

January 2021

Reforming Public Procurement in Lebanon: Towards sound financial governance, economic recovery, and restoration of trust

Note prepared by: Institut des Finances Basil Fuleihan – Ministry of Finance

This report highlights the progress of public procurement reform in Lebanon for the year 2020 and presents 2021 prospects in preparation for reform implementation.

2020 Milestones in Review

MAPS ASSESSMENT

The **MAPS Report** (Methodology for Assessing Procurement Systems) was completed in July 2020. The assessment report and its annexes were reviewed in August 2020 by MAPS Global team and then, in November 2020, by the Technical Advisory Group to ensure compliance with the international methodology. Comments were integrated and report finalized in December 2020.

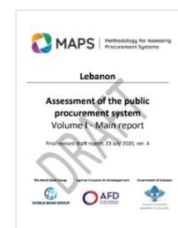
➤ The 160 pages report +100 pages annexes is available at:

<http://www.institutdesfinances.gov.lb/project/methodology-for-assessing-procurement-systems-maps-ii-in-lebanon/>

As reminder, MAPS is an OECD designed tool used worldwide to assess the performance of public procurement systems. MAPS was completed in consultation with **+100 stakeholders**, with the support of the World Bank and the Agence Française de Développement.

MAPS Results: The assessment report provided, for the **first time in Lebanon**, evidence on the level of performance of the procurement system. Only **5% of the 210 qualitative and quantitative indicators were fully met the international standards**, giving a strong signal of the importance of an informed policy process and the urgency to having a strategic vision for procurement reform in the country.

MAPS Pillar Assessment Criteria	Met	Partially Met	Not Met	Not Applicable	Total
I-Legal, Regulatory, and Policy Framework	9	27	30	1	67
II-Institutional Framework and Management Capacity	0	18	30	7	55
III-Public Procurement Operations and Market Practices	0	8	18	0	26
IV-Accountability, Integrity and Transparency	2	18	42	0	62
Total	11	71	120	8	210
Percentage	5%	34%	57%	4%	100%



INSTITUTIONAL MAPPING

I-Map was completed in June 2020, then revised in October 2020 after consultation on findings. This **institutional mapping** of procurement stakeholders, was undertaken by national experts commissioned by the World Bank, to complement MAPS, for a better understanding of institutional dynamics, roles and mandates, and analyze overlaps and gaps, as well as inefficiencies and corruption risks.

The exercise resulted in 2 outputs:

1. **An analysis of stakeholders** and recommendations for potential institutional scenarios;
 2. **The Iplan:** an interactive featuring stakeholders' interventions as well as control and oversight gaps and overlaps.
- The mapping results are available at:

<http://www.institutdesfinances.gov.lb/project/public-procurement-reform/>



PUBLIC PROCUREMENT DRAFT LAW

The draft public procurement law was **submitted to Parliament** on February 2020 and a **special parliamentary committee** was formed in March 2020 to study and discuss the draft law.

Draft law is available at: <http://www.institutdesfinances.gov.lb/project/public-procurement-reform/>

The following table presents the progress of discussions:

Chapter	Progress
1. General Provisions	Second reading
2. General rules for the preparation, conduct and implementation of the procurement process	Second reading
3. Procurement methods	Second reading
4. Electronic Procurement	Second reading
5. Professionalization and Capacity Building	Second reading
6. Governance of the Procurement System	Sections 1&2: first reading
	Sections 3&4: second reading
7. Challenge proceedings	First reading
8. Integrity and Accountability	Second reading
9. Final Transitory procedures	First reading

To date, the special parliamentary committee headed by MP Yassin Jaber met **34 times** during the period June 2 to December 29, 2020. The committee dedicated **over 95 hours** of discussions during which consultations with various stakeholders took place, including contributions from CSOs. This approach is building up steady progress and a strong buy-in. In parallel **+20 consultation meetings were organized** with policy makers, the donor community and civil society to explain and discuss the draft law and ensure ownership.



