

PUBLIC PROCUREMENT LAW GUIDE

Law no. 244/2021





Index



1	This Guide
2	Preamble
4	Public Procurement Roadmap
5	Introduction
7	Objectives of the Public Procurement Law
8	Principles of the Public Procurement Law
10	The institutional structure for the implementation of the Public Procurement Law
17	Public Procurement Law Enforcement Tools
23	Essential elements in the application of procurement methods
36	Special Rules in the Application of the Public Procurement Law
43	Cancellation of the Procurement or Any of its Procedures
44	Procurement Methods
52	Framework Agreement
55	Implementation of Contract
60	Fines

60
61
63
63
66
71
75
76
77
77
78
81
84

Internal Audit

Bidder's Conduct Violation Cases

Cancellation of contract

Termination of contract

Objection Procedures

Deadlines

Financial Guarantees

Financial Ceilings

Special Cases

Fulfilling the Contractor's Financial Expenses by the Contracting Authority

Punitive Provisions Upon Violations

E-procurement

Terminology



This guide

This guide explains the Public Procurement Law in Lebanon No. 2021/244, issued in the Official Gazette on July 2021 ,29, in a simplified manner enabling interested and concerned entities, from public and private sectors, academics, civil society, citizens and international donor agencies, to understand the principles and provisions of this law related to procurement and governance of the Public Procurement System.

This guide sheds light on the most prominent provisions and regulations of this reform and modern law enhancing efficiency, competition, transparency and accountability in public procurement, in compliance with international standards.

It also details the role of each of the two new authorities set by the law; the Public Procurement Authority, as a regulatory authority, and the Complaint Authority, in addition to the characteristics of their work as an essential method to avoid ambiguity and waphase, reduce the risks of collusion and corruption, and activate oversight.

The guide devotes a section to explain the shift towards electronic procurement through the Central Electronic Platform that will be created to facilitate access to procurement information and data in a systematic and open manner.

Moreover, it sheds light on the importance of this law, within the framework of the reform commitments of the Lebanese state, the methodology of its preparation, and the most prominent phases of its discussion leading to its issuance by the Parliament.



Preamble

All countries need a modern and advanced law regulating public procurement, given its importance and close connection to the state's financial activity, planning its financial engagements, and providing funds for services, supplies and the execution of works according to public budgets prepared for the short and medium terms.

It is no secret that the Lebanese state suffers from a high public debt ratio, and has repeatedly sought the support of the international community to be extricated from this crisis through loans for investment projects, financial deposits, etc..

In this context, CEDRE conference¹ stipulated that the main entry point for financing the investment spending program of the vital basic sectors of the Lebanese state shall be through reforming the public procurement system, as it is considered among the structural reforms to enhance financial governance, improving the quality of public services and attracting investments, in addition to combating corruption and investing public funds in a constructive manner.



Many reasons led donor and lending countries at CEDRE conference to demand the reformation of the public procurement system in Lebanon.

First, to enhance confidence in the Lebanese state and attract investors in vital economic sectors.

Second, to consolidate Lebanon's commitment towards the reformation and combat of corruption.

Third, to develop frameworks that guarantee transparency, integrity, sustainability, planning, specialization, fair competition and accountability regarding the public procurement operations, in the absence of any regulating integral and unified legal framework.



¹ CEDRE Conference is the international conference that was held in Paris on April 2018 ,6, with the aim of raising funds to strengthen the economy and stability of Lebanon, which is threatened by successive regional crises, and to support its development and reforms by obtaining a number of loans and grants.

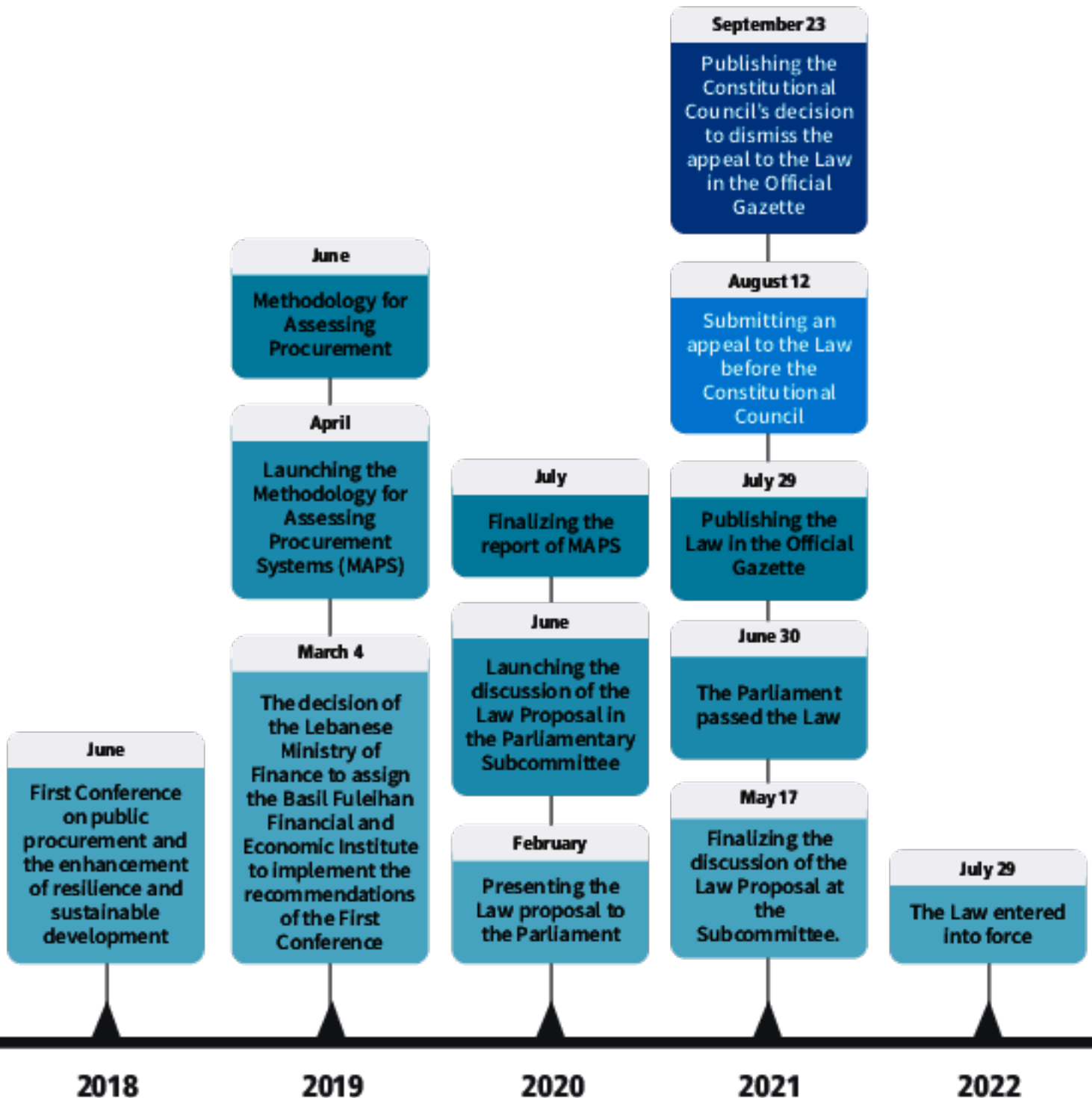
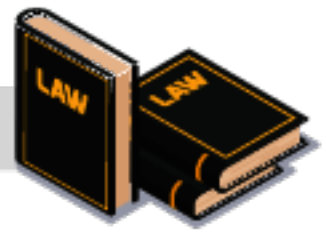


