

May 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

Reform milestones 2020–2021

1. 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 January 2021. In May 2021, the report was submitted to the MAPS Secretariat at OECD for clearance and to obtain the MAPS Seal.

- 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/>
- Report Executive Summary is available at:
http://www.institutdesfinances.gov.lb/wp-content/uploads/2021/05/MAPS-Executive-Summary-En-May2021_compressed.pdf

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 have 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%



2. INSTITUTIONAL MAPPING

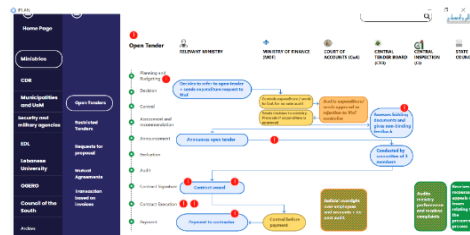
I-Map was completed in June 2020, then revised in October 2020 after consultation on findings. This **institutional mapping** of procurement stakeholders, was undertaken by national experts commissioned by the World Bank, to complement MAPS, for a better understanding of institutional dynamics, roles 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 I-plan**: an interactive tool 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/>



3. PUBLIC PROCUREMENT DRAFT LAW- Discussions in Parliament

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 special parliamentary committee chaired by MP Yassin Jaber **completed the discussions of the draft public procurement law on May 17, 2021**, after **45 sessions** that started in June 2020.

The committee dedicated **+115 hours of discussions** during which consultations with various stakeholders took place, including contributions from CSOs.

The draft law was transferred to the joint parliamentary committees for discussion. It will then be



transferred to the General Assembly for voting.

4. PUBLIC PROCUREMENT DRAFT LAW- Consultations and Awareness Building

In parallel **+45 consultation meetings were organized** with policy makers, the donor community and civil society to explain and discuss the draft law and ensure ownership.

The following table presents the consultation meetings and events throughout the year:

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
11.06.2020	Roundtable discussion on draft law as a tool to fighting corruption	Lebanese Transparency Association
23.06.2020	Roundtable discussion on draft law and its guiding principles	Kulluna Irada
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
12.01.2021	Meeting with the Ministry of Finance Budget Directorate	Institut des Finances
February 2021	Meeting with national experts team to discuss legal issues related to the draft law and convey opinions to the parliamentary committee	Institut des Finances
04.02.2021	Working meetings with national experts and World Bank experts, in the presence of the Central Tender Board and the Central Inspection to discuss the central electronic platform	Institut des Finances
19.02.2021	Meeting with national experts team to discuss complaints in the pre-contractual phase	Institut des Finances
25.02.2021	Meeting with OECD-SIGMA experts on professionalizing public procurement	Institut des Finances
26.03.2021	Roundtable discussion with CSOs on the importance of public procurement reform and the draft law	Organization for Petroleum and Energy Sustainability (OPES)

31.03.2021	Roundtable discussion with CSOs on the main secondary legislations that need to be ready with law enactment	Institut des Finances
09.04.2021	Meeting with the Director General of the Central Tender Board to discuss the functions of the future Public Procurement Authority	Institut des Finances
10.04.2021	Working meeting with the President of the Civil Service Board to discuss the nomination process in the two entities that will be established by the new law	Institut des Finances
April 2021	Series of meetings with national experts and World Bank experts in the presence of the Director General of Central Tender Board and OMSAR representatives to discuss the potential technical solutions for the central electronic platform	Institut des Finances
05.05.2021	Webinar to present and consult on the draft law with representatives of public administrations and institutions	Institut des Finances
11.05.2021	Meeting with legal experts to agree on remaining pending issues in the draft law and convey results to the parliamentary committee	Institut des Finances
15.05.2021	Working meeting of IOF experts with MP Yassin jabber and MP Samir El Jisr	Institut des Finances
31.05.2021	Working meeting with MP Yassin Jaber on the final report of the parliamentary committee	Institut des Finances

5. PUBLIC PROCUREMENT DRAFT LAW- Technical Assistance

To accompany the discussions, the Institute mobilized **+30 national and international experts, including from partner organizations namely OECD/EU-SIGMA and the World Bank**, to provide guidance and technical assistance through the process of law drafting, review, and discussion and enhancements in parliamentary committee.

