different part of the project/contract as long as it does not exceed 50% of the total contract value. This article provision gives the possibility for women-led businesses to work on and deliver a specific part of the project that is within their capacity and area of specialization.</p> <p>Article 30, similar to Article 23, is also beneficial in the case of local governments to encourage local businesses operating on a small scale to participate and give them a chance to access a steady stream of profit which they could then re-invest into their businesses.</p>

Article Number	Article title and paragraph	Analysis
34	<p>Bid Security (Or Bid Guarantee)</p> <p>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 and does not exceed three percent of the estimated total value of the procurement project.</p> <p>2. The performance guarantee shall not be mandatory to the procurement projects estimated at less than (500) five hundred million Lebanese pounds. This value can be modified by a recommendation of the Public Procurement Authority and a decree issued by the Council of Ministers upon a suggestion of the President thereof, provided that such modification does not lead to the violation of the objectives of this Article and the principles established by this Law.</p> <p>3. The bid security shall not be mandatory in cases of direct contracting specified in Article 46 of this Law.</p>	<p>1. The bid security assigned as a lump sum that does not exceed 3% of the estimated total value of the procurement project does not hinder the participation of small businesses due to its limited cost on bidders. It makes it possible for a larger number of companies and businesses, small and large, to apply.</p> <p>2 & 3. The fact that a bid security is not mandatory for contracts less than 500 million L.L. (or an adjusted sum decided upon by the PPA and the Council of ministers) and in the case of direct contracting; is an opportunity and an incentive for SMEs, including WSMEs, who have smaller finances and cannot afford to pay a bid guarantee.</p> <p>The fact that this guarantee could be modified upon recommendation of the PPA also opens the door to potential flexible treatment that the PPA could do in application to policy in favor of encouraging WSMEs to participate.</p>
37	<p>Payment of the contract value</p> <p>1. The contract value shall be paid after the execution thereof pursuant to the provisions of article 5 of this Law.</p> <p>3. a. The contract may allow the contracting authority to pay the contractor advances not exceeding (20) twenty percent of the contract value, provided that such advances do not exceed in any case a threshold of one billion Lebanese Pounds. Such threshold may be modified upon a recommendation by the Public Procurement Authority, and by virtue of a decree issued by the Council of Ministers upon the proposal of the President of the Council of Ministers, provided that such modification does not lead to a violation of the objectives of this article and the principles established by this Law. The contracting authority may, if the value specified in this paragraph has been exceeded, and if the terms of the contract so stipulate, pay the contractor advances in exchange for bank guarantees, after a notice thereof is sent to the Public Procurement Authority.</p>	<p>This article provide safeguards for guaranteeing payment to the contractor on time. Payment is an important barrier to entry of SMEs as reiterated in many studies and consultations.</p> <p>This article creates a conducive ecosystem for SMEs and WSMEs to enter the public markets; these entities currently consider delayed contract payment as a main impediment to participation to public procurement.</p> <p>The possibility to apply payment of advances on contract execution is also an incentive to women-led businesses to enter the field of public works that is currently mostly dominated by men-led contracting companies.</p>

Article Number	Article title and paragraph	Analysis
41	<p>Procurement methods</p> <p>1. The procuring entity may conduct procurement by means of:</p> <ul style="list-style-type: none"> • Open tender in accordance with the provisions of Article 42 and Section 2 of this Chapter, • Two-stage tendering in accordance with the provisions of Articles 42 and 43 and Section 3 of this Chapter, • Request for quotations in accordance with the provisions of Articles 42 and 44 and Section 4 of this Chapter, • Request for proposals for consulting services in accordance with the provisions of Articles 42 and 45 and Section 5 of this Chapter, • Direct contracting in accordance with the provisions of Articles 42 and 46 and Section 7 of this Chapter, • Shopping (or by invoice) in accordance with the provisions of Articles 42 and 47 and Section 6 of this Chapter, <p>2. The procuring entity may engage in a framework agreement procedure in accordance with the provisions of Section 8 of this Chapter.</p>	<p>Competitive procedures are the general rule to secure efficiency, equal and fair opportunities for all bidders, fight corruption, limit mutual agreements and introduce new and modern procurement methods.</p> <p>Article 41 Introduces a comprehensive range of procurement methods, proportionate to the nature and value of the contracts to be concluded, in the aim to increase competition.</p> <p>Three new procurement methods in Lebanon are introduced: two-stage tendering, request for proposals for consultancy services, and framework agreement.</p> <p>The new methods as well the detailed measures stipulated for each provide for a healthier competitive environment and well explained procedures.</p> <p>However, these methods need to be explained well to SMEs and WSMES so that they have a good understanding of their conditions and requirements and would succeed in preparing successful bids. A guide to SMEs/WSMES is of utmost necessity. Also a hands-on training program dedicated to help them prepare winning bids.</p>
42	<p>General rules applicable to the selection of a procurement method</p> <p>2. If the open tendering is not possible because the requirements thereof are not met and another method is used, the procuring entity shall seek to raise competition to the maximum extent practicable.</p> <p>3. If the procuring entity uses a method of procurement other than open tendering, it shall issue an explicit and justified decision to be included in the record required under Article 9 of this Law with a statement of the reasons and circumstances upon which it relied to justify the use of that method.</p>	<p>The PPL promotes open competition as a general rule. Article 42 emphasizes that competition shall be the ultimate objective of any procurement market, even if another method (other than the open tendering) is applied.</p> <p>It mandates that justification for the use of a method other than the open tendering be published in the national procurement record so that the market and all concerned stakeholders are aware of the justified choices of the procuring entity.</p> <p>This practice will limit the use of uncompetitive and unfair procurement methods; the procuring entities will be able to optimize their procurement approach taking into consideration the size and complexity of the contract and the position of the supply market.</p> <p>Again, putting such stringent safeguards to ensure fair competition augurs the creation of a market where equal treatment is the rule.</p>

Article Number	Article title and paragraph	Analysis
43	<p>Conditions for use of the two-stage tendering</p> <p>1. A procuring entity may engage in procurement by means of two-stage tendering in accordance with Section 3 of this Chapter where:</p> <p>a. It is not possible for the procuring entity to define the subject matter of the procurement, due to the complexity of the nature thereof, and to formulate it with the required accuracy pursuant to the provisions of Article 17 of this Law. In such an event the procuring entity has to right to enter into discussions with bidders in order to obtain the most satisfactory solution to its procurement needs; or</p> <p>b. An open tender was engaged in by the procuring entity for two consecutive times, but no tenders were presented, or the procurement was cancelled by the procuring entity pursuant to paragraphs 3 and 4 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.</p>	<p>Article 43 introduces a new procurement method that allows the procuring entity to interact with potential suppliers or contractors to provide a description of its needs and the terms and conditions of the procurement.</p> <p>This is an innovative approach. It opens dialogue between procurers and the market, allows procurers to efficiently specify their needs, saves time and grants better procurement outcomes, provided the process is applied with high standards of integrity.</p> <p>The participants will disclose their proposed technical solutions. The procuring entity will use the information to finalize the specifications and prepare the tendering stage.</p> <p>Two stage tendering and dialogue is a practice that allows innovative products/services to be brought to the attention of the procurers and breaks the barrier to entry of new comers among them SMEs and WSMES.</p> <p>However, this method need to be explained well to SMEs and WSMES so that they have a positive interaction with procurers</p>
45	<p>Conditions for use of request for proposals for consulting services</p> <p>A procuring entity may engage in procurement by means of request for proposals in accordance with Section 5 of this Chapter, when the procuring entity is purchasing consulting services which main theme is to provide services that have an intellectual or an artistic effect.</p> <p>Consulting services include, but are not limited to:</p> <ul style="list-style-type: none"> • Training, control, IT software programming projects and other specialized consultancy work; • Preparing studies, designs and bidding documents, monitoring the implementation of works and projects, and monitoring the provision of services. <p>In such case, the procuring entity shall examine the financial aspects of the proposals separately and only after the technical, qualitative and performance specifications of the proposal have been examined and evaluated.</p>	<p>Contrary to the current practice (under the Public Accounting Law) where procurement of services is regulated by one single provision (Art. 150) that allows single sourcing of consultancy services without any competition nor a ceiling for the contract value, Article 45 of the PPL defines the conditions for use of request for proposals for consulting services.</p> <p>Procurement of services may constitute up to 70% of contracts. The old practice was uncompetitive and prohibitive of new entrants.</p> <p>This new provision is a great stimulus to the market, especially in the business sectors where women-led businesses have a competitive edge.</p> <p>However, this method need to be explained well to SMEs and WSMES so that they have a good understanding of its requirements and would succeed in preparing successful bids.</p>