In a related context, the Lebanese Ministry of Finance assigned the Basil Fuleihan Financial and Economic Institute to implement the recommendations of the “First Conference on public procurement and the enhancement of resilience and sustainable development” in 2018, including the continuation of the preparation of a public procurement unified modern law in Lebanon to contribute to laying the foundations for integrally reforming the public procurement system in the Lebanese state. The first steps in this reform path were conducting a Methodology for Assessing Procurement Systems (MAPS) including the Administrations and institutions of the Lebanese state and involving the private sector and civil society, revealing the deficiencies and defects in various stages of conducting the procurement process from its launch, through the awarding stage, contract implementation and up to disputes that may arise between concerned parties and entities.



Drawing on the results of this scientific survey based on comparative studies and scientific data, in addition to the recommendations of international experts and specialists in public procurement, UNCITRAL Model Law, the international principles issued by the Organisation for Economic Co-operation and Development (OECD) regarding the public procurement, and a comparative study of the laws of other Arab countries, a draft public procurement law regarding the public procurement in Lebanon was prepared and presented as a law proposal before the Lebanese Parliament. The proposal of the law, before being passed by the parliament, went through a long journey that lasted a whole year of discussions and consultations with the concerned authorities, until it was passed under No. 244, signed by the President of the Lebanese Republic, and published in the Official Gazette on July ,29 2021, to enter into force on July 2022 ,29.

Public Procurement Law Roadmap



Introduction

A legal framework, not a law

The public procurement system in Lebanon has suffered, for several decades, from many distortions and problems in the absence of a specialized law regulating the public procurement. The prevailing system was a legal framework that sponsored procurement processes, based on the Public Accounting Law, tenders regulations and a number of texts related to municipalities, public institutions, security forces, the army, and others. Additionally, not all administrations, institutions, and municipalities were subject to the same legal framework, which led to the absence of standardized procedures regulating procurement processes applicable to all procurement entities.

One of the most prominent flaws in the previously prevailing system was the lack of a unified body that organizes and looks into public procurement operations. For example, the role of the Public Procurement Management Administration was “advisory but not binding”, as only less than %5 of tenders of the state were held under its supervision ². In addition, the procurement procedures missed a unified platform for announcing tenders, which caused inequity and the absence of equal opportunities. On the other hand, many supervisory bodies (Accounting Bureau, Central Inspection) were in charge of deciding on any prior or subsequent oversight. In fact, several bodies shared tasks, which has led to significant overlapping of roles and ineffectiveness.



Legal Principles of Objection and Complaints

The principles of objection and complaints were limited to the application of general principles, legal materials and administrative practices, which hindered the speed and effectiveness of the objection procedure or the insurance of rights. In this context, there was neither a clear mechanism nor an explicit legal text regarding objections and complaints throughout various stages of procurement, especially regarding the stage prior to signing the contract, and the legal time limit for settling disputes, objections and complaints were not specified. In addition to the absence of an independent body specialized in settling reviews and complaints.



Procurement Planning

Regarding public administrations and institutions, the absence of annual or medium-term planning for public procurement contributed to the lack of clarity in the policies of the procuring entities. Also, the lack of relevant specialization and moderate qualifications of those in charge of the procurement tasks resulted in inefficiency in implementing the procurement processes and an increase of wastage and corruption risks.



Ununified Practices

The absence of unified standards in preparing bidding documents, negotiations before concluding contracts, discretion in implementing contracts, or deception in choosing a procurement method controlled the procurement operations. Therefore, violations in procurement processes were common, randomness prevailed in tender processes, wasted, unjustified and useless spendings of state finances increased, as the volume of public procurement in the Lebanese state is estimated at %20 of public expenditures and %6.5 of gross domestic product (around 3.4 billion USD in 2019) at central level³.

Accordingly, all these elements combined required passing a law related to public procurement; a unified modern reform law aligning with international principles regarding strategies for the application of public procurement.



³Public Procurement System Evaluation, Executive Summary 2021, Page 6, Institut des Finances Basil Fuleihan Website <https://bit.ly/GherbalPPGuide0>

Objectives of the Public Procurement Law



Applying competitive procedures as a general rule

Providing equal opportunities to participate in the purchase without discrimination.

Providing fair, equal, transparent and responsible treatment to all bidder and winning bidders.

