



REPUBLIQUE LIBANAISE
MINISTÈRE DES FINANCES

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Institut des Finances Basil Fuleihan

Status of Implementation of Public Procurement Law 244/2021 and Assessment of skills' gaps and training needs

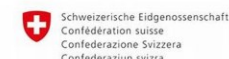
June 2024

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With the technical support of:



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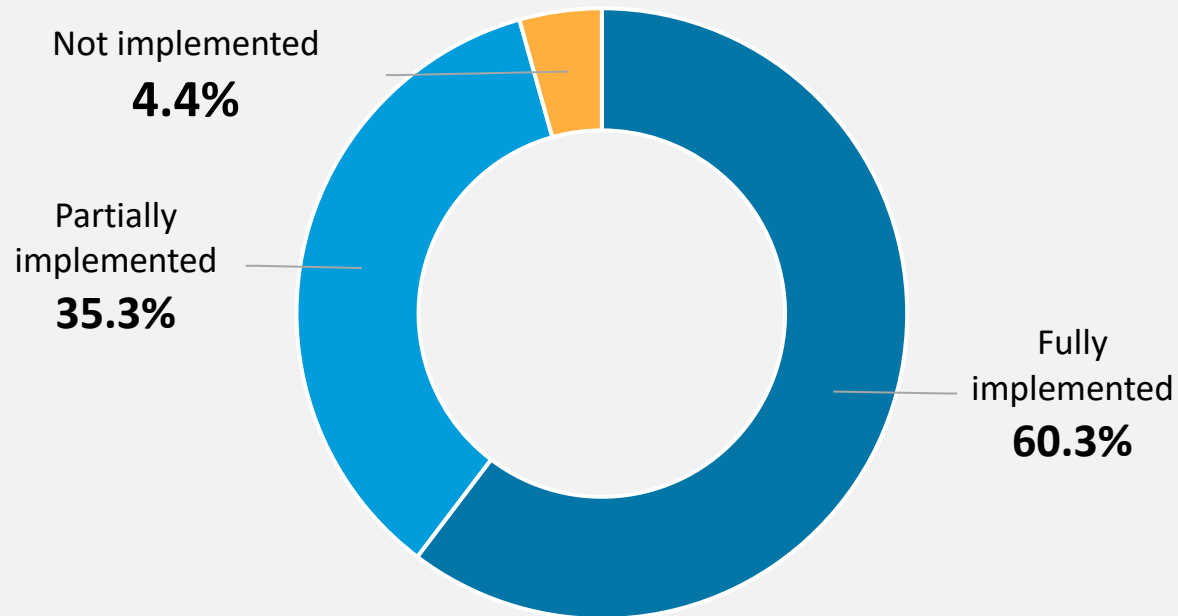


Eidgenössisches Departement für
Wirtschaft, Bildung und Forschung WBF
Staatssekretariat für Wirtschaft SECO

Implementation of PPL 244/2021: Overview on practices & challenges

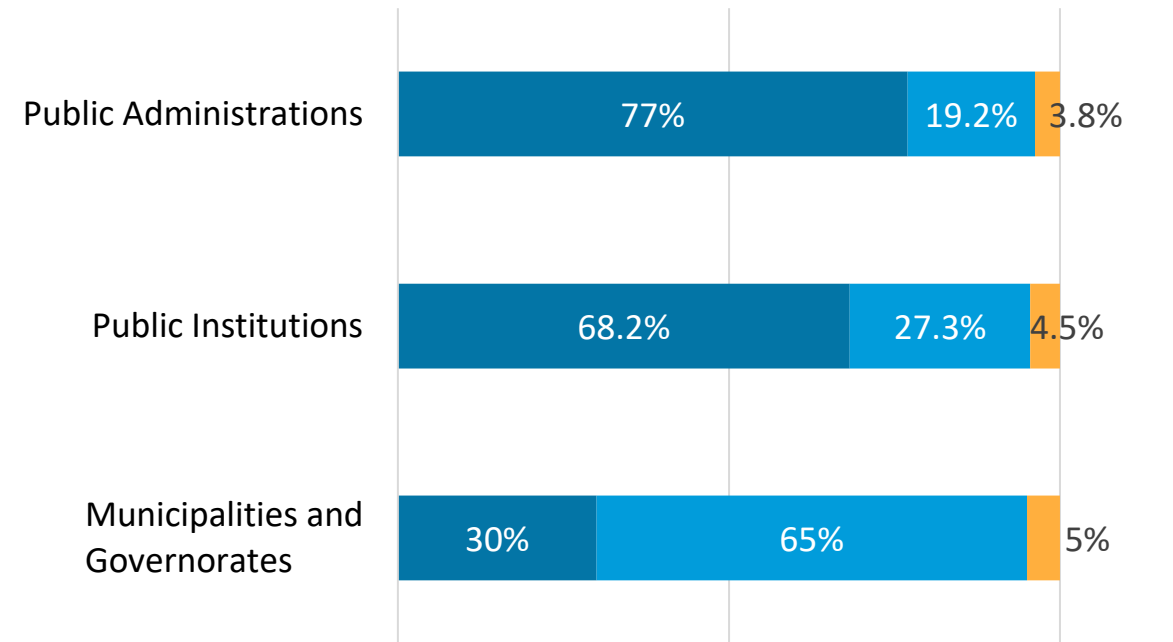
I. Implementation of the PPL 244/2021

Implementation of Public Procurement Law 244/2021



More than 95% of procuring entities are implementing Law 244/2021, but two third only are implementing it fully.