Article Number	Article title and paragraph	Analysis
46	<p>Conditions for direct contracting</p> <p>A procuring entity may engage in direct contracting in accordance with the provisions of Section 7 of this Chapter in the following exceptional circumstances:</p> <ol style="list-style-type: none"> 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. In emergency and relief cases following an unexpected catastrophic event, where engaging in any other method of procurement would be impractical; 3. When the procuring entity needs to enter into contract with the main contractor where the following conditions are jointly met: <ol style="list-style-type: none"> a. The need occurs during the execution of the contract; b. There is an extreme urgency with an obligation to enter into contract in order to prevent delays in execution; c. There is a need for the standardization of specifications and compatibility with existing goods, equipment, technology, services or works; d. Additions do not change the basic objective of the contract, harm the economy thereof or prejudice the principle of competition; e. Goods, works or services are considered to be complementary to the original procurement and form a constituent thereof, or the works have to be carried out on location; f. The supplementary need was not foreseeable during the initial contracting process. 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, by virtue of a decision taken by the Council of Ministers upon the proposition of the competent minister who determines the confidential nature of the procurement and the reasons for direct contracting; 5. When contracting public law entities such as public institutions, municipalities or international organizations, in cases where such contracting does not constitute unfair competition with the private sector. 	<p>By setting clear and strict provisions to regulate the use of direct contracting, the PPL is protecting all types of businesses from the abuse of using single sourcing procurement and excluding other bidders.</p>

Article Number	Article title and paragraph	Analysis
47	<p>Conditions for the Use of Shopping (Or by invoice) Method</p> <p>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, including the consulting services, does not exceed (100) one hundred million Lebanese pounds. This value can be modified by a recommendation of the Public Procurement Authority and by a decree issued by the Council of Ministers upon a proposal made by the President of the Council of Ministers, provided that this modification does not lead to a violation of the objectives of this article and the principles established by this Law.</p>	<p>Article 47 is beneficial to SMEs, including WSMEs, operating on a small scale and that cannot meet requirements of complex government contracts, to enter the procurement market, build a portfolio, and innovate to meet the diversified and variant needs of the public sector for small goods and services.</p>
48	<p>Conditions for use of a framework agreement procedure</p> <p>1. A procuring entity may engage in a framework agreement procedure in accordance with Section 8 of this Chapter in one of the following cases:</p> <ol style="list-style-type: none"> a. When the need is expected to arise frequently and on uncertain dates; b. 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. <p>2. The framework agreements shall be concluded in cases of central procurement of goods, services and simple works included in a decree issued by the Council of Ministers for this purpose based on the recommendation of the Public Procurement Authority, in accordance with the provisions of the second paragraph of Article 3 of this Law. Otherwise, the procuring entity shall inform the Public Procurement Authority of its intention to use the framework agreement at least (10) ten days before the commencement of the procedures. The procuring entity shall not use framework agreements to prevent or limit competition.</p> <p>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.</p>	<p>Article 48 introduces a new procurement method in Lebanon that allows to stimulate the market, especially for SMEs, including WSMEs, to participate and offer competitive prices and good quality.</p> <p>While framework agreements allow better administrative efficiency and reduce the use of “urgent procurement” that often occurs at high costs, it enhances SME participation, and ensures continuous supply of needed services/works or goods.</p> <p>However, the use of framework contracts is new in the Lebanese market and the enterprises are not familiar with its mechanics and conditions. They would need to be trained to deal with framework contracts, to learn how to submit bids and manage them successfully.</p>

Article Number	Article title and paragraph	Analysis
51	<p>Provision of Bidding Documents</p> <p>The procuring entity shall make the bidding documents available to bidders on its website, if any, and on the central electronic platform of the Public Procurement Authority 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.</p>	<p>Article 51 mandates easy access to bidding documents on the central electronic platform that will be open to all.</p> <p>This open access is most beneficial for SMEs and WSMEs because it allows them access to timely information about procurement opportunities and procedures. One of the most cited barrier to enter public markets is the lack of access to information.</p> <p>In addition, this article forbids the abuse in pricing of bidding documents by procuring entities, by stating explicitly that the price that may be charged for the bidding documents shall reflect only the cost of providing them to bidders.</p> <p>This provision dismantles another unnecessary barrier to the participation of WSMEs in public contracts.</p> <p>This article allows the market and society to have an eye on the content of these tender documents (at no cost) and to raise the voice each time such documents contain discriminatory clauses in favor of a specific category of suppliers or contractors or a clause presenting a disadvantage.</p> <p>Article 51 is complemented by Article 52 that stipulates the detailed content of the bidding documents to guide procuring entity while preparing them.</p>
55	<p>Evaluation of tenders</p> <p>3. 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 the tender thereof, in writing, or ask the bidder to present or complete the information or the relevant documents within a specific period, provided that all communications are in writing and that transparency and equal treatment among bidders are observed in requests for clarification or completion of documents, subject to the provisions of Article 21 (section II, paragraph 3) of this Law.</p>	<p>Article 55 stipulates that the procuring entity must deal with incomplete or wrong information or documents, in a manner that prioritizes equal treatments between bidders and transparency of the process.</p> <p>This is again providing the foundation for equal and fair treatment and abolishes previous discriminatory measures applied as the previous public accounting law was silent on this matter.</p>
56	<p>Prohibition of Negotiation with Bidders</p> <p>Negotiations between the procuring entity and a bidder with respect to a tender submitted by that bidder shall be prohibited.</p>	<p>Article 56 prohibits negotiations between the procuring entity and a bidder in relation to a tender submitted by that bidder.</p> <p>This article thus ensures that there is no room for special treatment, bribery and unfairness which discourage SMEs, including WSMEs, to participate in the procurement market.</p>

Article Number	Article title and paragraph	Analysis
57	<p>Procedures for two-stage tender</p> <p>6. A bidder not wishing to present a final tender may withdraw from the tendering proceedings without forfeiting any tender security that the bidder may have been required to provide.</p>	<p>Article 57 stipulates that in case of a bidder's withdrawal from the tendering procedures he/she does not have to lose the bid security,.</p> <p>As SMEs and WSMEs run on tight cashflow, this article protects SMEs, including WSMEs, from the risk of piling on unnecessary losses, thus providing again incentives for them to participate to the public market</p>
58	<p>Procedures for request for quotations</p> <p>3. The number of invited bidders shall not be less than three.</p> <p>4. 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 (10) ten days prior to the deadline for submission of proposals. The duration may be reduced to (5) five days by a reasoned decision when such reduction is justified, and the reason thereof shall be recorded in the procurement proceedings record required under Article 9 of this Law.</p>	<p>Article 58 articulates that even for low value procurement tendering process, a minimum degree of competition has to be ensured, through a number of invited bidders not to be less than three.</p> <p>The provision is in line with the emphasis put on widening scope of competition and opening it to the largest number of willing bidders..</p> <p>Granting a minimum of 10 days as duration of notice for bidders to prepare their proposals is also an indication for fair treatment and respect of the principle of competition.</p>
66	<p>Electronic procurement system</p> <p>The Public Procurement Authority 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.</p> <p>The e-procurement platform shall include an electronic registration mechanism that allows suppliers, contractors, consultants and service providers to register online to be eligible to participate in electronic public procurement.</p> <p>The platform shall allocate special pages to submit and receive proposals electronically. Such pages shall be functioning only from the date of launching the competition until the time of 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.</p> <p>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 unified portal for conventional announcements, and for use of standard documents.</p>	<p>This Article establishes, for the first time in Lebanon, a digital solution to be used in procurement operations (central electronic platform) which is in line with the principles of transparency and integrity.</p> <p>The central electronic platform, and in the future a full e-procurement system, ensures easy access to information, which is beneficial to SMEs, including WSMEs, that usually struggle to access information about public procurement opportunities.</p> <p>According to the World Bank²⁷, well designed and implemented e-Procurement can drastically reduce the cost of information while at the same time facilitating access. Moreover, it can help strengthen oversight and reduce opportunities for corrupt practices such as favoritism, bribery or fraud all of which are considered main shortcomings of the current procurement system in Lebanon, limiting competition and increasing distrust.</p> <p>E-procurement ensures transparency, efficiency and accountability all of which are principles that push Lebanese women led businesses in particular and SMEs in general who were skeptical and distrustful of the traditional system to participate in public procurement opportunities.</p>