The public aspect, integrity and professionalism of the procedures in a manner that activates oversight and accountability.

Encouraging local economic development, national employment and national production.

Procurement operations are subject to the rules of good governance and take into account the requirements of sustainable development.



Principles of the Public Procurement Law

The law is based on eight principles drawn from the twelve recommendations issued by the Organization for Economic Cooperation and Development on public procurement⁴, which meet the needs of the Lebanese reality and aim to correct the approach of procuring entities and the procurement process at the central and local levels in order to achieve the highest level of transparency and professionalism.



Inclusivity

- Applies to all state administrations, institutions and bodies
- Applies to all public procurement types
- Includes all sources of expenditure, whether they are from the budget or treasury funds, or from internal or external loans or gifts, with the exception of loans or gifts subject to the terms of the donor (Article 3).

Planning and budget consolidation

- Annual and medium-term procurement plans prepared by the procuring entity based on a unified form and procedures issued by the Public Procurement Authority
- Determination of needs in the annual plan for the coming year in conjunction with the preparation of the procuring entity's general spending, and the estimated value in correspondence with the appropriations required in its draft budget. Noting that the plan can be annual or multi-year.

Efficiency and competition

- Competitive procedures, as a general rule, are subject to regulations that encourage competition, attach importance to efficiency, and encourage fighting corruption.
 - Multiple procurement methods ensuring competitive procedures to achieve the best value out of public expenditure.
 - Strict controls limiting direct contracting.
 - Equal opportunities for all those wishing to participate in public contracts.
 - Clear and detailed rules for evaluating proposals.
- Pre-qualification to ensure equality for all those wishing to participate.



⁴ Organization for Economic Cooperation and Development, Recommendation of the Council on Public Procurement - Directorate of Public Governance and Territorial Development
<https://bit.ly/GherbalPPPGuide4>

Transparency

- The necessity to publish all procurement stages on the central electronic platform of the Public Procurement Authority, the Administration's website, if any, the Official Gazette, and any other publication means.
- To have a systematic free access to public procurement information and data.



Accountability

- Oversight at all public procurement stages.
- Regulations for reviews and complaints and the establishment of an authority to look into these complaints prior to contracting.

Integrity

- Measures to reduce conflict of interest.
- Sanctions for public and private sector employees at commensurate degrees with the violation.



Sustainability and local development

- Sustainable public procurement that encourages the selection of sustainable goods and services, where possible, with the aim of reducing environmental impact, achieving economic and social goals, balancing potential benefits, and ensuring the achievement of the best value from public spendings.
- Preferential systems: proposals containing locally manufactured supplies or local services can be given a preference of %10 over proposals containing foreign supplies or services.
- It is prohibited to include, in the bidding documents or pre-qualification files, any provision that leads to the exclusion of supplies manufactured in Lebanon or Lebanese consulting and intellectual services.

Specialization

- Specialization and capacity building through continuous and mandatory training.
- Conducting training for the public and private sectors in order to raise awareness about integrity .
- Public procurement is enrolled as a specific function in the state's staffing structure.



The Institutional Structure for the Implementation of the Public Procurement Law

1 Public Procurement Authority




The Public Procurement Authority was established under law no.244/2021 as an independent administrative authority responsible for regulating, supervising, monitoring and developing the public procurement regulations and performance. The most prominent tasks of the Administration:

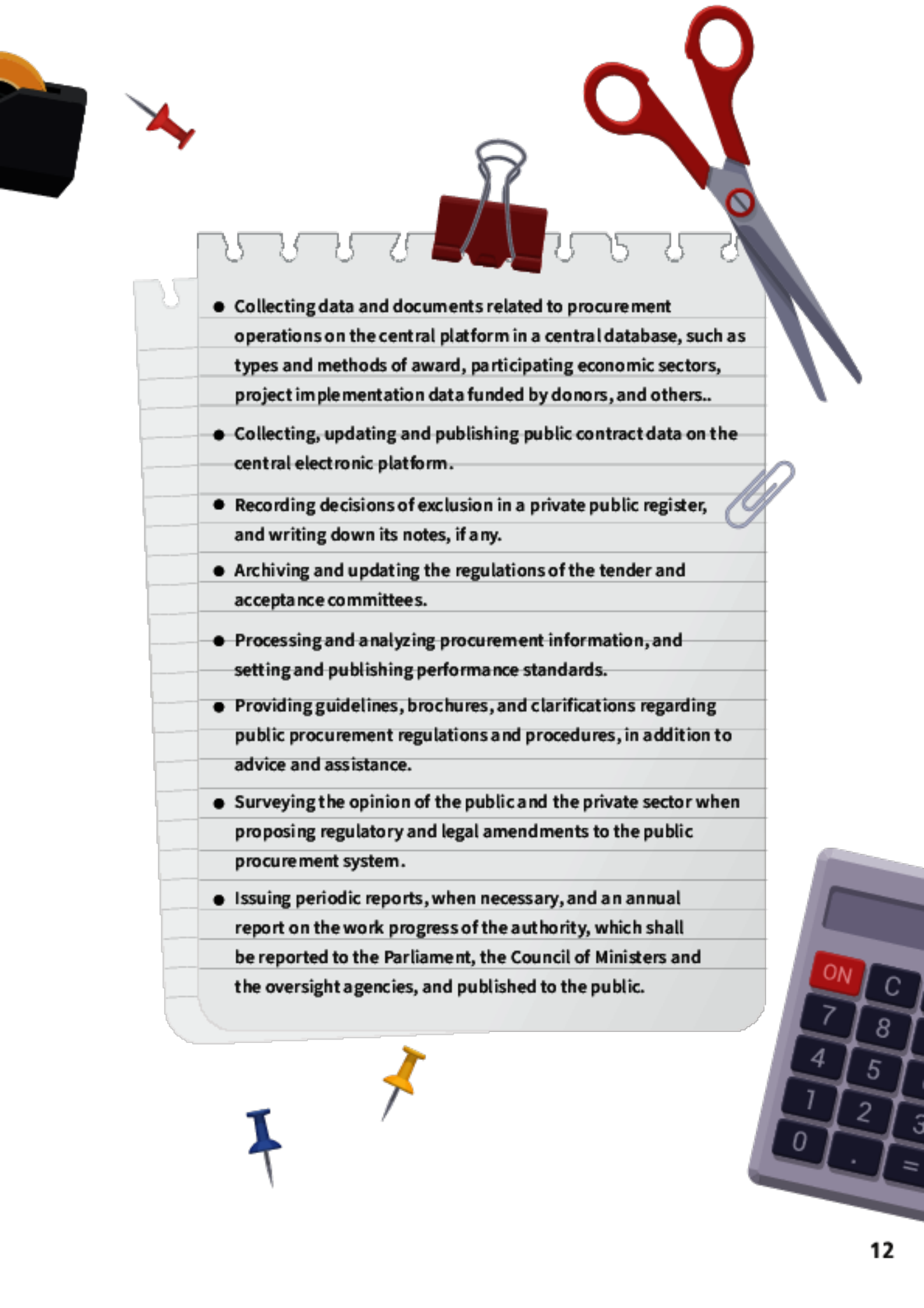
Strategic Tasks

- Proposing general policies related to procurement to the Council of Ministers.
- Suggesting internal audit application systems concerning the procurement procedures and operations of the procuring entities.
- Setting a code of professional conduct and ethics related to the public procurement.
- Proposing training policies related to public procurement.
- Providing suggestions and recommendations to the concerned authorities to develop and encourage innovation in public procurement, motivate small and medium-sized enterprises to participate in said procurement, improve applications, and propose and amend regulations and laws.
- Providing recommendations related to the adjustment of financial ceilings.
- Locally and internationally cooperating with international institutions and other authorities to develop the public procurement system.



Executive and Administrative Tasks

- 
- Designing, managing and operating the central electronic platform for public procurement and e-procurement.
 - Issuing instructions and clarifications on the legal texts in force related to public procurement, in addition to guides and guidelines.
 - Issuing standard documents and forms for public procurement procedures, including model bidding documents and model pre-qualification files, and assuring their availability to the procuring entities for mandatory application.
 - Collecting annual procurement plans received from the procuring parties according to a unified form, and classifying and publishing them, in accordance with the rules, on the central electronic platform for public procurement.
 - Publishing announcements and notices of procurements, qualification and award procedures.
 - Classifying and publishing lists of supplies, services and works that can be centrally purchased.
- 
- 

- 
- **Collecting data and documents related to procurement operations on the central platform in a central database, such as types and methods of award, participating economic sectors, project implementation data funded by donors, and others..**
 - **Collecting, updating and publishing public contract data on the central electronic platform.**
 - **Recording decisions of exclusion in a private public register, and writing down its notes, if any.**
 - **Archiving and updating the regulations of the tender and acceptance committees.**
 - **Processing and analyzing procurement information, and setting and publishing performance standards.**
 - **Providing guidelines, brochures, and clarifications regarding public procurement regulations and procedures, in addition to advice and assistance.**
 - **Surveying the opinion of the public and the private sector when proposing regulatory and legal amendments to the public procurement system.**
 - **Issuing periodic reports, when necessary, and an annual report on the work progress of the authority, which shall be reported to the Parliament, the Council of Ministers and the oversight agencies, and published to the public.**



Supervisory Tasks

- **Monitoring and evaluating the application of legal texts and regulations supporting public procurement, such as openness, competition and transparency.**
- **Checking the procurement history of public administrations and institutions.**
- **Organizing periodic reports on deficiencies and/or violations of laws.**
- **Referring documents or instruments subject to the provisions of the Public Procurement Law to the competent criminal judiciary in case of a suspected criminal violation.**
- **Verifying the qualifications of proposed members for the tender committees, in coordination with the concerned regulatory authorities.**
- **Expressing an opinion on framework agreements.**
- **May cancel procurement procedures in case of any defect.**
- **Approving the use of tenders in two stages by the procuring entity.**



Whom does the Public Procurement Authority consist of?



A Chairperson and four members appointed by a decree issued by the Council of Ministers based on the proposal of the Prime Minister, according to an appointing mechanism specified by law no. 244/2021 (Article 78).



Term of the Authority



Five years, renewable once.



How does the Authority make its decisions?



By majority of votes.



Which are the Authority's funding sources?



The Authority has an independent budget, and its resources mainly consist of an annual contribution from the state budget, in addition to unconditional grants and donations from international institutions.



Established as an independent Authority under the Public Procurement Law, concerned with deciding on complaints submitted regarding explicit or implied procedures issued by the Administration or any of the administrative entities involved with the procurement process, during the pre-awarding period, in an urgent, transparent and timely manner. Likewise, the Authority considers exclusively and contrary to any other provision, the objections to the explicit or implicit decisions related to the procurement procedures directly submitted to it prior to the signing of the contract.

Upon any complaint received by the Complaint Authority, a Complaint Committee shall be formed, which shall study the complaint and decide on it.

Law 2021/244 devoted the right of objection to all entities involved in the procurement process. The law formed an objection mechanism, which will be detailed in the section dedicated to objection procedures.



Note

Until the formation of a Complaint Authority, the complaint procedures applicable by the State Consultative Council shall be followed.

Whom does the Public Procurement Authority consist of?



A Chairperson and three members appointed by a decree issued by the Council of Ministers based on the proposal of the Prime Minister, according to an appointing mechanism specific by law no. 244/2021 (Article 91). The authority is assisted by a specialized administrative body.



Term of the Authority



Four years, renewable only once.



Which are the Authority's funding sources?



The authority has an independent budget, and its resources mainly consist of an annual contribution from the state budget. If approved by its internal procedures, the Authority may collect fees from complaint files.



Hiring Experts!

The authority may seek the assistance of experts from the private sector and holders of academic and university degrees affiliated with specialized orders and bodies and economic associations.