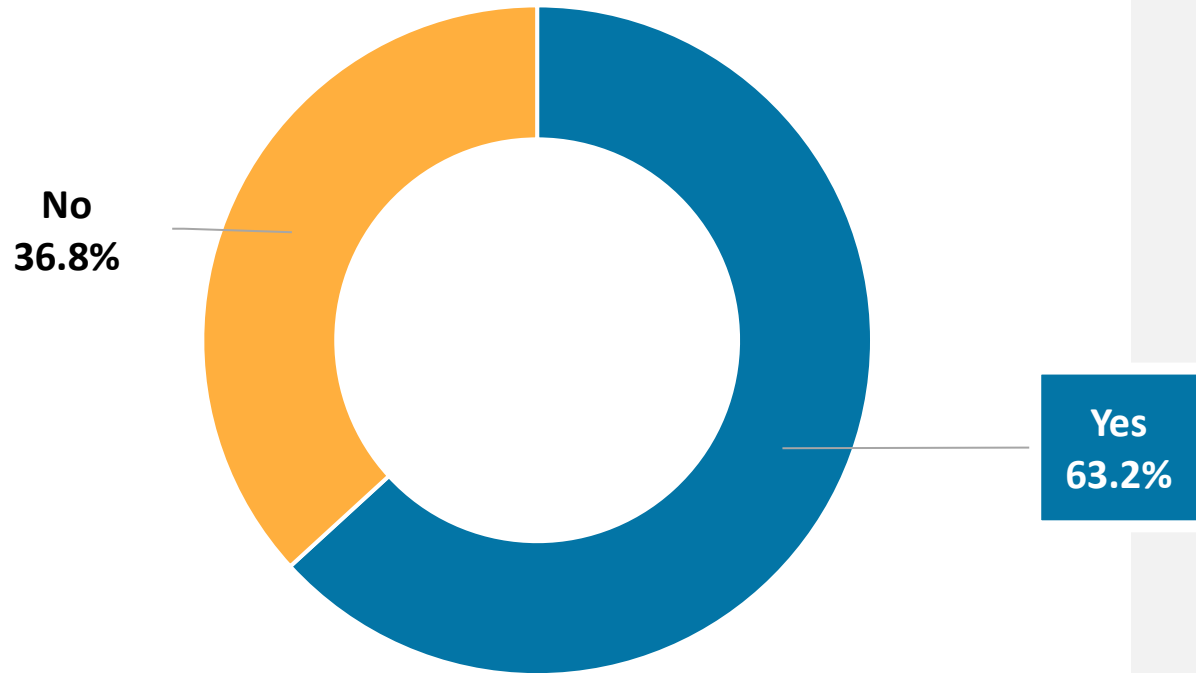
According to the type of entity



■ Fully implemented ■ Partially implemented ■ Not implemented

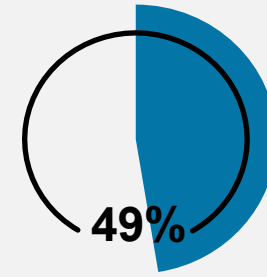
II. Procurement **planning** is still challenging and not yet fully executed

Obstacles are faced in 2/3 of the cases surveyed

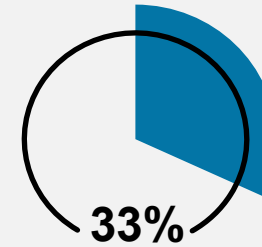


!!! Limited procurement **planning especially at the Local Level**

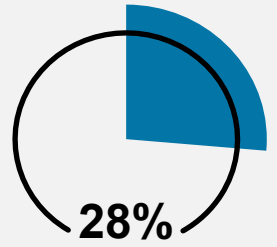
Types of obstacles faced in preparing the annual procurement plan



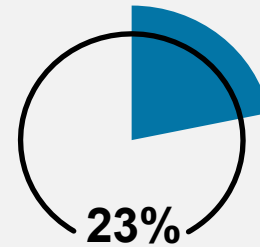
Weak human capabilities



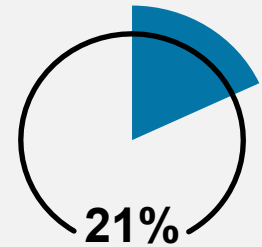
Did not receive any information on the procurement plan template by PPA



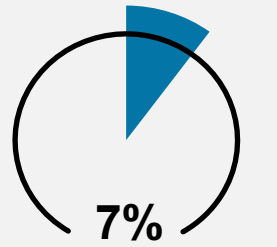
Procurement plan template does not suit the nature of work



Eco-Fin situation and fluctuation of exchange rate



No Budget in 2023



Other

III. A variation in the use of procurement methods

1- Shopping (or by invoice) stands out as the most used method.

This is mainly due to:

*the devaluation of the Lebanese Pound has a severe impact on procuring entities' budgets

*the suppliers are not bidding for open tender due to payment delays combined with the devaluation of the national currency