27 <https://openknowledge.worldbank.org/bitstream/handle/10986/19028/882160WPoBox38oementReferenceGuide.pdf?sequence=1>

Article Number	Article title and paragraph	Analysis
72	<p>Professional training</p> <p>1. Part of the training may be addressed to the private sector.</p> <p>2. The training shall include programs to enhance the integrity of procurement officers 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.</p> <p>6. The training shall include supporting the implementation of the Sustainable Development Goals.</p>	<p>Article 72 aims to professionalize public procurement in Lebanon across government through mandatory and continuous training.</p> <p>The article also stipulates directing part of the training to the private sector in an effort to strengthen their ability to implement the law with high integrity standards.</p> <p>This clause is an excellent entry point to target women-led businesses by customizing training programs that answer their needs and prepare them to better understand the new dynamics of the procurement market so that they prepare their businesses to enter the competition.</p> <p>Discrimination and unfair treatment can many times be caused by the misapplication of laws and not the laws themselves, which is why awareness and training on the new law is important especially when it comes to respecting the principles of competition, efficiency and sustainable development.</p> <p>Aligning the training with the sustainable development goals is key for both the supply and demand sides of public procurement to familiarize respective audiences with the potential of the law to achieve secondary policy objectives. This is NOT clear in the law and merits further emphases.</p>
73	<p>Job Description</p> <p>1. Public procurement shall be included as a specific profession within the Lebanese public service organizational structure. Secondary legislation shall define the qualifications frameworks, skills, professional experience, conduct, job description, recruitment and promotion conditions of the procurement personnel, as defined by the Public Procurement Authority in coordination with the Civil Service Board, in addition to providing motivational and competitive career options based on merit.</p> <p>2. Public procurement unit shall be created in the organizational structure of the procuring entity. Such structure may be modified, as appropriate. This unit shall be responsible for procurements in accordance with the provisions of this Law, and shall consist of personnel trained in conformity with the provisions of the above mentioned Article 72. 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.</p> <p>3. The staffing of the procurement unit shall be determined by a decree issued by the Council of Ministers upon the proposal of the competent authority.</p>	<p>Article 73 attempts to resolve the issue of capacity gap existing across government caused mainly by the absence of procurement as a stand-alone profession. It thus pushes for the structuring of the profession, mandates the civil service board to prepare related job descriptions and competencies framework.</p> <p>This article also stipulates the creation of a procurement unit at the level of procuring entities equipped with trained personnel.</p> <p>Such provisions are a perfect opportunity to consider gender equality in the secondary legislations establishing the profession, and in internal circulars/decisions/administrative arrangements of the new unit and their respective staffing.</p>

Article Number	Article title and paragraph	Analysis
76	<p>Duties of the Public Procurement Authority</p> <p>The Public Procurement Authority shall undertake the organization, supervision, control and development of proceedings, systems and performance of the public procurement. It shall also undertake the coordination between various procuring entities and the provision of technical support and guidance thereto. The Public Procurement Authority has the mandate to perform the tasks assigned thereto including, but not limited to:</p> <ol style="list-style-type: none"> 1. To suggest general public procurement policies to the Council of Ministers; 2. To design, manage and operate the central electronic platform of public procurement and E-procurement; 9. To monitor and evaluate the implementation of public procurement laws and rules. In this context, the Public Procurement Authority may peruse the procurement records of the procuring entity, subject to the provisions of Article 6 of this Law related to confidentiality. The Public Procurement Authority shall prepare, submit periodic reports on the shortcomings and violations of laws in all procuring entities to the Presidency of the Republic, the Parliament, the Council of Ministers, the Court of Audit and the Central Inspection Board, and duly publish such reports; 11. To consolidate data and documents related to public procurement operations at all levels, on the central electronic platform, including types and methods of contracting, participating economic sectors, data related to the implementation of projects funded by donors, etc, in a central database, in such a way to allow the easy reading and analysis of such data and documents, in accordance with applicable international standards; 15. To process and analyze information related to the public procurement processes, to set the performance criteria and to prepare and publish analytic and statistical reports; 19. 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 on the central electronic platform of the Public Procurement Authority; 	<p>Article 76 lays out the duties of the Public Procurement Authority (PPA) and establishes it as the regulatory body responsible for supervising the performance of the public procurement system in a way that ensures compliance with the Law and alignment to international standards and good practices. This regulatory function is generally conducive to broad participation of the private sector, including SMEs and more particularly WSMEs, due to the signals of trust it gives.</p> <p>The duties of the PPA as listed in Article 76 pertaining to the policy and normative/regulatory function that particularly impact gender equality and women-led businesses participation are tackled below:</p> <ol style="list-style-type: none"> 1. The Law gives the PPA the full right to formulate public policies that ensure the progressiveness and innovativeness of the system. This mandate is important as it is totally inexistent in the current legal framework. So, when the PPL enters into force, PP in Lebanon will be governed by tailored policies that enable the system to continuously evolve and stay aligned with international trends and practices, including the consideration for inclusive procurement and gender responsive procurement. 2. This role of the PPA could benefit women exceptionally. The PPA with the approval of the Council of ministers could decide for example on prioritizing the adoption of policies that promote the support of WSMEs by setting aside a certain percentage of annual public procurement contracts to women-led businesses or enterprises that employ a large number of women, or by choosing to create incentives that encourage their participation, without breaching the principle of competition. Setting-aside processes shall also be cautious of the availability of women-led businesses that can supply the set percentage in terms of goods and services to be procured, otherwise setting quotas might create a shortage of viable suppliers. 3. By managing and operating the central and electronic platform, the PPA has a strong power to continuously monitor the performance of the system, and to provide open and free access to procurement information and opportunities, which helps close all related gaps that businesses are facing in the current system. Access to information in a systematic and free of charge manner is a key entry point to competition and transparency.

Article Number	Article title and paragraph	Analysis
	<p>21. To make suggestions and recommendations with regard to the means of developing and encouraging innovation in public procurement, motivate SMEs to participate in public procurement, improve implementations, and suggest amendments of laws and regulations;</p> <p>24. To cooperate with international organizations and other bodies locally and internationally to develop the public procurement system;</p>	<p>4. Submission and publication of periodic reports on the performance of the systems is an occasion for all concerned stakeholders to get informed, to monitor successes and challenges faced, and to contribute to corrective measures to be undertaken.</p> <p>5. Data consolidation in a central database is a main element to fostering transparency of the procurement process for the demand and supply sides, so that SMEs including WSMEs are aware of the dynamics of the procurement market, and could plan for their participation accordingly.</p> <p>Achieving the principle of transparency is a big incentive for the participation of businesses and WSMEs. While women entrepreneurs usually believe corruption and bias impair the fairness of public procurement processes, with a perception that contracts are typically awarded to members of the ‘boys club’²⁸, the availability of open data and analytical reports would bring evidence to the table and allow all stakeholders to pinpoint shortcomings and areas of corruption risks to be tackled.</p> <p>6. Under its duty to publish analytic and statistical reports, the PPA can choose to publish and analyze gender disaggregated data. According to the OECD²⁹, this is essential for policy makers to be able to assess the situation and develop appropriate, evidence-based responses and policies regarding gender mainstreaming and inclusive public procurement.</p> <p>7. Potential bidders SMEs, including WSMEs, will have access to advice and assistance provided by the PPA, which encourage more SMEs, including WSMEs, to enter the competition. Knowing that most WSMEs are not familiar with public procurement and how to seize PP opportunities. Assistance by the PPA could be very helpful to them and can increase their participation.</p> <p>8. These provisions state clearly that the PPA’s duties include developing strategies and recommendations to increase or improve the participation of SMEs. There is a room here to consider gender inclusiveness through particular attention and consideration to women-led businesses. Once the PPA is operational, a continuous dialogue with it is needed as well as training its staff so that they perform regular analysis of WSME participation, barriers to entry, needs and incentives, etc..... and any such evidence base reports that would inform policies.</p> <p>9. As part of PPA’s duties, cooperation with international organizations is included to ensure developing the public procurement system. This represents an opportunity for engaging cooperation with the PPA and training its staff and exposing them to best practices internationally. There is also room to assist the PPA in creating partnerships with similar entities that helped advance the Gender Procurement agenda in other countries such as ChileCompra or Prozoro or others.</p>