Each Administration sends a list of names and resumes to the Chairperson of the Complaints Authority before October of each year, and when necessary, the selection is made by lot according to the specialization and the objection subject (Article 96).






Public Procurement Law Enforcement Tools


Procurement Procedure Record

Public Procurement Law no. 2021/244 obligates each procuring entity to keep a record of procurement procedures, in which all information related to the procurement process and documents related to the tender procedures are included, so that they are archived and maintained in files. The record is a reliable reference for reviewing any information or obtaining data about any procurement. The following are some of the information that shall be included in the record:


Whoever is interested may request to review the following information after the provisional award or cancellation of procurement

- Procurement Subject.
- Procurement launch date.
- Launch date for submission of bids and qualification requests (if any).
- Bid opening date.
- The successful proposal.
- Bidders' names and addresses.
- Contractors' name and address (after the end of the standstill period).
- Contract value.
- Reasons and circumstances for choosing the announcement medium.
- Justifying the reason for choosing the procurement method outside the public tender.
- Explaining the reasons for the procurement cancellation decision
- Indicating the reasons for making unexpected substantial changes to the procurement files after the announcement of procurement.
- Announcing unexpected changes to the procurement budget.
- Explaining the reasons for modifying the announcement period.
- Correspondence related to the clarification requests.

- 
- 
- 
- All the information and documents related to the proceedings of the bid opening session.
 - A detailed report on the course of the first stage of the two-stage tender method and the minutes of the discussions.
 - Additional information about incentives provided to local entities.
 - Reasons and circumstances for not applying the freezing period (example: an environmental disaster).
 - Reconsideration requests, complaints or reviews, their dates, registration numbers, and a copy of the related final decisions.
 - Indicating any retraction of objections, complaints or reviews and the reasons behind it.

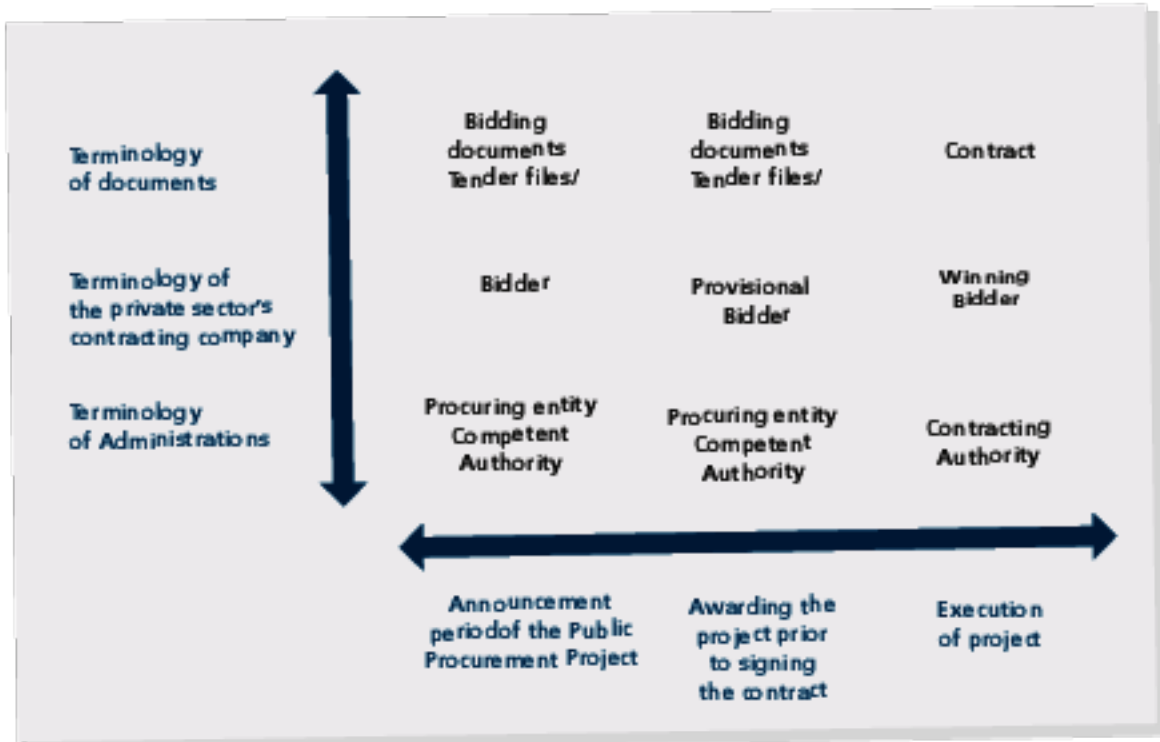


Bidders may request to review the following information after the issuance of a provisional award decision

- 
- Standstill period* (Allowing the right to file a complaint).
 - Announcing the confiscation of guarantee of proposals (%3) in case the contractor refuses to sign the contract, the procurement is canceled or if another bidder is chosen with an explanation of the reasons in this regard.
 - The contract's most important terms and conditions, and a copy of it.
 - The value of each presented proposal.
 - Explaining the reasons for the confidentiality of some information.

Whoever is interested may access the following information

- Reasons and circumstances for the procuring entity's rejection of the procurement proposal.
- Summary of clarification requests related to pre-qualification documents or bidding files and responses thereto, and a summary of each amendment to these documents or files.
- Reasons and circumstances for excluding a bidder from tender procedures.