Date	Title	Organizer
21.02.2020	Meeting with President of Central Inspection Board	Institut des Finances
04.03.2020	Meeting with Judges of Court of Accounts	Institut des Finances
10.03.2020	Meeting with Judges of State Council	Institut des Finances
10.03.2020	Meeting with former MP Ghassan Moukheiber	Institut des Finances
10.03.2020	Meeting with Minister of Economy and Trade Raoul Nehme	Institut des Finances
12.03.2020	Meeting with MP Sami Gemayel	Institut des Finances
05.05.2020	Meeting with VP of Council of Ministers and Minister of Defense Zeina Akar	Institut des Finances
09.2020	Series of consultations with national legal experts	Institut des Finances
12.10.2020	Meeting with Judge Choukri Sader	Institut des Finances
04.11.2020	Roundtable discussion with academia	Université Saint Joseph
11.11.2020	Roundtable discussion on draft law and transparency	Issam Fares Institute-AUB
24.11.2020	Roundtable discussion with CSOs on draft law	Democracy Reporting International
11.2020	Meetings with national legal experts and CSOs-complaint mechanism	Institut des Finances
11.2020	Series of side meetings with different MPs blocs	Different MPs blocks
02.12.2020	Roundtable discussion with CSOs on procurement reform and draft law	Lebanese Foundation for Permanent Civil Peace
10.12.2020	Stakeholders meeting (CSOs and donors) on draft law and reform progress	World Bank, AFD, UNDP
17.12.2020	Meeting with Minister of Justice	Minister of Justice
29.12.2020	Roundtable discussion with CSOs on draft law principles and provisions	Lebanese Foundation for Permanent Civil Peace

To accompany the discussions, the Institute mobilized **18 national and international experts including from partner organizations namely OECD/EU-SIGMA and the World Bank** to provide guidance and technical assistance for draft law review and enhancement.

Progress was halted as a nation-wide lockdown due to COVID-19 spread, imposed in January 2021. Sessions in Parliament are expected to resume in February, followed by discussion in common committee and then voting in General assembly.

As reminder, the draft law was founded on **eight guiding principles**: inclusiveness, integration, accountability, effectiveness and competition, integrity, transparency, professionalization, and sustainability.

The drafting and review process was based on:

- Review of previous draft procurement laws;
- Evidence and recommendations of the MAPS exercise;
- The UNCITRAL Model Law on Public Procurement (2011);
- Recommendations of the OECD Council on Public Procurement (2016);
- Benchmarks with procurement laws recently adopted in the Arab region, namely Jordan (2019), Egypt (2018), Palestine (2014), and Tunisia (2014);
- The input of national experts, policy strategists and subject-matter specialists, economists, legal experts, the private sector and civil society;
- Technical guidance of OECD-SIGMA experts.





2021 Reform Prospects

In line with MAPS recommendations, four parallel reform tracks were launched in January 2021:

SECONDARY LEGISLATIONS (January – June 2021)

To ensure a timely entry into force of the law once enacted, the drafting of priority secondary legislations was launched, with the technical support of the World Bank. It covers the functions of the regulatory authority, the review body, and the General Conditions of Contracts.

NATIONAL STRATEGY FOR PROCUREMENT REFORM (January – June 2021)

Based on MAPS recommendations, there is an urgent need for a unified, widely shared and formally adopted vision of public procurement reform, in order to ensure national ownership and sustainability of the process. A **national strategy and action plan** drafting process was launched with the support of the Global Procurement Partnership (GPP), while ensuring a dynamic coordination mechanism with concerned stakeholders, to be submitted to the Council of Ministers for adoption.

CENTRAL ELECTRONIC PLATFORM ASSESSMENT (January – June 2021)

To prepare for the functioning of the central electronic platform as key tool of law implementation, an **in-depth assessment** of available platforms, infrastructure and potential capability was launched by the World Bank. The assessment findings will inform on recommended features and standards, in line with the new legislation and international guidelines, laying the ground for future e-procurement.

CAPACITY BUILDING STRATEGY AND PROFESSIONALIZATION (February – June 2021)

In line with MAPS recommendations and the new law provisions, a stand-alone procurement profession will be established. The development of a **strategy for capacity building and professionalization** was launched, with the support of the World Bank, to steer human capital allocation, career development, capacity building and awareness raising, to be submitted to the Council of Ministers for adoption.

Towards a strategic vision for public procurement reform

Other components of public procurement reform remain pending due to lack of funding.