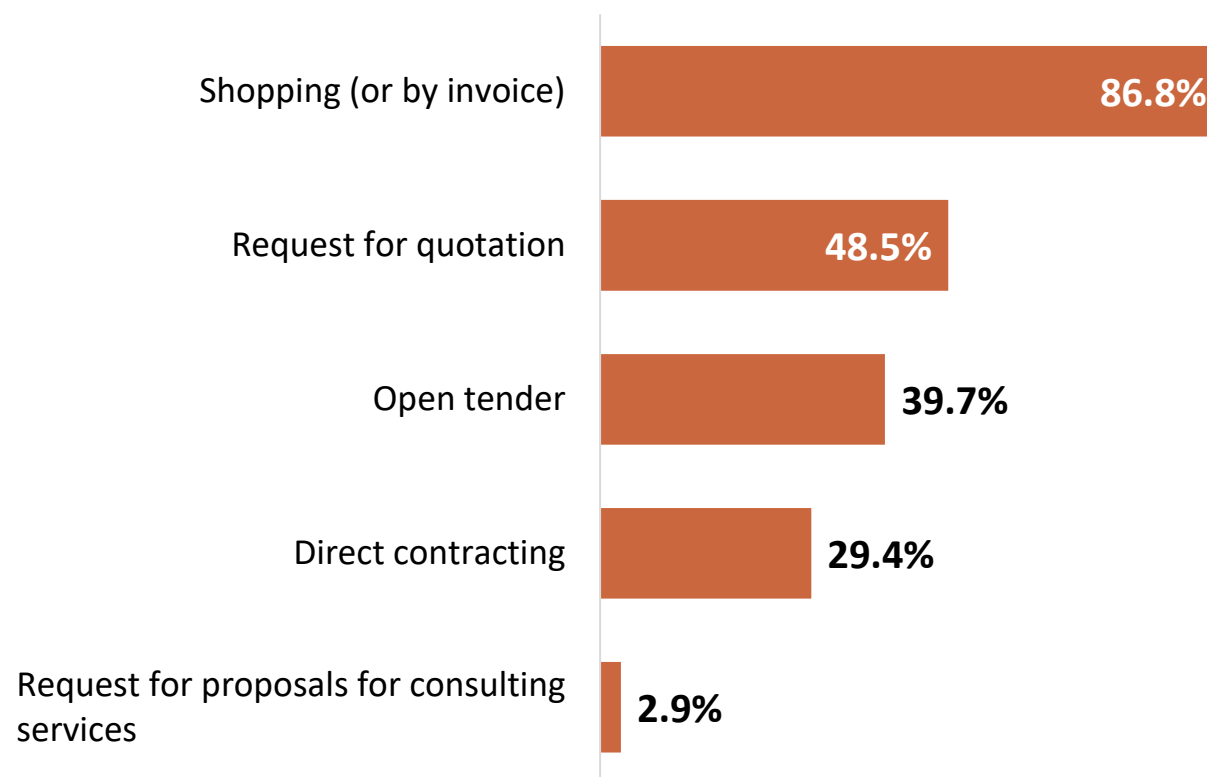
*the procuring entities are splitting procurement under threshold to be able to procure by invoice, which is not permitted by the Law.

2- The second most used method is the **request for quotation** followed by the **open tender**.

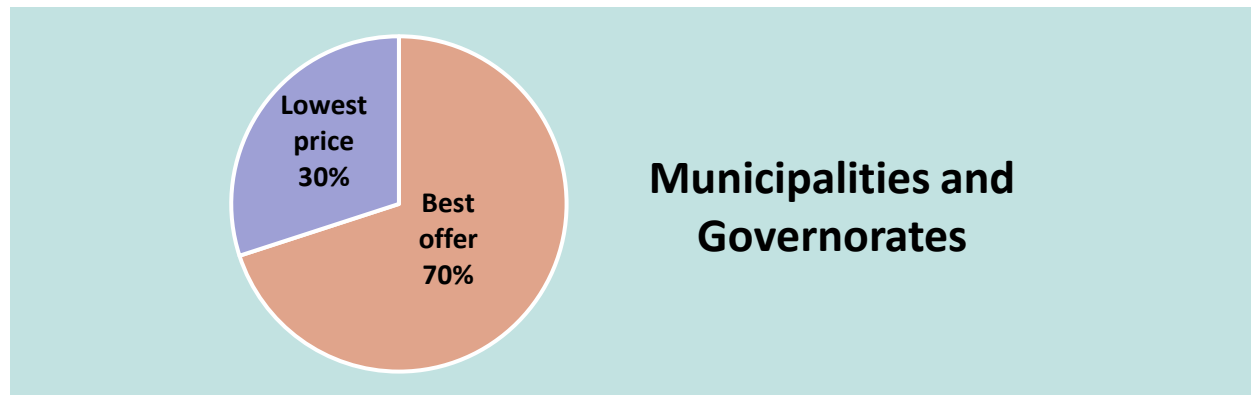
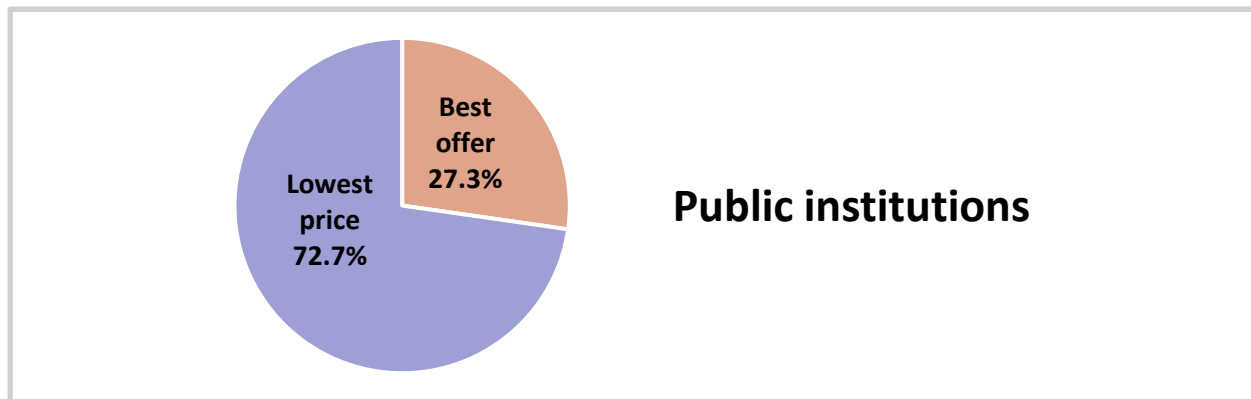
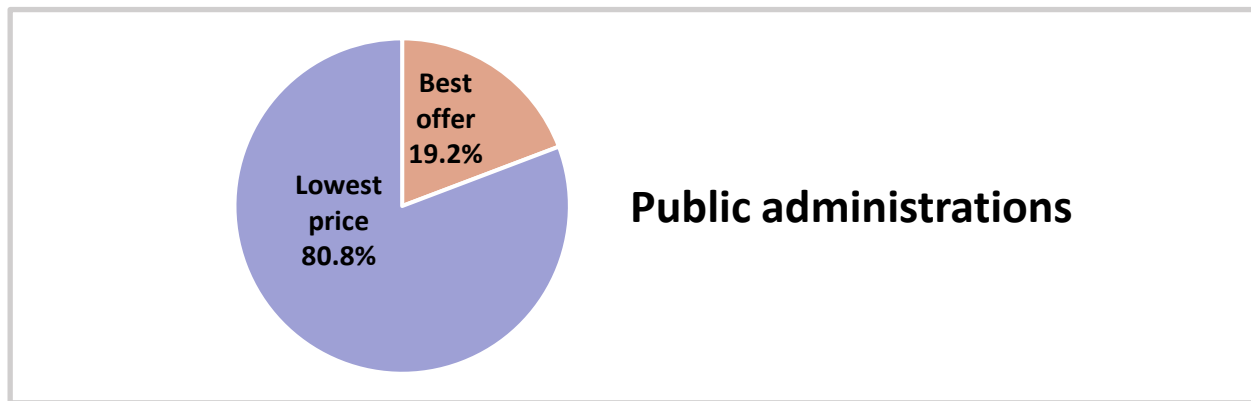
3- **Direct contracting** is applied mainly in specific sectors: security, telecommunications, health, public works and energy & water.