28 Open Contracting Partnership, 2020. How to empower women-led businesses and make public procurement more inclusive

29 OECD “Toolkit for Mainstreaming and Implementing Gender Equality”

Article Number	Article title and paragraph	Analysis
78	<p>Conditions and process of appointment of the President and members of the Public Procurement Authority:</p> <p>c. The Civil Service Board shall prepare an announcement to fill the positions of president and members of the Public Procurement Authority, including the qualifications and requirements to be met, in addition to the criteria for evaluation of candidates set forth by the committee as referred to in subparagraph «g», and publish such announcement on the website of the Civil Service Board. The announcement shall include a deadline for the submission of applications.</p> <p>h. Accepted applications shall be evaluated according to, inter alia, the criteria of specialization, qualifications, degrees, years and diversity of experience, mastery of foreign languages, and the results thereof shall be scored according to a general average to be agreed upon, and on the basis of which a list of the names of candidates accepted for the oral interview phase shall be drawn up, indicating the reasons for the refusal of the other applications. The committee shall prepare a report on the results of its work.</p> <p>i. The names of the accepted candidates shall remain undisclosed until the date of the oral interviews is set. Oral interviews shall be conducted with the candidates whose applications are accepted by the selection committee in a meeting scheduled for that purpose. The interviews shall be conducted at the Civil Service Council.</p> <p>j. The President of the Council of Ministers shall suggest the names of the candidates who succeeded at their oral interviews for each position by order of grades. Such suggested names shall be presented to the Council of Ministers in order to select the candidates to be appointed, after the production of documents proving the eligibility of such candidates and the validity of the qualifications thereof.</p>	<p>Article 78 mandates that the appointment of the President and members of the Public Procurement Authority be done on merit-basis, therefore giving both men and women an equal and fair chance of getting selected.</p> <p>Currently, there is no process in practice and the Council of Ministers has full power on the nominations of category 1 civil servants (public leaders); nominations which are subject to strict political considerations. The process described in article 78 stipulates that positions shall be advertised. Position announcement shall contain qualifications and requirements to be met and evaluation criteria). A two-stage evaluation process including an interview shall result in the short list of candidates.</p> <p>Such a recruitment process, stipulated in a legal text for the first time in Lebanon for the nomination of category 1 civil servants could ultimately increase the number of women having the chance to compete with men for the positions.</p> <p>Having women in a decision-making position would also be an advantage to help support and elevate WSMEs and their status within the economy through influencing inclusive public procurement policies.</p> <p>However, this article could have set a quota for women nominations to the committee to ensure fair representation at the decision-making positions</p>
79	<p>Incompatibility and full-time basis</p> <p>1. The President and members of the Public Procurement Authority shall, throughout their term of office and even after its end, be bound by professional confidentiality with regard to all information that they have accessed while, or as a result of, performing their duties. They shall be prohibited from disclosing such information</p>	<p>Article 79 stresses on the impartiality of the President and members of the Public Procurement Authority (PPA) and their independence from dealings or relations connected with companies that have participated in procurement procedures.</p> <p>While in function, the PPA's President and members shall refrain from undertaking any other duties across the public sector or the private sector.</p>

Article Number	Article title and paragraph	Analysis
	<p>except before oversight and judicial bodies. This obligation includes information that is classified by the Public Procurement Authority as confidential in accordance with the regulations and decisions thereof.</p> <p>3. The President and members of the Public Procurement Authority shall not be appointed from among the following categories:</p> <p>a. Any person who has any direct or indirect interest in any company or organization participating in public procurement or with any procuring entity;</p> <p>b. Any person who has declared cessation of payment or is judicially declared bankrupt;</p> <p>c. Any person against whom a disciplinary action, other than caution or blame, has been ordered.</p> <p>4. The President and members of the Public Procurement Authority are prohibited from exercising any other public or private, paid or unpaid work during their tenure, including, for instance, the presidency or membership of the Council of Ministers, or the Parliament, the presidency or membership of the board of directors of a public institution, a private company, or a bank, the presidency or membership of a public body, and the presidency or membership of a municipal council or a private company that manages a public utility.</p> <p>5. During their term of office and for no less than two years after the end thereof, the President and members of the Public Procurement Authority are prohibited from assuming, directly or indirectly, any responsibility in companies that have participated in procurement procedures under this Law during the tenure thereof.</p>	<p>This is supposed to limit risks of conflict of interest, corruption and possible favoritism which gives women and WSMEs confidence in the integrity and fairness of the process, therefore encouraging more of them to participate in the procurement market.</p> <p>For additional compliance with the integrity principle, the PPA's President and members shall also refrain, for two years after the end thereof, from assuming any responsibility in companies that have participated in procurement procedures.</p>
89	<p>Creation of the Complaints Authority</p> <p>1. By virtue of this Law, an independent authority called «The Administrative Complaints Authority» shall be created to handle challenges and complaints with relation to all explicit or implicit procedures or decisions issued by or against the procuring entity or any of the stakeholders in the procurement process, including the bidding documents.</p> <p>2. Contrary to any other provision, the Complaints Authority shall be the sole and exclusive adjudicator of any administrative challenge or complaint with relation to the explicit or implicit decisions on pre-contractual procurement proceedings.</p>	<p>Article 89 creates a new body, 'the Complaints Authority' that was inexistent in the previous public procurement system.</p> <p>The creation of a Complaints Authority guarantees the right of businesses to file their complaints at any stage of the pre-contractual phase should they note breaches of the principles that the PPL promulgates or an abuse of any sort.</p> <p>This article and consequent others instill a three-stage complaint mechanism in line with modern practices that provide the private sector in general, and SMEs including WSMEs in particular the right to file complaints about unfair decisions taken by procuring entities or carry specific biases. It further guarantees that the system efficiently address grievances in a swift, timely, independent, unbiased and competent manner.</p> <p>The new system is a new innovation brought by the PPL; one that encourages fairness, equity and efficiency. Worldwide, good complaints system instill accountability, limit bad practices, mitigate corruption risks, and encourage private entities to take part in the bidding process.</p>