To ensure a sound and efficient entry into force of the draft law once enacted, there is an urgent need to mobilize resources for the successful launching of the implementation process:

GUIDELINES ON THE LAW (2021) - Pending

Guidelines are intended to explain and facilitate the understanding of the new procurement law objectives and how the provisions are designed to achieve those objectives, in addition to commentary on article by article. The **guidelines are intended to enhance the effectiveness of the law** as tool for modernizing the public procurement system.

HANDBOOKS AND MANUALS (2021) - *Pending*

User-friendly and customized explanatory handbooks and manuals are key instruments for the efficient and transparent implementation of the new public procurement law and related procedures. These tools shall be directed at different categories of procurement practitioners, economic operators and the civil society to ensure sound procurement practices, increase market competition and enhance transparency and accountability.

CAPACITY BUILDING & AWARENESS RAISING - *Pending*

Professionalization is key to ensure an efficient and transparent procurement system. Implementation of **capacity building programs across public sector in addition to national stakeholders' awareness raising**, shall take place in preparation of new law and procedures deployment. Continuous training, certification and professionalization are foreseen to minimize capacity gaps on the long term.

STANDARD FORMS AND TOOLS (2021-2022) - *Pending*

A main drawback is the absence of nationally binding standardized tools, which complicates operations, increases costs, reduces competition and trust, and limits access to procurement market. In light of the new procurement law and MAPS recommendations, a consultation process with all concerned stakeholders will be launched to **develop and test new standard forms and tools in view of their mandatory adoption by Government**. Making their use mandatory through secondary legislation (decree) will be followed by the deployment of large scale capacity building programs.

COMPLEMENTARY SECONDARY LEGISLATIONS (2021-2022) - *Pending*

Complementary secondary legislations are **key regulatory instruments enabling an efficient entry-into-force of the public procurement law**, while ensuring that guiding principles are respected. A set of secondary legislations shall be developed covering the implementation of the new public procurement law provisions, the new institutional set-up, the capacity building process and the insurance of high standards of integrity and transparency.

RISK MANAGEMENT STRATEGY AND TOOLS (2022-2023) - *Pending*

Mismanagement and corruption risks are high across the procurement cycle and at different levels of procuring entities. Addressing these risks has never been considered in the current system. **To efficiently identify and mitigate procurement risks, a strategy with implementation tools shall be developed**, accompanied with awareness raising to procurers and decision-makers on their respective roles.

CENTRAL ELECTRONIC PLATFORM (2021-2022) - *Pending*

Based on assessment results, the development of a **central electronic platform for public procurement will allow the collection and analysis of data, and provide free access to it** for decisions makers and concerned stakeholders to ensure sound implementation of the new procurement law, and to help improve the procurement system.

HOW TO SUPPORT THIS ESSENTIAL REFORM?

Donor community, private sector and civil society **have a critical role** in contributing to the reform process by:

1. **Capitalizing** on efforts lead by the Institut des Finances to **gain recognition among policy makers for the significance and strategic importance** of public procurement reform.
2. **Advocate** to sustaining the political will, ownership and consensus for the endorsement of the draft procurement law and secondary legislations by Parliament and implementation of the various components critical to its success.
3. **Raise awareness, maintain dialogue and access to information** on this whole-of-government reform, while addressing the concerns of concerned stakeholders.
4. **Encourage** a dynamic coordination with the business community in particular to promote the reform vision approach and harmonize efforts.
5. As such, **public consultations with policy makers, the business community and civil society** would tackle various facets of an efficient, competitive and transparent system.
6. **Provide much needed technical and financial resources** to implement the reform vision.