4- **Newly introduced methods** (framework agreements and two-stage tendering) are practically not used yet due to lack of awareness.

Top used procurement methods since the beginning of Law implementation



IV. Lowest price as main criteria for contracts award

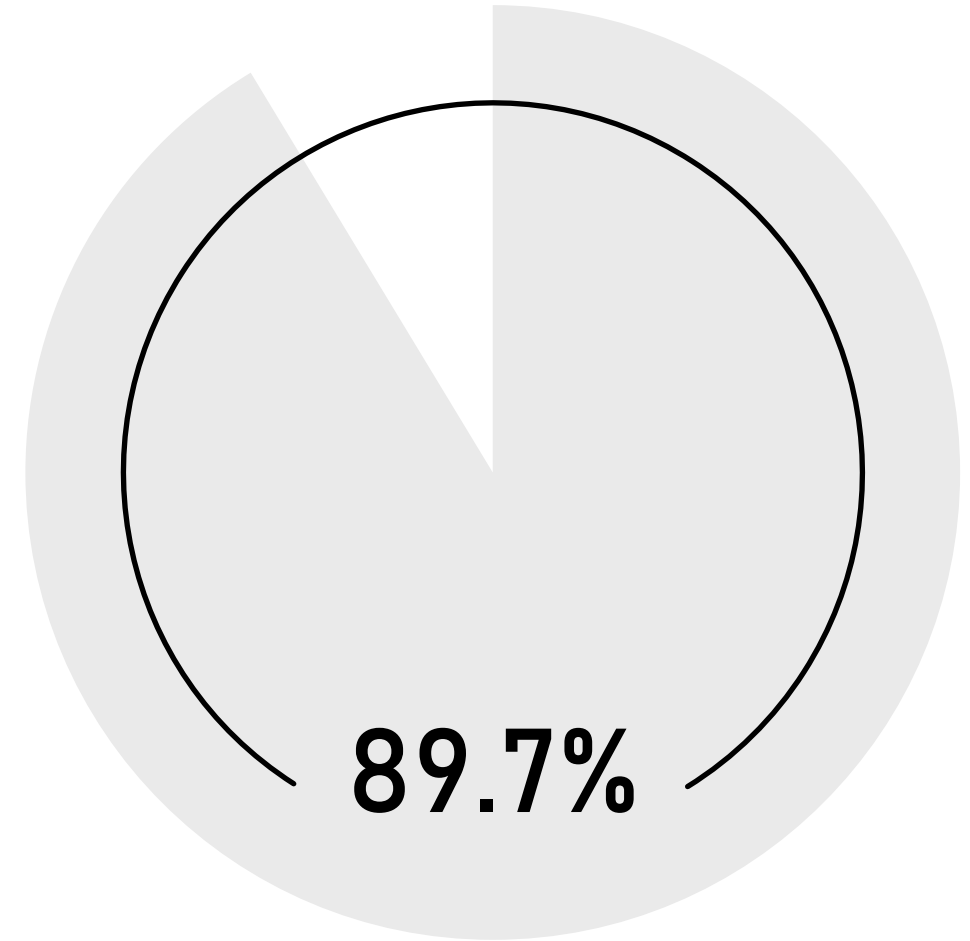


Municipalities and Governorates declared using other award criteria than the price (best offer) in application to Article 55-6

V. A need for standard procurement documents



- Almost all public administrations/institutions that participated in the survey considered the adoption of standard procurement documents by the Public Procurement Authority a **high priority** to ensure proper implementation of the law.
- Non-standardized procedures are entry points for corrupted practices and inefficiencies; which worsen the business community's lack of trust in the PPL and reform.