Article Number	Article title and paragraph	Analysis
91	<p>Conditions and process of appointment of the president and members of the Complaints Authority:</p> <p>1. Subject to the conditions of appointment stipulated in Article 4 of legislative decree 112/59 issued on 6/12/1959 (Staff Regulations) and the amendments thereof, with the exception of the conditions of age and entrance examination, the following conditions and process of appointment of the president and members of the Complaints Authority shall be applied:</p> <p>a. As a minimum, the candidates must hold a master's degree in public law, public procurement, public administration, financial sciences, economics, law, engineering, political and administrative sciences, business administration, financial management, or information technology or the equivalent thereof;</p> <p>b. The candidates must have proven experience in public procurement of no less than 10 years;</p> <p>2. The appointment process stipulated in Article 78 of this Law shall be applied for the appointment of the president and members of the Complaints Authority.</p>	<p>Article 91 mandates that the appointment of the President and members of the Complaints Authority be done on merit-basis, therefore giving both men and women an equal and fair chance of getting selected. Currently, there is no process in practice and the Council of Ministers has full power on the nominations of category 1 civil servants (public leaders); nominations which are subject to strict political considerations.</p> <p>The process described in article 91 is similar to that of Article 78 concerning the appointment of the PPA President and members.</p> <p>Positions are advertised. Position announcement shall contain qualifications and requirements to be met and evaluation criteria). A two-stage evaluation process including an interview shall result in the short list of candidates.</p> <p>Such a recruitment process, stipulated in a legal text for the first time in Lebanon for the nomination of category 1 civil servants could ultimately increase the number of women having the chance to compete with men for the positions.</p> <p>Having women in a decision-making position would also be an advantage to help support and elevate WSMs and their status within the economy through influencing inclusive public procurement policies.</p> <p>However, this article could have set a quota for women nominations to the committee to ensure fair representation at the decision-making positions</p>
100	<p>Formation and Functions of the Tender Committees</p> <p>2. Prior to October each year, the procuring entity shall suggest a list of officers' names from the administration thereof, from among those who are at least in the third grade and have proven expertise in public procurement, and/or from among those who have duly received formation in public procurement in accordance with the provisions of this Law, and submit such list to the Public Procurement Authority. The Public Procurement Authority shall, prior to the end of November of the same year, prepare one consolidated list and send such list to the Central Inspection Board, the Court of Audit and the High Disciplinary Council in order to inquire about the suggested names, and identify the violations they are accused of or the sanctions applied against them, if any. The Public Procurement Authority shall revise the final list, strike out the names of those who have been charged and penalized and make it available to all procuring entities in the database of the Public Procurement Authority on the electronic platform thereof.</p>	<p>Article 100 organizes and lays out the formation and functions of tender committees based on very strict and detailed provisions, which if translated properly in practice, could improve the credibility of tender decisions, as a form of combatting bid rigging.</p> <p>Also, considering equal opportunities for men and women when forming the tender committees is a catalyst for gender equality.</p> <p>However, this is not the case. This article could have set a quota for women nominations to the committee to ensure fair representation in both the tendering committees.</p>

Article Number	Article title and paragraph	Analysis
	<p>The list of names shall not be made public. In the event that it is deemed necessary to enter new names, the procuring entity shall inform the Public Procurement Authority, and names shall be added to the consolidated list in accordance with the process detailed in this paragraph.</p> <p>3. When implementing its annual plan for the following year, the procuring entity shall compose the tender committee(s) thereof from the consolidated list prepared by the Public Procurement Authority, provided that one member of each committee at least is not an officer of the procuring entity.</p>	
101	<p>Acceptance committees: Creation and functions thereof</p> <p>2. Acceptance committees shall consist of experienced and skilled persons from among those whose names are included in the consolidated list in the database thereof at the central electronic platform. Acceptance committees shall be responsible for the provisory and the final acceptances, and prepare duly signed minutes thereof.</p> <p>3. The acceptance committee for each procurement process 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 the constitution and members thereof, and shall not include those persons who participated in the supervision of the execution, performed market studies, or decided the estimated total value of the procurement. Each committee shall at least consist of a chairman and two members from within the administration, and the creation thereof shall take into consideration the inclusion of specialized personnel.</p>	<p>Article 101 specifies that merit-based selection is the rule when nominating members of the acceptance committees.</p> <p>The conditions for selecting members of these committee are based on very strict and detailed provisions, which if translated properly in practice, are hoped to guarantee fair and equal treatment of suppliers.</p> <p>Also, considering equal opportunities for men and women when forming the acceptance committees by decision of the procuring entity is a catalyst for gender equality.</p> <p>However, this is not the case. This article could have set a quota for women nominations to the committee to ensure fair representation in the acceptance committees.</p>
102	<p>Contracting Authorities</p> <p>Contracting authorities shall perform their duties with regard to the procurement and contracting procedures in accordance with the provisions of this Law, such as:</p> <p>9. To make plans to manage risks and achieve sustainable development goals in public procurement</p>	<p>Article 102 lists the duties of the contracting authorities across the procurement process and in accordance with the provisions and requirements of the Law. It clearly determines the responsibility of the Contracting Authority to respect commitments made by the government to achieve the SDGs when undertaking procurement.</p> <p>This article clearly confirms the Law's seriousness and commitment when it comes to recognizing and promoting the global standards and good practices pertaining to more inclusive and more balanced procurement. However, the article did not specifically refer to the goals 5 and 8.</p>

Article Number	Article title and paragraph	Analysis
109	<p>Transparency</p> <p>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 thereof.</p> <p>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. Publishing shall be mandatory on the central electronic platform of the Public Procurement Authority and the website of the procuring entity, if any.</p> <p>3. Only what is of a confidential nature shall be prohibited from publishing, pursuant to Article 6 of this Law.</p> <p>4. Public procurement data, at all levels in accordance with the provisions of this Law, shall be consolidated in a central database created for this purpose at the Public Procurement Authority, as part of the central electronic platform. This database shall be accessible free of any charges to the public and to all stakeholders under Article 6 of this Law.</p> <p>5. Access to public procurement information shall be made possible free of any charges through the central electronic platform at the Public Procurement Authority and the websites of the procuring entities.</p>	<p>Article 109 makes mandatory the publication of all information available online for all concerned stakeholders to access, without the need to ask.</p> <p>This automatic access or “push” approach is welcomed.</p> <p>Ensuring high standards of transparency and open data is key to restoring trust of the market in the process and thus increase participation of SMEs, including WSMEs to public procurement.</p> <p>The latter can better anticipate future opportunities and learn from others’ experiences. On the other hand, decision makers are kept aware of the performance of the PP system, They can, based on such evidence rethink/design policies and adjust procedures.</p> <p>With open data, gender inclusion in public procurement has more chances to be applied.</p>
110	<p>Integrity</p> <p>2. The contracting authority officers shall abide by the code of conduct provided for in Article 10 of this Law. They shall also commit to the highest ethical and professional standards, and avoid any corruptive practices, including but not limited to fraud, collusion, misappropriation, abuse of influence, threat, or conflict of interests as defined in Article 2 of this Law and other relevant laws.</p> <p>5. The contracting authority shall require from all contractors thereof to commit to the highest ethical and good citizenship standards, especially during the period of procurement and execution of the contract. Failing to comply with such requirements shall lead to exclusion decisions in accordance with Article 8 of this Law. In order to achieve this obligation, the bidders and the contractors shall avoid the following practices:</p>	<p>Article 110 sets clear integrity standards to be observed while implementing public procurement operations, applied to contracting authorities and their officers, as well as to the supply. More businesses in general, and SMEs including WSMEs in particular, would be encouraged to enter the competition when guarantees in the Law are provided based on clear identification and definitions of various unethical practices.</p>

Article Number	Article title and paragraph	Analysis
	<p>a. “Corruptive practices”, which means offering, receiving or soliciting anything of value, whether directly or indirectly to influence the work of a public official in the procurement process or in the execution of the contract;</p> <p>b. “Fraudulent practices”, which means the misrepresentation or omission of facts to influence the procurement process or the execution of the contract;</p> <p>c. “Collusive practices”, which means any plan or arrangement between two or more bidders with the aim of offering prices at false and non-competitive levels;</p> <p>d. “Coercive practices” which means harming or threatening to harm people or their property, either directly or indirectly, to influence their participation in the procurement process or the execution of a procurement contract.</p> <p>e. Any practice that leads to a negative impact on the procurement process and contrary to the principles of this Law.</p>	

IV. Summary of actions

Based on the gender analysis of the PPL 244/2021, the following table summarizes the list of key actions to be undertaken by different stakeholders to advance the agenda of gender-responsive procurement guided by objectives and quick-wins for the ecosystem:

Action	Description	Responsible	Timeframe
1. Analyze the dynamics of the public procurement market and women-led and owned businesses participation	Carry out a market study of both the demand and the supply sides of the public procurement market in Lebanon, with specific attention to the dynamics of women participation to this market, and use the findings to inform future economic development and public procurement policies	Public Procurement Authority (PPA); Institut des Finances Basil Fuleihan (IOF)	June 2023
2. Develop and issue a policy on sustainable public procurement	Develop and issue a sustainable public procurement policy in view to achieve economic and social considerations from procurement operations in line with national development objectives, the procurement law principles and the findings of the market study.	Developed by PPA; To be issued by Council of Ministers (COM)	December 2023
3. Develop and issue secondary legislation to promote women-led businesses participation to the procurement market	Develop and issue secondary legislation that is specific to gender-balanced participation to public procurement, with special attention to women-led businesses, including incentive measures such as setting aside 20% of public contracts for women-led businesses, opening procurement opportunities for targeted sectors where the concentration of women-led and owned businesses is higher or setting tax exemption policies for WSMs winning public contracts, or giving women bidders or gender responsive bidders additional points in the evaluation as a way of encouraging them to apply, among other	Developed by PPA; To be issued by COM	December 2023
4. Enact a code of conduct and support its application	Establish a code of conduct, by virtue of a regulatory decision, to clarify principles of integrity and accountability. The code of conduct shall establish good professional ethics, and good citizenship in relation to public procurement processes, for all officers of the procuring entities and contractors thereof, provided that such code includes, inter alia, the standards referred to in this Law, in particular such standards related to integrity, transparency and prevention of conflict of interest, in addition to the rules of good governance, impartiality, fairness, knowledge and competence.	PPA	December 2022