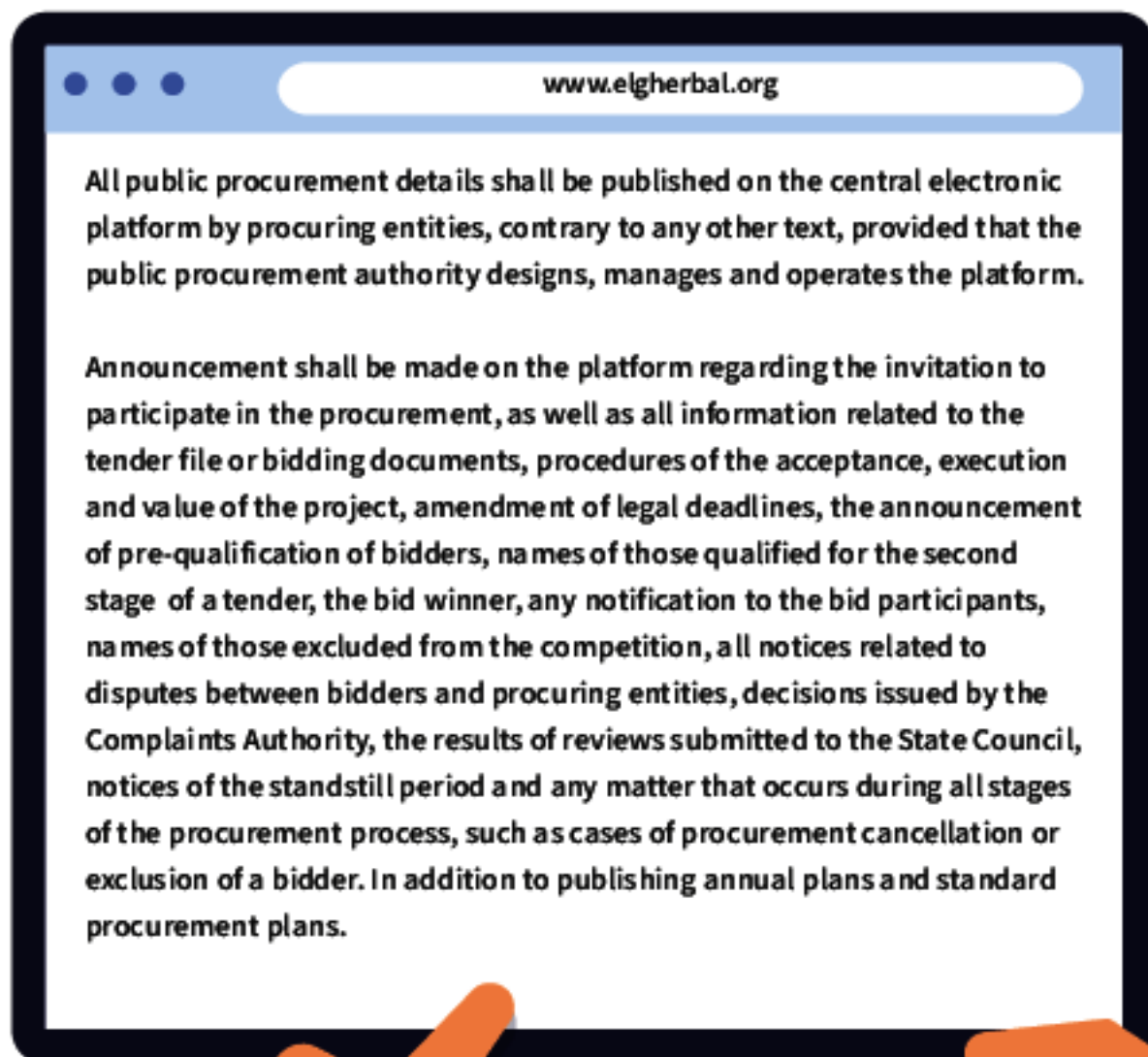


Note

Confidential information not included in the record are those related to the protection of the main security interests of the state, or that affects the commercial interests of bidders or impedes fair competition, unless the competent judicial authorities order the disclosure of these information.

- ✘ The standstill period is not applicable to contracts subsequent to framework agreements that do not involve competition in a second stage, and which are carried out under these framework agreements, nor does it apply to procurement by invoice and direct contracting in cases of emergency and relief, or when purchasing supplies or services or carrying out works that require maintaining its secret nature for national security or defense necessities.