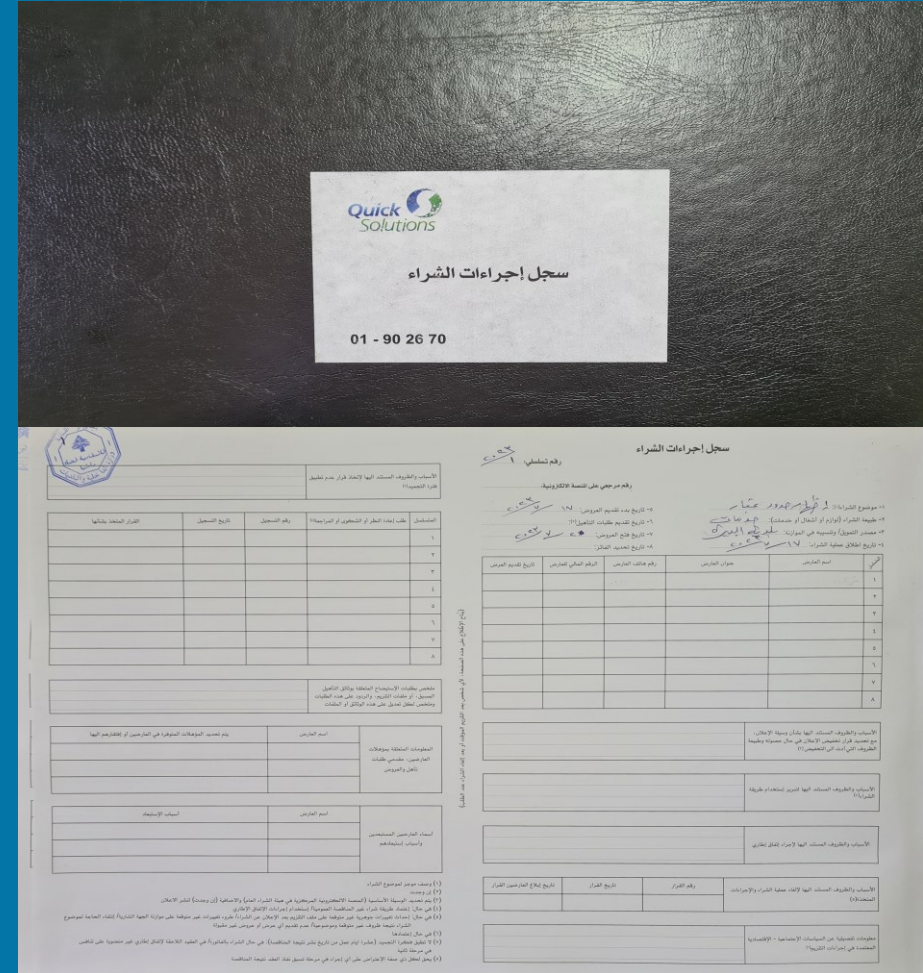


VI. Confusion in the application of the record-keeping requirements for procurement proceedings

There is a considerable misconception regarding the record-keeping requirements for procurement proceedings as outlined in Law 244.

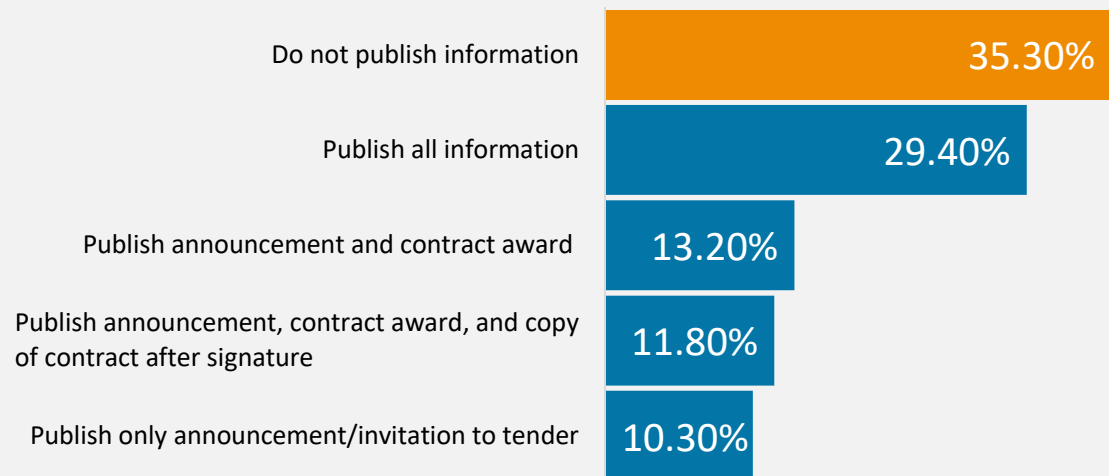
Some procuring entities (including municipalities) have mistakenly adopted a complex booklet for “procurement record” sold by a local copy center, believing it to be the standard template for procurement procedures' records.

Whereas by Law 244, the procurement record is a folder that every procuring entity should use to store all documents related to a specific procurement project. This folder may include a log or table of contents at the top for organizational purposes, but there is no prescribed template for this record. Additionally, each type of procurement requires different record-keeping practices based on its complexity and the volume of documents that need to be issued and retained as per Law 244.