Action	Description	Responsible	Timeframe
5. Establish the electronic procurement platform, with a mechanism to collect gender-disaggregated data	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, and to ease access to information to SMEs including WSMEs that usually struggle to access information about public procurement opportunities, while ensuring that the database of the platform include elements allowing the collection and analysis of gender disaggregated-data to monitor procurement practices and inform policies	PPA	June 2022
6. Simplify access to bidding documents	Make the bidding documents available to bidders on its website, if any, and on the central electronic platform of the Public Procurement Authority simultaneously with the announcement of the procurement.	Procuring entities for website; PPA for central electronic platform	As of August 1, 2022
7. Apply the division of the procurement into lots to encourage participation of women businesses	Divide the procurement into independent portions where the nature of works, goods or services requires such division, and in line with the application of a set development policy that has at its core the gender dimension.	Procuring entities	As of August 1, 2022
8. Establish efficient complaints mechanisms	Issue secondary legislations pertaining to the establishment and operationalization of the new Complaints Authority (CA), as well as secondary legislations detailing the complaints mechanisms. Such action is key to re-establish trust in the procurement market and encourage small businesses, including WSMEs, to participate and be able to challenge the procedures or decisions issued by or against the procuring entity or any of the stakeholders in the procurement process.	COM	June 2022
9. Establish professional training programs for public sector and economic operators	Develop and provide mandatory and continuous training on public procurement addressed to the public sector and economic operators, including WSMEs. Training programs shall contribute to awareness raising about the risks of lack of integrity, such as corruption, fraud, collusion, discrimination, and the sanctions therefor, and develop knowledge about ways to confront such risks. Such programs shall also highlight the importance of applying sustainable procurement.	Institut des Finances Basil Fuleihan	As of August 1, 2022
10. Enhance public procurement knowledge and skills among WSMEs	Target women-led businesses with customized training programs, in line with the findings of the market study, that answer their specific needs and prepare them to better understand the new dynamics of the procurement market so that they prepare their businesses to enter the competition.	Institut des Finances Basil Fuleihan	As of August 1, 2022

Action	Description	Responsible	Timeframe
11.Ensure proper stakeholders' engagement	Design and implement a series of awareness activities and communication around the topic of gender-responsive procurement to accompany the national dialogue and policy efforts in this sense.	Institut des Finances Basil Fuleihan	As of August 1, 2022
12. Consider equal opportunities at the time of nominations and future employment	As a catalyst for gender equality through the procurement system, it is important to set a quota for women in the nominations of the two authorities and in their administrative bylaws (PPA and CA) to ensure fair and gender-balanced representation, and also consider gender balance in the secondary legislations establishing the procurement profession, and in internal circulars/ decisions/administrative arrangements of the new unit and their respective staffing.	Civil Service Board; COM; PPA; CA; procuring entities	As of August 1, 2022
13.Consider equal opportunities when forming the tender and acceptance committees	As a catalyst for gender equality through the procurement system, it is important to set a quota for women in the nominations of the tender and acceptance committees to ensure fair and gender-balanced representation	Procuring entities; PPA	As of August 1, 2022
14.Effectively apply the provisions pertaining to the exclusion of bidders	Ensure, through well explained and documented exclusion decision, that no criterion, requirement, or procedure with respect to the qualifications of bidders is discriminatory against or among bidders or against categories thereof. The objective justification of any exclusion shall be documented in the national record of procurement proceedings itself accessible to all	Procuring entities; PPA	As of August 1, 2022
15.Guide procuring entities into observing the gender dimension in public procurement planning	Issue specific guidelines and provide hands-on training for procuring entities on procurement planning from a gender lens (including needs analysis, market research, choice of approaches and procedures, preparation and publication of procurement plans) so that procurement projects meet the societal needs. Including women economic empowerment and inclusion.	PPA; Institut des Finances Basil Fuleihan	December 2023
16.Make available guidance on the application of gender responsive procurement	Prepare and issue guidance and materials to help incorporate social and environmental aspects as well as sustainability criteria in requirements in general, with specific guidance directed to the implementation of gender considerations across procurement processes (planning, market analysis, specifications and selection and award criteria, etc)	PPA	December 2023
17.Issue guidance for the application of preference for domestic products or services	To help applying the domestic preference provision in the Law, develop and issue specific guidance to procuring entities and to economic operators on the application of incentives for domestic businesses or locally produced supplies, goods or services.	PPA	December 2023

CONCLUSION

V. Conclusion

While the new Public Procurement Law 244/2021 doesn't explicitly mention gender-responsive procurement as a condition, criteria, or goal within any of its provisions, **it does, however, provide the necessary conditions for concerned stakeholders to pursue policies in favor of supporting women's economic participation in public procurement.**

The **PPL 244/2021 succeeded in breaking barriers to equal participation opportunities and has led the foundations needed to changing the rules of the game when it enters into force on August 1, 2022, both on the demand and on the supply sides.** Lessons learnt from various countries' contexts show that public procurement reform is a perfect momentum for the government to gear policies towards serving secondary policy objectives (economic development, social inclusion environment protection), and for women led businesses to actively learn about the dynamics of this market and be proactive and innovative. For Lebanon, PPL and the reform in general is a door wide opened for women economic empowerment.

The analysis of the PPL provisions, on an article-by-article basis, has explicitly detailed the various areas of improvements brought to foster women- participation to public procurement, and has pinpointed areas that necessitate further attention or enlargement of scope. The analysis set a clear policy agenda at the country level as a basis for structured actions. These areas range from issuing complementary secondary legislations, designing informed procurement policies for sustainability and economic empowerment of women, analyzing the procurement market dynamics

and the status of women-led businesses, issuing of guidance material customized to women-led business to facilitate their access to the procurement market, and designing tailored training programs, as well as awareness and communication to level-up the knowledge and ensure adequate stakeholders' engagement to this policy agenda.

To kick-off an actionable agenda in favor of gender-responsive procurement in Lebanon and accompany the first phase of its implementation, priority actions would focus on:

1. increasing awareness of concerned stakeholders in civil society, business community and public authorities;
2. design and deploy training program targeted at women businesses to understand the law and new practices and become active players on the public procurement market;
3. implementing a study to better understand the barriers and opportunities of women participation and inform the design of gender -disaggregated data to be embedded in the central electronic platform's database (the e-procurement platform);
4. providing technical assistance to the PPA in view of issuing needed policies and guidance material; and
5. sustaining the peer-to-peer exchange and transfer of international good practices in collaboration with international partners such as UN women, World Bank, European Union, Open Contracting Partnership, etc.