The central electronic platform of the Public Procurement Authority

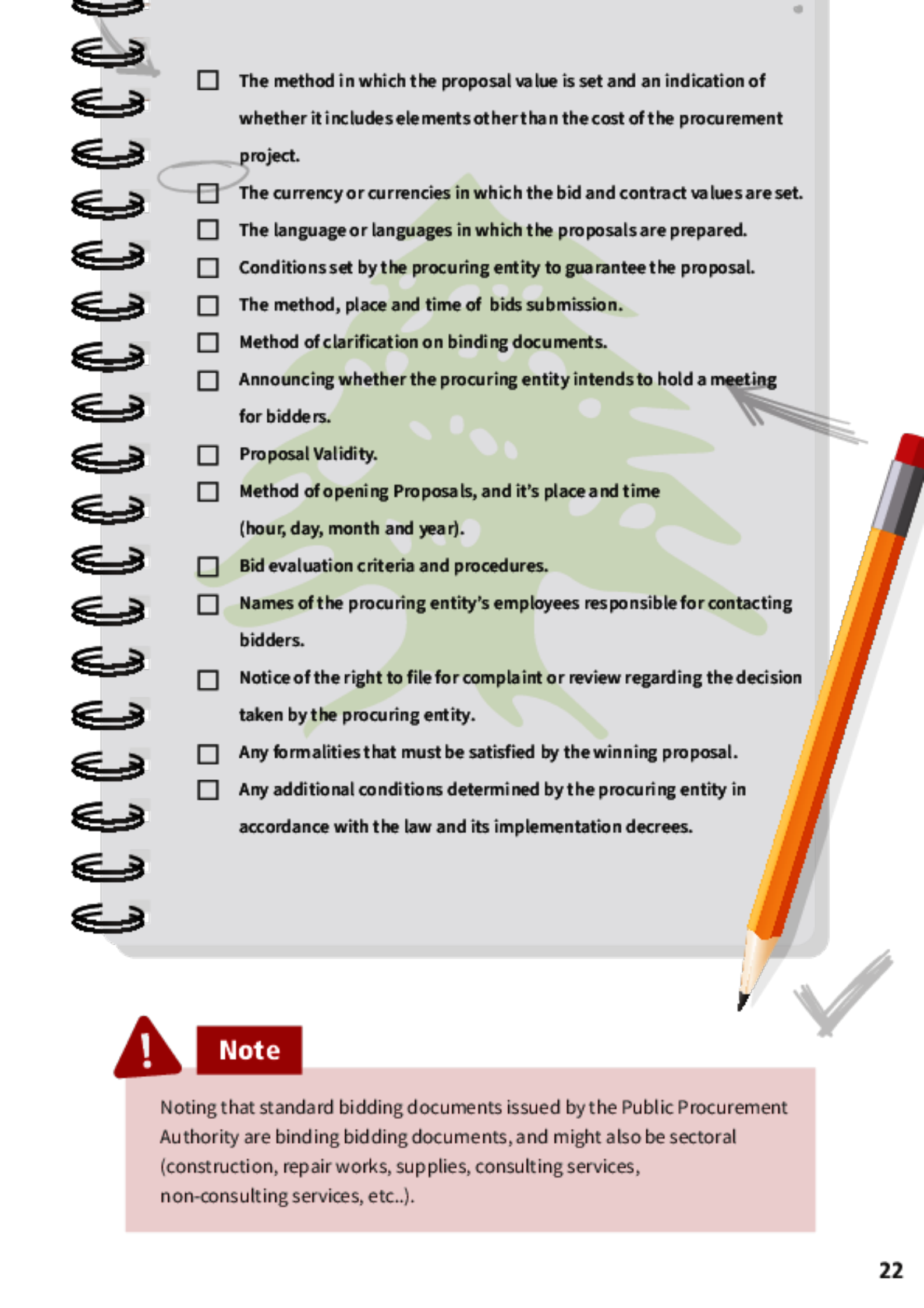


Standard bidding document or tender file

The bidding document is the main element in any procurement project, as the Public Procurement Law requires each procurement entity to provide the bidding document on its website (if any) and on the central electronic platform of the Public Procurement Authority, in conjunction with the announcement of the procurement. The standard bidding documents are necessary for greater effectiveness.

The bidding document consists of:

- Instructions for preparing proposal.
- Applied standards and procedures to ascertain the qualifications of bidders.
- Requirements related to supporting documents for qualifications.
- Detailed description of the procurement subject.
- Quantity of goods to be purchased or services to be provided.
- Place of goods delivery, of work execution or services provision.
- Deadlines set for the supply of goods, the completion of works, or the provision of services.
- Contract terms and conditions.
- If alternatives to the characteristics subject of procurement or other requirements mentioned in the bidding documents are permitted.
- If bidders are allowed to collectively present a proposal.
- If subcontracting is permitted.

- 
- The method in which the proposal value is set and an indication of whether it includes elements other than the cost of the procurement project.
 - The currency or currencies in which the bid and contract values are set.
 - The language or languages in which the proposals are prepared.
 - Conditions set by the procuring entity to guarantee the proposal.
 - The method, place and time of bids submission.
 - Method of clarification on binding documents.
 - Announcing whether the procuring entity intends to hold a meeting for bidders.
 - Proposal Validity.
 - Method of opening Proposals, and its place and time (hour, day, month and year).
 - Bid evaluation criteria and procedures.
 - Names of the procuring entity's employees responsible for contacting bidders.
 - Notice of the right to file for complaint or review regarding the decision taken by the procuring entity.
 - Any formalities that must be satisfied by the winning proposal.
 - Any additional conditions determined by the procuring entity in accordance with the law and its implementation decrees.



Note

Noting that standard bidding documents issued by the Public Procurement Authority are binding bidding documents, and might also be sectoral (construction, repair works, supplies, consulting services, non-consulting services, etc..).

Essential Elements in the Application of Procuring Methods

Developing Procuring Plans

- The procuring entity shall set annual procurement plans for public works, services or supplies estimated at a value exceeding a specific financial ceiling of one billion LBP.
- The procuring entity determines its needs and its annual plan for the next year in conjunction with the preparation of its general expenditures in line with the appropriations required in its draft budget.
- Procurement plans shall be prepared according to a unified form and procedures issued by the Public Procurement Authority.
- The plan shall be sent to the Public Procurement Authority within 10 days from the date of approving the budget.
- The Public Procurement Authority works to unify the plans into an annual procurement plan and publishes it on the Central Electronic platform within 10 working days of receiving the procuring entity's plan.

Announcing the procurement



- Each procuring entity is obliged to announce the procurement on the central electronic platform of the Public Procurement Authority and on its website, or any other means of publication it deems appropriate.
- The procuring entity must announce the procurement project within a period of no less than 21 days from the bids submission deadline, as the publication period is determined according to the importance of the project.
- The deadline can be reduced to 15 days in exceptional circumstances, with the necessity of issuing a decision specifying and explaining the reasons and the nature of these circumstances, provided that the explanation shall be recorded in the procurement procedures record.
- The invitation announcement date shall not be included in counting the deadline.
- The deadline shall be extended to the first working day, in case the last day for bids submission coincides with an official holiday or forced closing, without the need for prior notification.

Description of the procurement subject

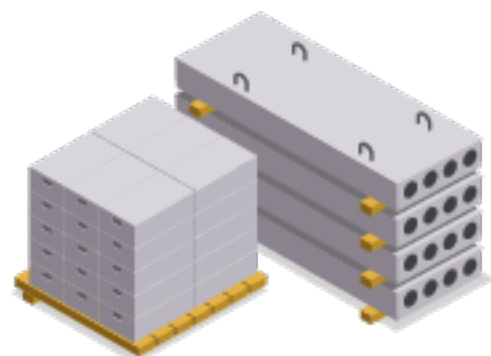
- The procuring entity shall specify the descriptions of the procurement subject in the tender file or bidding documents in a clear, detailed, objective and general manner.
- The description of the procurement subject shall include specifications, plans, drawings, designs, requirements, tests, packaging, labels or conformity certificates, symbols and terminologie.
- The procuring entity shall specify the technical and functional characteristics and/or performance-related characteristics according to one or both of the following criteria:

→ National or international standards issued by competent references or official technical specifications related to the design of works and products.
(International Classification of Standards ISO).