VII. Publication of information needs to be enforced

Publication of information

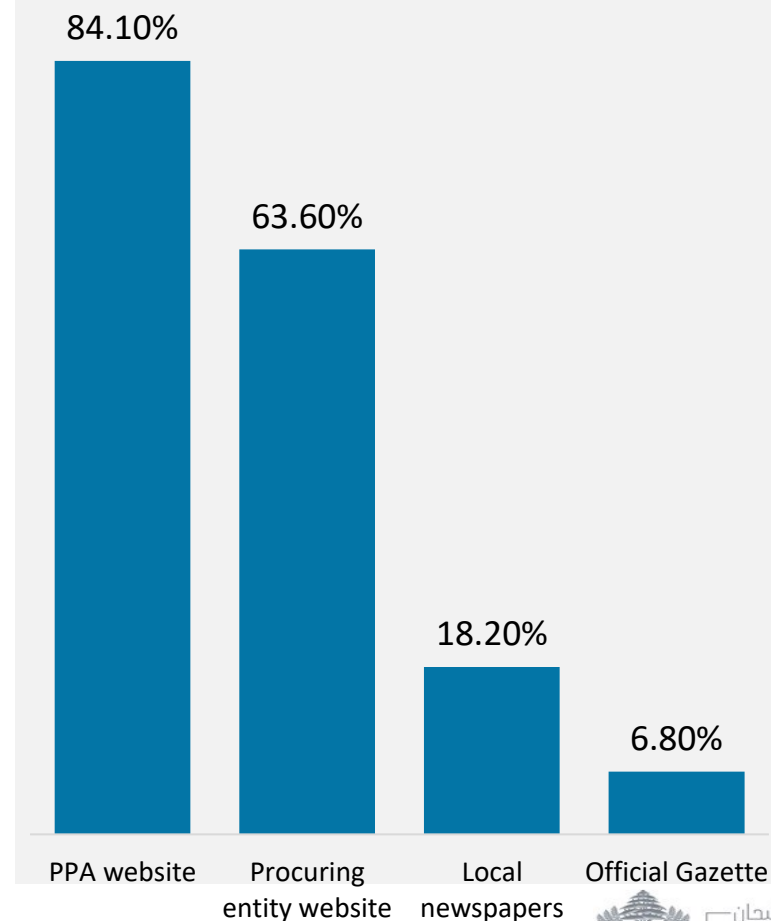


Top reasons behind no publishing info

ranking

- 1 Budget limitations affecting procurement volume
- 2 Urgent and low value procurement
Lack of logistical capacity and expertise
- 3 Not knowledgeable enough of law requirements
- 4 Not registered on PPA website yet

Where is it published



VIII. The central electronic platform (single portal) is the tool for transparency

Incorporate a **section dedicated to FAQ** to provide users with quick access to essential information using inquiries previously asked by procuring entities.

01

Improve the **search option** for more efficient navigation and information retrieval.

02

Dedicate a **section for Q&A, ensuring prompt responses within 24h** to accelerate clarification during the procurement process.

03

Publish the **Standard Procurement Documents** in a clear and chronological order.

04

05

Publicly disclose all mutual agreement contracts.

06

Publish and facilitate **access to essential data** related to procurement for transparency

07

Allocate a **page specifically for the requirements of municipalities.**

08

Ensure **continuous update of information** to keep users informed.

IX. Procuring entities facing **problems with bidders**



Type of problems faced

Problems related to the private sector

- Not being registered at the Ministry of Finance.
- Not being capable of maintaining proper records (e.g., invoice serialization).
- Lacking awareness regarding the regulations and laws applied to municipalities.

Problems related to the country's economic and financial situation directly affecting participation to public procurement

- Facing challenges due to requirements imposed by the PPL.
- Suppliers are unwilling to participate in bids unless it is through shopping.
- Non-responsiveness to calls for competition and failure to submit offers in LBP due to the instability of the exchange rate and delays in payment.
- Reluctance to provide long-term price offers, particularly in fuel purchases.
- Difficulty in meeting contract requirements.
- Lack of confidence in public management and hesitation among some suppliers to engage with the public sector.
- Challenges in securing administrative documents and bank guarantees.
- Delays in payment and extended procedures associated with it.