BIBLIOGRAPHY

BIBLIOGRAPHY

1. National references

Institut des Finances Basil Fuleihan (2021), Lebanon's MAPS Assessment Report, Retrieved from http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/03/Lebanon-MAPS-Report-final-revised-Jan2021_comp_compressed.pdf

Institut des Finances Basil Fuleihan (2021), Fostering economic opportunities for women through public procurement

Institut des Finances Basil Fuleihan (2021), Public procurement: A key lever for sound governance and economic recovery

Institut des Finances Basil Fuleihan (2021), Reforming public procurement in Lebanon, Retrieved from: <http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/07/Progress-report-Lebanon-Public-Procurement-Reform-July2021-ENG.pdf>

Lebanese Center for Policy Studies (2020), Public Resource Allocation in Lebanon: How Uncompetitive is CDR's Procurement Process? Retrieved from https://www.lcps-lebanon.org/publications/1595508275-cdr_article_july2020.pdf

Public Procurement Law no. 244/2021, Retrieved from <http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/07/Public-Procurement-Law-Official-Gazette-web-1.pdf>

Reforming Public Procurement in Lebanon, Retrieved from <http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/07/Progress-report-Lebanon-Public-Procurement-Reform-July2021-ENG.pdf>

2. International references

Apolitical (2018), How governments can open up trillions for women — without spending more, Retrieved from <https://apolitical.co/solution-articles/en/how-governments-can-open-up-trillions-for-women-without-spending-more>

Caputi C. (2021), Strategic use of public procurement, OECD, Retrieved from <https://docs.google.com/presentation/d/1dqK5a2VspelPGD7HYzmV0pvvb40JFggl/edit#slide=id.p1>

Institute for the Equality of Women and Men, Equal opportunities for men and women in public procurement contracts: A few recommendations,

Retrieved from <https://igvm-iefh.belgium.be/sites/default/files/downloads/20%20-%20Public%20procurement%20contracts.pdf>

International Finance Corporation (2019), Women on board in Lebanon, Retrieved from https://www.ifc.org/wps/wcm/connect/7435b2c5-04a3-4201-abe2-3f2133b4b8a6/Women_on_Board_in_Lebanon.pdf?MOD=AJPERES&CVID=mN5USK2

International Trade Center (2014), Empowering women through public procurement Retrieved from <https://www.intracen.org/publication/Empowering-Women-Through-Public-Procurement/>

Islamic Development Bank (2019), Guidance Note on Social, Gender and Sustainable public procurement in Islamic Development Bank financed procurement, Retrieved from <https://www.isdb.org/project-procurement/sites/pproc/files/media/documents/IsDB%20-%20Guidance%20Note%20-%20Gender%20Consideration%20Social%20and%20Sustainable%20Public%20Procurement%20-%20FINAL%20%281%29.pdf>

OECD (2021), Why public procurement matters, Retrieved from https://docs.google.com/presentation/d/1WahzQQN_2anPJLH5aemA4TvKooqZVtLp/edit#slide=id.p1

OECD (2009), OECD principles for integrity in public procurement, Retrieved from <https://www.oecd.org/gov/ethics/48994520.pdf>

OECDiLibrary (2020), Procurement as a critical function in government, Retrieved from <https://www.oecd-ilibrary.org/sites/Od83e1f9-en/index.html?itemId=/content/component/Od83e1f9-en>

Open Contracting Partnership & Value for Women (2021), How to empower women-led businesses and make public procurement more inclusive, Retrieved from <https://www.open-contracting.org/resources/towards-gender-balance-in-public-procurement/>

Open Contracting Partnership (2020), Breaking the glass ceiling for women-led businesses in public procurement: fairness and inclusion through open contracting, Retrieved from: <https://www.open-contracting.org/2020/07/21/breaking-the-glass-ceiling-for-women-led-businesses-in-public-procurement/>

Peterson Institute for International Economics (2016), How Large Is Public Procurement in Developing Countries?, Retrieved from <https://www.piie.com>

[com/blogs/realtime-economic-issues-watch/
how-large-public-procurement-developing-countries](https://blogs.worldbank.org/governance/can-public-procurement-bring-socio-economic-empowerment-policies-implementation)

UN-ESCWA (2021), Multidimensional poverty in Lebanon (2019-2021), Retrieved from: <https://www.unescwa.org/sites/default/files/news/docs/21-00634-multidimensional-poverty-in-lebanon-policy-brief-en.pdf>

United Nations, Sustainable Development Goals, <https://www.un.org/sustainabledevelopment>

United Nations (2015), Addis Ababa Action Agenda of the Third International Conference on Financing for Development, https://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

UN Women (2020), Overview of Recovery Support for Women-Owned Businesses Impacted by the Beirut Blast, Retrieved from <https://arabstates.unwomen.org/en/digital-library/publications/2020/10/brief-overview-of-recovery-support-for-women-owned-businesses-impacted-by-the-beirut-blast>

World Bank (2020), Can public procurement bring socio-economic empowerment policies into implementation?, Retrieved from: <https://blogs.worldbank.org/governance/can-public-procurement-bring-socio-economic-empowerment-policies-implementation>

APPENDIX

APPENDIX

GENDER AND PUBLIC PROCUREMENT

Proposed list of complementary legislations and tools in favor of gender-responsive public procurement in Lebanon, in application to Law no. 244/2021

UN WOMEN
March 2022



INTRODUCTION

The Public Procurement Law no. 244/2021, although not explicit on gender considerations, provides legal foundations necessary to inspire a transformative conceptualization of gender-responsive procurement policies that support both equal market opportunities for women's enterprises to access public markets, and equal outcomes for women in the labor market. It allows the setting up of a GRP ecosystem, prerequisite for the transformation, and paves the way for concrete ways to make this vision a reality.

This was detailed in the exhaustive gender analysis of the PPL 244/2021. The analysis of the PPL provisions, on an article-by-article basis, has explicitly detailed the various areas of improvements brought to foster women-led business participation to public procurement, and has pinpointed areas that necessitate further attention, enlargement of scope and a clear policy agenda at the country level as a basis for structured actions. These areas range from issuing complementary secondary legislations, designing informed procurement policies for sustainability and economic empowerment of women, analyzing the procurement market dynamics and the status of women-led businesses, issuing of guidance material customized to women-led business to facilitate their access to the procurement market, and designing tailored training programs, as well as awareness and communication on the subject to level-up the knowledge and ensure adequate stakeholders' engagement to this policy agenda.

Advancing gender-responsive procurement (GRP) in Lebanon, taking the PPL 244/2021 as a solid legal foundation, includes the broadening of the scope from a focus on only promoting the participation to women-led enterprises to an inclusive gender-responsive ecosystem engaging the public sector, the business sector, and civil society, in addition to international partner organizations. Gender mainstreaming shall be applied across the procurement process, and within institutions involved with public procurement, the market analysis, the inclusion of concerned stakeholders in gender-sensitive procurement policies' design and evaluation.

Through defining comprehensive regulatory framework, the implementation of the PPL 244/2021 could be made practically more gender responsive, in line with the principles of competition, integrity, transparency and sustainability, that have initially shaped the law. International experience has shown that a number of countries have policies and regulations in place to stimulate the use of public procurement to promote gender equality, but there is still an implementation gap that is amplified by a lack of knowledge and data, and by a lack of understanding of gender-promotion practices on the side of the practitioner. As such, tools and targeted training are powerful to advance this agenda while widening the conversation among stakeholders at national level.

The following sections list **1) the secondary legislations that would complement the PPL, to be issued through decrees by the Council of Ministers at the suggestion of the newly created Public Procurement Authority (PPA)**¹, and **2) propose tools and material to be developed and addressed to various stakeholders.**

A. List of proposed complimentary legislations in favor of gender-responsive procurement

The below table contains a set of secondary legislations to be issued by the Government (Council of Ministers) with the rationale for each of them, based on the PPL and on international good practices. A priority score for each secondary legislation to be issued is indicated.

Secondary legislation	Rationale	Reference to article in the PPL 244/2021	Priority
1. Secondary legislation to set a rules and policies of sustainable public procurement, among which gender responsive procurement, incentives for Women SMEs (women-led/owned businesses) participation in public procurement	<p>This secondary legislation may include but not be limited to:</p> <p>1- a set-aside or bid preference for a certain percentage of public contracts for women-owned businesses (a range from 5% to 20% is applied in other contexts such as Korea, the United States, the Dominican Republic, Indonesia and South Africa),</p> <p>2- opening procurement opportunities to targeted sectors where the concentration of women-led and owned businesses is higher.</p> <p>3- setting tax exemption for WSMs winning public contracts as tax is one of the major barriers facing small and medium enterprises (SMEs).</p> <p>4- giving women bidders or gender responsive bidders additional points in the evaluation as a way of encouraging them to apply to public procurement.</p> <p>It is recommended to design such rules and policies after the conduction of a country baseline analysis to better understand what policies and regulations need to be created and/or changed to increase inclusion in public procurement.</p> <p>This analysis could be based on the Gender Equality and Social Inclusion in Public Procurement (GESI) universal tool.</p> <p>The latter was designed in line with the internationally-recognized assessments namely the MAPS II (Methodology for Assessing Procurement Systems. Lebanon undertook a MAPS assessment, (2019-20) which informed the whole procurement reform process and the drafting of PPL 244/2021.</p>	Article 15	2
2. Secondary legislations for the establishment and the operationalization of the Public Procurement Authority (PPA) specifying a quota for women	<p>Since the PPA is a new regulatory authority created by the PPL 244/2021, the nominations of its members and staff are golden opportunities to guarantee a gender balance that reflects the composition of the Lebanese society, and that is most probably in favor of orienting procurement policies towards societal and development outcomes.</p>	Articles 74, 75, 82 and 87	1

1 The PPA is the new regulatory authority created by virtue of the PPL 244/2021 to regulate the system, suggest procurement policies, monitor and evaluate implementation, consolidate data and documents on the central electronic platform, and enact the Code of conduct, among other responsibilities.