Reform Background

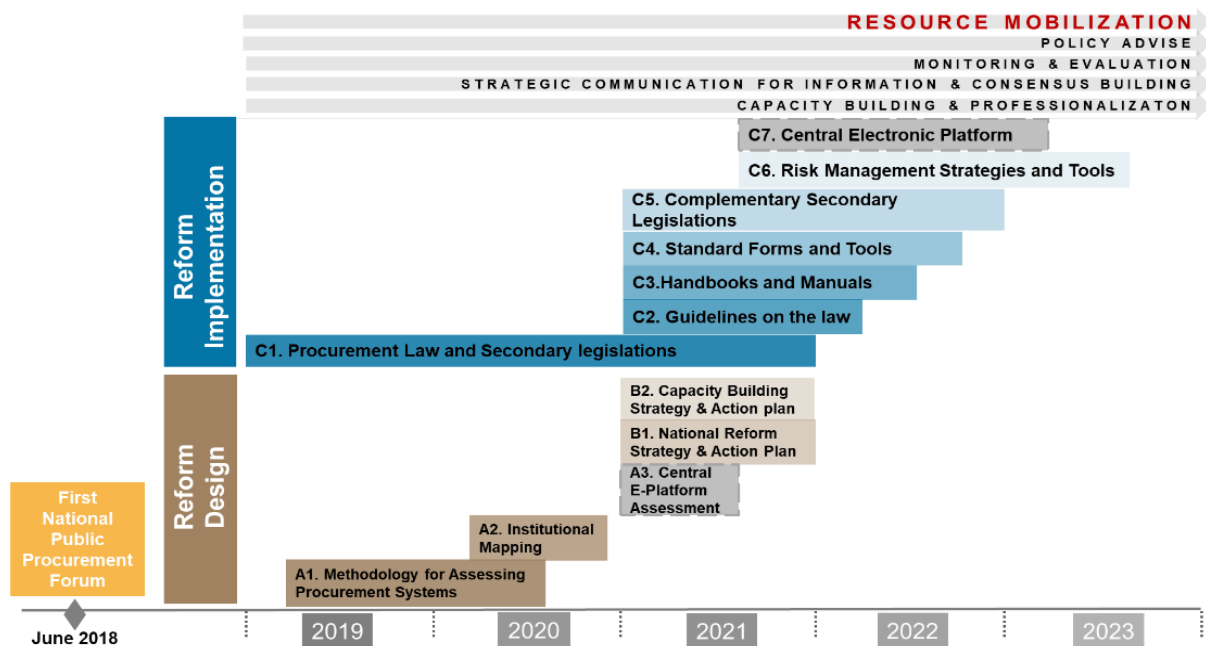
Public procurement reform is a whole-of-government reform highlighted in the Ministerial Declarations of both Hariri (2019) and Diab Governments (2020) and in the Lebanese Government’s Financial Recovery Plan (April 2020). It is one of the **conditionality of international aid to be channeled to support economic recovery**. Following the CEDRE conference (April 2018), it was reiterated by the International Support Group for Lebanon (ISG) on the occasion of the Paris meeting (December 2019) and across its consecutive statements.

Following the Port of Beirut explosion on August 4, 2020, the international community, on the occasion of the “International Conference on Assistance and Support to Beirut and the Lebanese People” held on August 9, 2020, **recalled the urgent need to reform public procurement** as a key structural reform to addressing the deepening crisis. It was also stressed in the **French roadmap** as one of the most urgent economic and financial reforms that Lebanon is called to advance on, and in the **Lebanon Reform, Recovery & Reconstruction Framework (3RF)** issued in December 2020 to improving governance and accountability, ensuring sustainable economic recovery and restoring trust in State institutions.

The **Ministry of Finance committed to procurement modernization** since 2018, giving a strong signal of trust to both the private sector and the donor community. The Minister of Finance mandated the **Institut des Finances Basil Fuleihan**¹ to lead on this exercise². A **vision** was set for 2019 - 2023 founded on:

- **An evidence-based diagnostic using MAPS II instrument.**
- **A participatory, consultative and inclusive process** engaging stakeholders from public sector, business community, civil society and involving high-quality expertise and policy advise.
- **A multi-layered reform**, touching procuring entities, prerogatives of oversight and control agencies, local and international suppliers, and society at large.
- **Enhanced coordination between the government and donor community**, to ensure alignment with international standards and complementarity with government commitments.

This vision is also aligned with **Lebanese citizens’ increased demand** for transparency in public money management and the immediate implementation of reforms.



¹ The Institute is an autonomous public institution working under the tutelage of the Lebanese Minister of Finance.

² Decisions no. 109/1 dated March 4, 2019 and no. 199/1 dated June 9, 2020.