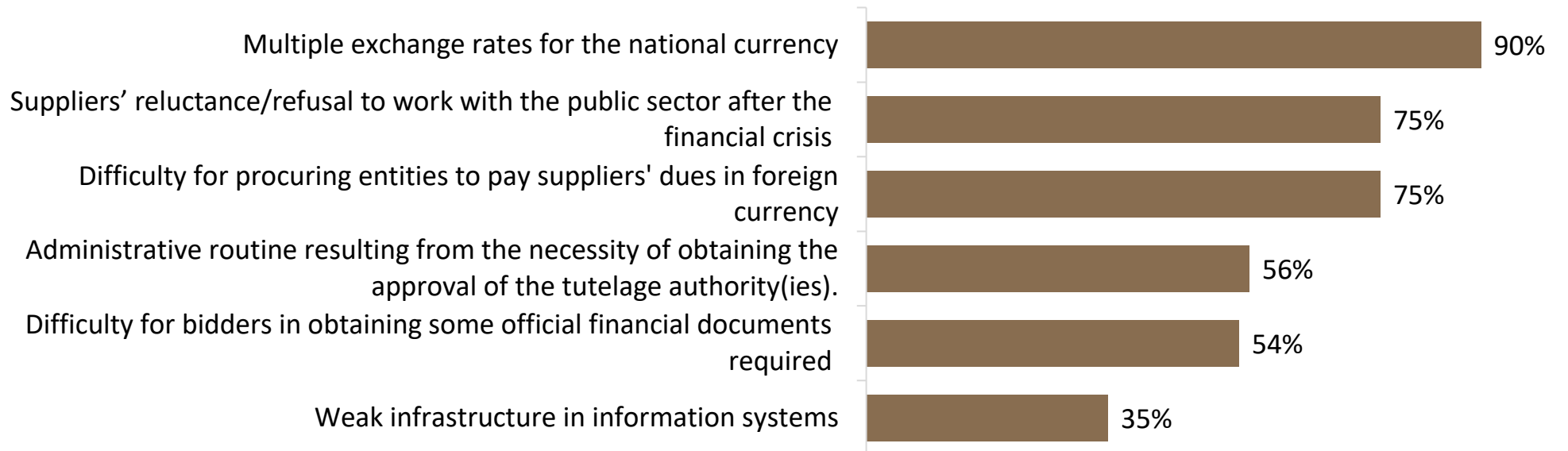
PPL implementation challenges

Multi-fold challenges in implementing Law 244

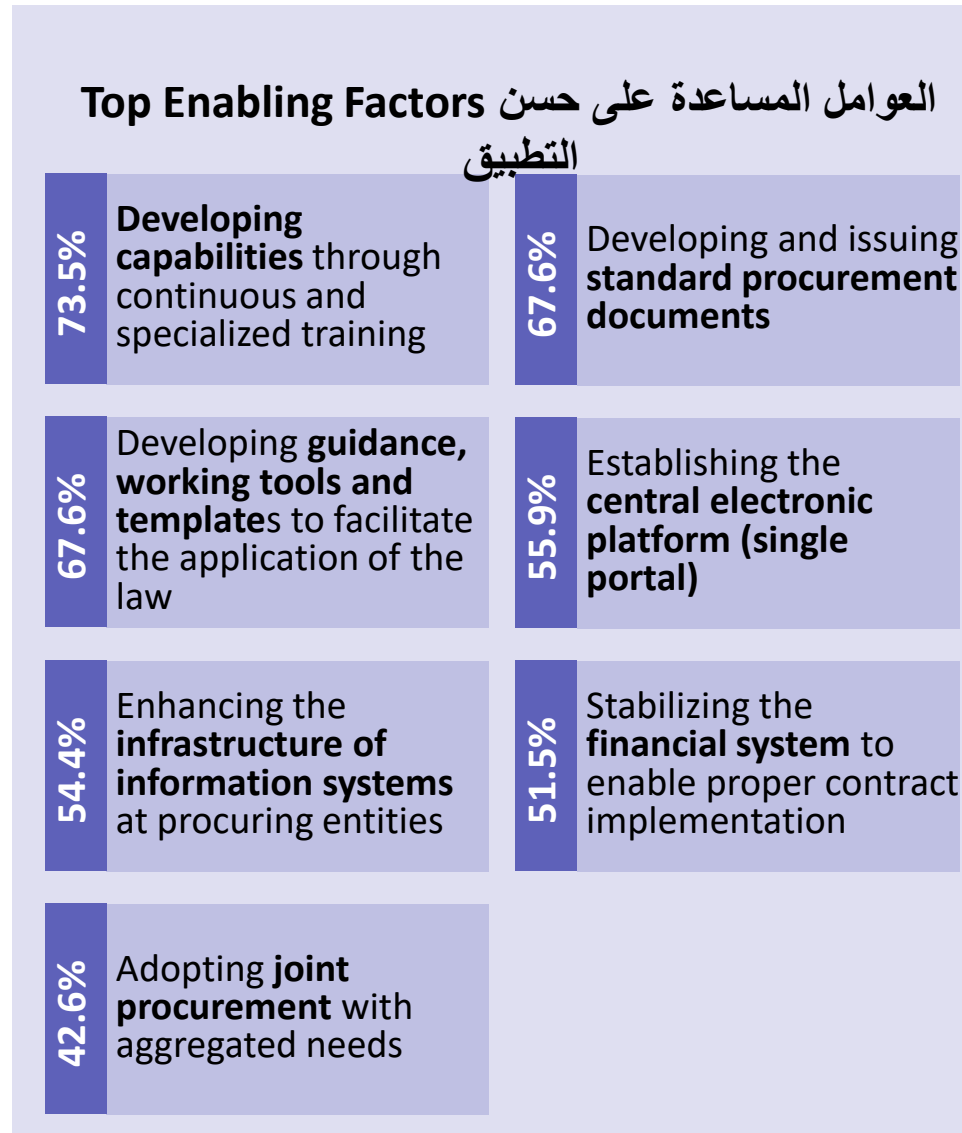


If not addressed adequately, challenges can have far-reaching consequences, including delays and inefficiencies in procurement processes, an increased financial burden due to currency-related issues that will impact budget allocations and fiscal responsibilities, compromised quality of decision-making, and strained supplier relationships.

External challenges



Measures and Factors for efficient PPL implementation



Need for sound operationalization of the regulatory authority

Several challenges are hindering the sound operationalizing of the regulatory authority (PPA) and negatively affecting the performance of the PP system:

- Absence of the **central electronic platform** and its functionalities which hinders the proper functioning of the procurement system, namely the use of templates, the availability of information, the establishment if a helpdesk, the access to open data, the availability of data analytics and reporting.
- Absence of **Law explanatory guidelines** that explains the provisions and articles to avoid misinterpretation and ineffective application of the Law.
- Absence of **standard procurement documents and basic templates** such as committees' reports.
- **Misunderstanding of the advisory role of the regulatory authority** (stipulated in Art. 76-19) by senior decision makers at procuring entities level (ministers, directors general, etc) who are systematically requesting prior review of tender documents by the regulatory authority. This practice has serious negative implications on the procurement system, like delaying procurement procedures, creating conflicts in the PPA (monitoring v/s prior approval), and inefficient use of limited resources at PPA to exercise the regulatory role.

Recommendations

- **Reinforcing the regulatory role and the independence of the Public Procurement Authority (PPA)** from transactional prior reviews and decisions, through clear legislation and complementary regulations.
- Issuing **standard procurement documents** by the Public Procurement Authority (PPA) to serve as a benchmark, and help minimizing ambiguities and disputes, thereby streamlining the procurement process.
- Making sure that any update/**amendment of the PPL is based on assessing the impact** of its implementation on concerned stakeholders.
- **Ensuring complementarity of PPL 244 with other laws that are impacting the PP system** (CoA laws, the processes of validation by tutelage authorities for procuring entities like municipalities, autonomous public institutions, etc)
- Ensuring **regularity in the procurement planning process**, which depends primarily on a timely budget exercise (integration with the budget).
- Providing additional **instructions and guidelines** and clarifying new concepts in PPL as well as on complex procurement procedures (FAs, two-stage tendering, etc).
- **Establishing the Complaints Authority** that is still absent from the system.
- **Disrupting the cartels and monopoles** in procurement market.