Secondary legislation	Rationale	Reference to article in the PPL 244/2021	Priority
3. Secondary legislations for the establishment and the operationalization of the Complaints Authority (CA) specifying a quota for women	Since the CA is totally new authority created by the PPL 244/2021, the nominations of its president, members, staff and panels are golden opportunities to guarantee a gender balance that reflects the composition of the Lebanese society, and that is most probably in favor of implementing procurement practices in line with the foundations and principles of the PPL, especially in what relates to independent, fair and trustworthy complaints mechanism that guarantees accountability and encourage competition to take place.	Articles 90, 94 and 97	1
4. Secondary legislation defining the qualifications frameworks, skills, professional experience, conduct, job description, recruitment and promotion conditions of the procurement personnel	The creation of a new public procurement profession in the Lebanese Civil service is a perfect opportunity to consider gender equality in the conditions of recruitment and promotion of personnel. Proposals need to consider pacifying a quota for gender diversity and elements of equality in staff promotion.	Article 73.1	2
5. Secondary legislation defining the staffing of the procurement unit at the level of each procuring entity specifying a quota for women	The creation of a public procurement unit in the organizational structure of the procuring entity is a perfect opportunity to consider gender equality in the internal organization and staffing of the new unit.	Article 73.3	2

B. List of proposed tools and material to foster the application of gender-responsive procurement

According to the OECD, even in countries where the strategic or regulatory framework includes gender-related considerations or requirements for public procurement, voluntary application is more frequent, both for sub-contractors and for the supply chain². Only 7% of the countries require the application of their frameworks on gender considerations to the whole supply chain . This reflects the challenges facing the implementation of gender-responsive procurement and shows the need to complement the regulatory and national strategic frameworks with a set of practical tools directed at policy and decision making, practitioners, and businesses levels, with a need to instill change management and new way in visioning public procurement across the board.

The below table proposes tools and material to be developed, with the rationale for each of them based on national context and in line with international good practices. A priority score for each tool is indicated.

Tool/material	Rationale	Responsible	Priority
1. Policy guidance note and awareness session addressed to policy and decision makers	<p>1- The guidance note aims at bringing to the attention of policy and decision makers the strategic role of public procurement in promoting gender balance and offering equal economic opportunities. The note shall propose policy recommendations on how to foster gender-responsive procurement in the Lebanese context, while ensuring coherence with national policies / commitments to sustainable development.</p> <p>2- The awareness session is crucial to share information on the positive impacts that public procurement can have on achieving gender equality as a secondary policy objective.</p>	Public Procurement Authority; international partners; civil society; Women-owned business associations	1
2. Guidelines on the public procurement law	The drafting of detailed guidelines explaining the PPL 244/2021 is a timely occasion to give special attention to detail the application of sustainability criteria in public procurement across the procurement cycle , from planning to contract management, addressed to senior leadership and procurement practitioners.	Public Procurement Authority; international partners; civil society; Women-owned business associations	1
3. Set of gender-disaggregated data and indicators to use on the central electronic platform database	The lack of available registries or databases that hold relevant gender-disaggregated information is a major implementation issue for gender equality policies in public procurement. The development of the set of data and indicators would maximize the use of the central electronic platform, hosted and managed by the PPA , in setting baseline, establishing targets, measuring progress and adapting to national policy goals set by the Government.	Public Procurement Authority; international partners; civil society; Women-owned business associations	1
4. Standard bidding documents	<p>1- Standard bidding documents are one of the main tools for effective implementation of the PPL 244/2021. As regulatory authority, the PPA shall verify that the development of the standard tender documentation, including tender requirements, include gender equality criteria that are relevant, linked to the subject matter, achievable and non-discriminatory. The PPA shall also make sure of the systematic and timely access to these documents on the central platform.</p> <p>2-This step shall occur in line with the PPL 244/2021 provisions, the set of rules and national policies that will be issued by the Government related to gender responsive procurement, and at later stage the results of the market and need analysis.</p> <p>3- This is a challenging step everywhere; only 30% of central purchasing bodies (CPBs) integrate gender issues into their tender phase according to a recent OECD survey³. For this purpose, the PPA shall take a consultative approach through a continuous market dialogue for gender-inclusive procurement.</p>	Public Procurement Authority; international partners; civil society; Women-owned business associations	1

Tool/material	Rationale	Responsible	Priority
5. Specialized learning content on sustainable and inclusive public procurement for buyers	<p>This learning content is addressed to public sector entities (procuring entities at all levels and oversight bodies) to be part of a comprehensive training program on public procurement, to accompany the change management created by the application of the PPL 244/2021. The learning content shall be accessible online.</p> <p>The program shall include clear examples or case studies on how to implement gender equality, particularly in the pre-tendering and awarding of contract phases of the procurement process. The training offer could take the form of blended learning or Massive Open Online Courses (MOOCs), in collaboration with UN Women and other specialized international organizations.</p>	PPA ; Institut des Finances Basil Fuleihan; Women-owned business associations	1
6. Guidance on setting and using gender-specific evaluation criteria and contract performance clauses	<p>This guidance aims at helping procurement practitioners across procuring entities to include gender considerations in tenders by incorporating gender-specific evaluation criteria, and to set standard clauses they can be used in a more general way for a wider range of contracts.</p>	Public Procurement Authority	2
7. Gender-sensitive procurement checklists for public buyers	<p>Checklists are perfect tools to use in the preparatory stage of the public procurement process to help procuring entities assess the gender impacts of the planned procurement.</p>	Public Procurement Authority	2
8. Specialized training and mentorship on public procurement addressed to micro, small and medium-sized businesses	<p>1- The development and delivery of specialized training for MSMEs, including women-led/owned businesses, are perfect platform for learning on the new PPL 244/2021 and how its application will affect the market, and for assisting MSMEs in overcoming knowledge gaps and providing information about tender opportunities.</p> <p>The training offer could take the form of blended learning or Massive Open Online Courses (MOOCs), in collaboration with UN Women and other specialized international organizations.</p> <p>2- Hands-on training on bid preparations, with simulations, are considered opportunities for these businesses to get familiar with the procurement process and dynamics so that they have the right tools, capacity, and skills to become suppliers, and would more confidently access the market.</p> <p>3- Training could be complemented, if needed, by mentorship to a core group of identified women-led/owned businesses to level-up their skills in public procurement.</p>	PPA ; Institut des Finances Basil Fuleihan; Women-owned business associations	1

Tool/material	Rationale	Responsible	Priority
9. User-friendly guides and material on public procurement addressed micro, small and medium-sized businesses	Customized guides directed at MSMEs, including women-led/owned businesses, make it easier for them to get familiarized with the provisions of the new PPL 244/2021 and its implementation, and engage them in public procurement to increase their participation to the market and winning public contracts. Potential bidders need to understand what exactly is expected from them, including awareness on the subject of gender mainstreaming, to be able to design their bids and adjust their business operations and practices accordingly.	Public Procurement Authority; Institut des Finances	2
10. Ex post evaluation of the tender procedure and contract implementation from a gender perspective	The ex-post evaluation of the tender procedure and contract implementation helps public buyers to learn from their experience and creates a baseline for future procurement projects. This shall be done based on results and data of gender-inclusive procurement that are documented and communicated.	Public Procurement Authority; Procuring entities	3

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