The following table lists the technical assistance meetings, topics and partners involved:

Date	Technical Assistance	Topic	Partner
28.01.2020	Meeting with MAPS expert Daniel Ivarsson	Draft Law	World Bank, AFD
31.01.2020	Meeting with MAPS expert Daniel Ivarsson	Draft Law	World Bank, AFD
04.2020	Peer review of the draft law by international experts	Draft Law	World Bank OECD-SIGMA
07.07.2020	Meeting with MAPS expert Daniel Ivarsson	Draft Law	World Bank, AFD
10.09.2020	Meeting with MAPS lead expert Daniel Ivarsson	Dialogue with suppliers; appeals; cost estimation of procurement projects	World Bank, AFD
01.10.2020	Meeting with World Bank Expert Simeon Sahaydachny with participation of national expert team and stakeholders	Complaints mechanism and review body	World Bank
07.10.2020	Meeting with MAPS lead expert Daniel Ivarsson	Review Body	World Bank, AFD
09.10.2020	Meeting to discuss technical assistance for the last quarter of 2020	Procurement reform progress	OECD-SIGMA
22.10.2020	Meeting with OECD-SIGMA experts Dariusz Piasta, Mr. Zoran Blazevic and Georghe Cazan	Review Body	OECD-SIGMA

19.11.2020	Meeting with OECD-SIGMA experts Dariusz Piasta, Mr. Zoran Blazevic and Georghe Cazan	Regulatory Authority and Review Body	OECD-SIGMA
02.12.2020	Meeting to exchange of experiences with experts from the Higher Council of Public Procurement in Palestine	Regulatory Authority	Palestinian Public Finance Institute
15.12.2020	Meeting to exchange of experiences with experts from the Palestinian Public Finance Institute	Capacity building	Palestinian Public Finance Institute
17.12.2020	Meeting with OECD-SIGMA experts Dariusz Piasta, Mr. Zoran Blazevic, Codrin Vulcu and Georghe Cazan	Review body	OECD-SIGMA
17.02.2021	International Webinar on the role and organization of procurement review bodies	Review body	EBRD
25.02.2021	Meeting with OECD-SIGMA experts Georghe Cazan and Piotr Gorechi	Technical assistance to the draft law	OECD-SIGMA
25.02.2021	Meeting with OECD-SIGMA experts Georghe Cazan and Codrin Vulcu	Capacity building	OECD-SIGMA
03.03.2021	International webinar and experience sharing on professionalizing public procurement	Capacity building	World Bank
05.03.2021	Preparatory meetings for the webinar on review and complaints in public procurement with WB experts	Review body	World Bank
08.03.2021	Preparatory meeting for the webinar on review and complaints in public procurement with OECD-SIGMA experts	Review body	OECD-SIGMA
09.03.2021	Preparatory meeting for the webinar on review and complaints in public procurement with WB experts	Review body	World Bank
10-11.03.2021	Exchange webinar on review and complaints in public procurement with the participation of 7 international experts	Review body	World Bank; OECD-SIGMA
24.03.2021	Exchange session with the State Procurement Agency in Georgia on the role and function of the regulatory authority	Regulatory Authority	World Bank
12.05.2021	Meeting with WB experts on arbitration of procurement contracts	Arbitration	World Bank

6. PUBLIC PROCUREMENT DRAFT LAW- Principles of work

The public procurement draft law was founded on **eight guiding principles**:

1) inclusiveness, 2) budget integration, 3) accountability, 4) effectiveness and competition, 5) integrity, 6) transparency, 7) professionalization, and 8) sustainability.

The work on the draft law was an **evidence-based and consultative policy process**, grounded in:

- 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;
- Consultation with NGOs, private sector and other public administrations and institutions, oversight bodies, to bringing their feedback to parliament sessions;
- Technical guidance and policy advice of OECD-SIGMA and World Bank experts.



Strategizing reform actions

In line with MAPS recommendations, four parallel reform tracks are progressing since January 2021:

SECONDARY LEGISLATIONS (Jan – Jun 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, covering the mandate, functions and organizational structure of the two new entities; the regulatory authority and the review body. Other secondary legislations related to the General Conditions of Contracts are being developed.

NATIONAL STRATEGY FOR PROCUREMENT REFORM (Jan– Jun 2021)

Based on MAPS recommendations, there is 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). A first draft of the strategy was completed in May 2021, to be followed with stakeholders' consultations.

CENTRAL ELECTRONIC PLATFORM ASSESSMENT & STRATEGY (Jan – Jun 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 be followed by a **draft implementation strategy** for the central electronic platform, in line with the new procurement law and international guidelines, and laying the ground for future e-procurement.

CAPACITY BUILDING & PROFESSIONALIZATION STRATEGY (Feb – Jun 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, along with a detailed action plan for implementation.

Towards a sound implementation of the reform roadmap

A preparation period of 12 months will follow the procurement law enactment to make sure all institutional and operational set-up are there, for a sound implementation. This preparation period will be key to establish the two new institutions (Regulatory body and Review body), design and make operational the central procurement electronic platform, issue guidance on the law, build capacities of all public sector entities at central and local levels, and raise awareness of policy and decision makers for smooth change management.

With the support of international partners, and in close collaboration with key stakeholders at the national level, the second half of 2021 will feature the launching of work on the following components:

GUIDELINES ON THE LAW (2021-2022)

Guidelines aim at explaining and facilitating 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 a key reform tool.

HANDBOOKS & MANUALS (2021-2022)

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

AWARENESS RAISING (2021-2022)

Awareness raising of policy and decision makers for smooth change management, and of civil society actors for better monitoring is key. Awareness raising events will be organized in collaboration with stakeholders, mainly the Lebanese Parliament, building on the consultative approach and process in place.