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Annex – List of surveyed entities

Category	Sector	Ministry	Procuring Entity
Public administrations	Administrative Affairs	Presidency of the Council of Ministers	General Directorate of Presidency of the Council of Ministers
		Presidency's Directorate General	General Directorate of Presidency of the Republic
	Agriculture	Ministry of Agriculture	General Directorate of Agriculture
	Economy and Finance	Ministry of Economy and Trade	General Directorate of Economy and Trade
		Ministry of Finance	General Directorate of Finance
		Ministry of Labor	General Directorate of Labor
		Office of the Minister of State for Administrative Reform	Office of the Minister of State for Administrative Reform
	Education	Ministry of Education and Higher Education	General Directorate of Higher Education
	Health	Ministry of Public Health	Ministry of Public Health
	Military and security	Ministry of Interior and Municipalities	Directorate General of Civil Defense
		Ministry of Interior and Municipalities	Directorate General of General Security
		Ministry of Interior and Municipalities	Directorate General of Internal Security Forces and prisons
		Ministry of Interior and Municipalities	General Directorate of State Security
		Ministry of Interior and Municipalities	Ministry of National Defense
		Ministry of National Defense	Lebanese Armed Forces
		Ministry of National Defense	General Directorate of Administration
		Presidency of the Council of Ministers	Higher Council for Defense
	Social Affairs	Ministry of Displaced	Ministry of Displaced
		Ministry of Social Affairs	General Directorate of Social Affairs
	Telecom	Ministry of Post and Telecommunications	General Director of Investment and Maintenance
		Ministry of Post and Telecommunications	General Directorate of Installation and Equipment
	Tourism, Culture and religion	Ministry of Tourism	General Directorate of Tourism
		Presidency of the Council of Ministers	Fatwa councils
Works, Infrastructure and transportation	Ministry of Public Works and Transportation	Directorate General of Land and Maritime Transport	
	Ministry of Public Works and Transportation	Directorate General of Urban Planning	
	Ministry of Public Works and Transportation	Ministry of Public Works and Transportation	

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Public Institutions	Administrative Affairs	Presidency of the Council of Ministers	National Archives
		Presidency of the Council of Ministers	Mutuelle des Fonctionnaires de l'Etat
		Presidency of the Council of Ministers	Higher Disciplinary Council
	Agriculture	Ministry of Agriculture	Lebanese Agricultural Research Institute - Administrative and technical services
		Ministry of Agriculture	The Green Plan - Administrative and technical services
	Economy and Finance	Ministry of Economy and Trade	Rachid Karami International Fair - General Directorate of Economy and Trade
		Ministry of Labor	National Employment Office - General Directorate of Labor
	Energy and Water	Ministry of Energy and Water	Beirut Mount Lebanon Water Est. Ebml
		Ministry of Energy and Water	Bekaa Water Establishment
		Ministry of Energy and Water	Électricité Du Liban
		Ministry of Energy and Water	South Lebanon Water Establishment
	Health	Ministry of Public Health	Marjayoun Governmental Hospital
		Ministry of Public Health	Rafik Hariri University Hospital
		Ministry of Public Health	Tebnine Governmental Hospital
		Ministry of Public Health	Tripoli Governmental Hospital
	Social Affairs	Ministry of Interior and Municipalities	Cooperative Fund of Makhateer
	Telecom	Ministry of telecommunications	Ogero
	Tourism, Culture and religion	Ministry of Culture	Lebanese National Higher Conservatory of Music - General Directorate of Culture
	Works, Infrastructure and transportation	Ministry of Public Works and Transport	Port de Tripoli
		Ministry of Public Works and Transport	Port of Beirut
Presidency of the Council of Ministers		Council for Development and Reconstruction	
Presidency of the Council of Ministers		Council For South Lebanon - Presidency of the Council of Ministers	

Annex – List of surveyed entities

Category	Sector	Ministry	Procurement Entity
Municipality and Governorate	Local Government	Ministry of Interior and Municipalities	Governorate of Akkar
		Ministry of Interior and Municipalities	Governorate of Beqaa
		Ministry of Interior and Municipalities	Municipality of Ainata
		Ministry of Interior and Municipalities	Municipality of Barja
		Ministry of Interior and Municipalities	Municipality of Bazoun
		Ministry of Interior and Municipalities	Municipality of Chaat
		Ministry of Interior and Municipalities	Municipality of Chtoura
		Ministry of Interior and Municipalities	Municipality of Ghbele
		Ministry of Interior and Municipalities	Municipality of Haret Hreik
		Ministry of Interior and Municipalities	Municipality of Hasbaya
		Ministry of Interior and Municipalities	Municipality of Hasroun
		Ministry of Interior and Municipalities	Municipality of Joub Jannine
		Ministry of Interior and Municipalities	Municipality of Kab Elias Wadi EL Dalam
		Ministry of Interior and Municipalities	Municipality of Kafra
		Ministry of Interior and Municipalities	Municipality of Kneisseh
		Ministry of Interior and Municipalities	Municipality of Lebaa
		Ministry of Interior and Municipalities	Municipality of Mechref
		Ministry of Interior and Municipalities	Municipality of Toura
		Ministry of Interior and Municipalities	Municipality Of Zahle Mouallaka And Taanayel
		Ministry of Interior and Municipalities	Municipality of Zebdine El Nabatieh