CAPACITY BUILDING (2021-2023)

Professionalization is key to ensure an efficient and transparent procurement system. Implementation of **new programs across public sector** shall be designed and implemented based on the capacity building strategy. Learning material addressed to private sector actors will be made available. An **online learning platform** would help provide sustainable quality training and resources. Continuous training and certification are foreseen to close capacity gaps and professionalize the procurement workforce.

STANDARD FORMS AND TOOLS (2021-2022)

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 concerned stakeholders shall be launched to develop and test **new standard forms and tools in view of their mandatory adoption**. Making their use mandatory through secondary legislation (decree) shall be followed by the deployment of large scale capacity building programs.

CENTRAL E-PROCUREMENT PLATFORM (2021-2022)

Based on the e-procurement strategy, a **central electronic platform for public procurement shall be developed as one of the main reform tools** that will ensure the sound implementation of the new law. It will allow the publication of information, the collection and analysis of data, and the provision of systematic, timely and free access to procurement data to concerned stakeholders. Development of the platform will be followed by testing, training and full deployment.

Other reform components to be launched as of 2022:

COMPLEMENTARY SECONDARY LEGISLATIONS (2022-2023)

Complementary secondary legislations are **key regulatory instruments for an efficient entry-into-force of the 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)

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.

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.

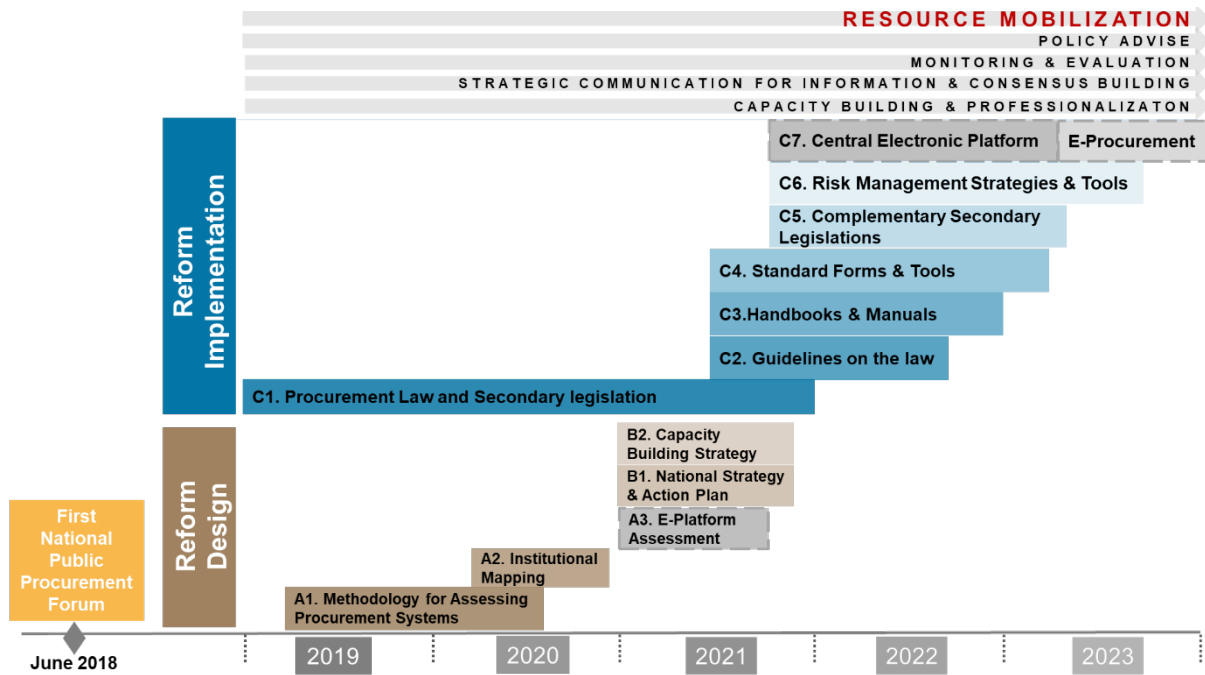
Following the Port of Beirut explosion on August 4, 2020, the international community, on the occasion of the "International Conference on Assistance and Support to Beirut and the Lebanese People" held on August 9, 2020, **recalled the urgent need to reform public procurement** as a key structural reform 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 **roadmap** 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.

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.



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

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 1) the rapid endorsement of the draft procurement law and secondary legislations by Parliament, while preserving the law's spirit and objectives without major changes that may create imbalances, and 2) the 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, in preparation for sound implementation.
4. **Encourage a dynamic coordination** with the business community in particular to promote the reform approach and harmonize efforts.
5. As such, **public consultations with policy makers, the business community and civil society** would need to be intensified tackling various facets of an efficient, competitive and transparent system.
6. **Provide needed technical and financial resources** to support the implementation of the strategic reform action plan.