Example

The Lebanese standards and their classifications such as standards for equipment and devices intended for laboratory use, covering principles, materials, performance, sizes and testing, construction and civil engineering field related standards, environmental management systems standards and their methods for sustainable development support.



➔ **Functional characteristics or performance requirements when applicable.**

Example

The procuring entity's need for a specific transportation means to ensure the transport of its employees to and from their work centers, to provide heating facilities inside the workplace, or to have an effective information system with a speed and storage capacity commensurate with the volume of work and data, the possibility of backup and the security and protection of these information.



- ✘ The description of the subject matter of the procurement cannot refer to or include a reference to a particular trademark, trade name, patent, design, type, country of origin, or product, except in the case it is impossible to describe the subject matter of the procurement in another way that is sufficiently accurate and understandable to describe the characteristics, provided that it shall be accompanied by the expression “or equivalent”.

Estimated value of the procurement project

- The procuring entity updates the estimated value of the procurement project before its announcement based on actual market prices and comparison with similar contracts at other Administrations, in addition to any increases that may occur from the application of the optional clauses noted in the bidding documents.
- The estimated value set by the buying entity must be specified at the announcement or at the start of tender procedures.



- The estimated value shall remain confidential before and after tender, unless the procuring entity wants otherwise for competition-related purposes and to ensure the bidding documents.
- Confidentiality does not apply before the Audit Bureau and the supervisory bodies.
- The procuring entity is prohibited from calculating the value of the project at less or more than its actual value in order to avoid the application of the law.

Participation and Qualifications of Bidders

Terms of Participation

-  Complying with professional ethics.
-  Legal capacity to conclude a procurement contract.
-  Fulfilling tax obligations and social security contributions.
-  No final verdicts shall be issued against the bidder or his employees involved in the procurement process (even revocable verdicts) convicting them of committing any offense or crime related to their professional conduct or providing false statements regarding their eligibility to conclude procurement contracts.
-  The bidder shall not have been disqualified pursuant to administrative suspension and debarment proceedings, nor shall they have been excluded from participating in public procurement processes.
-  The Company shall not be under liquidation or subject to bankruptcy provisions.
-  The bidder should not have been sentenced for usury and money laundering crimes by virtue of a final judgment, even if it is revocable.
-  The bidder may not participate in the decision-making process of the contracting authority and shall have no financial interests or conflict of interests with any of the decision-makers.
-  Any conditions imposed by the bidding documents/tender files.



Note

Evidence of the demise of impediments or the restoration of reputation, restores the right of the bidders to participate.



Bidders Qualifications

Professional qualifications

For example, possession of an ISO 17020 classification certificate; specific to the operating requirements of Authorities in charge of inspections / traffic management - possession of an ISO/IEC 17025 certificate related to laboratories for calibration and testing - a document of good implementation of projects similar to the required project.

Technical qualifications

For example, products that exist in the market and are not manufactured according to certain technical specifications.

Environmental qualifications

For example, submitting environmental impact studies, using environmentally friendly products...

Efficiency

For example, competency in dealing with similar works.

Equipment

For example, equipment used for the implementation of a contract must meet the importance and complexity of the project, such as being advanced and able to reduce the execution time or increase the productivity - the equipment age limit.

Financial facilities

For example, assets of the bidder's company - real estate in the name of the project owner - the activity or work carried out by the bidder's facility for the public benefit.

Administrative ability

experience and human resources to implement the contracts specified in the pre-qualification file or tender file.

For example, providing an integrated project management plan, a wide portfolio of projects or years of experience and successes, innovative ideas or plans, prominent names in the field, won prizes, certificates, fulfillment of due taxes.

Cases in which a bidder would be excluded from procurement participating

If the bidder committed a violation or an act prohibited by the provisions of the Public Procurement Law.

If the bidder committed a heinous crime or any crime covered by the Anti-Corruption Law, such as influence peddling or bribery.

If the bidder offers a benefit, job, or anything of value to a current or former employee or laborer in order to influence a procurement decision, conduct, or action.

If the bidder grants or consents to grant, an employee or laborer a benefit, job, or anything of value, in order to influence a procurement decision, conduct or action.

If the bidder gained an unfair competitive advantage (Unfairly obtaining information about the procurement project that may help him to outperform his competitors).

If the bidder has a conflict of interest in violation of the provisions of the Public Procurement Law and the laws in force.



Financial guarantees

Guarantee of proposals



- A sum of money in the form of a bank guarantee or a receipt from the central treasury fund, presented by the bidder to show his seriousness.
- The guarantee of proposals is a lump sum, provided that it does not exceed %3 of the estimated value of the procurement project.
- The guarantee of proposals is not mandatory for procurement project which value does not exceed 500 million LBP and in cases of direct contracting.
- The guarantee of proposals shall be redeemed to the bidder upon submission of a guarantee of performance.
- The guarantee of proposals shall be redeemed to the losing bidders within a maximum period of contract entry into force.



Guarantee of performance

- A sum of money, in the form of a bank guarantee or a receipt from the central treasury fund, submitted by the contractor to the procuring entity as a guarantee of the implementation of the contract.
- The financial value of the guarantee of performance shall not exceed %10 of the contract value.
- It shall be submitted within the period specified in the contract terms, provided that it does not exceed 15 days from the date of the contract being in force.
- If the bidder fails to submit a guarantee of performance within the specified period, the guarantee of proposal shall be forfeited.
- Contracts concluded via direct contracting with public-law corporations, such as public institutions, municipalities, or international organizations, and cases of procurement by invoice exempted from the guarantee of performance.
- The contracting authority has the right to deduct from the guarantee of performance if a certain amount is due by the bidder in application of the terms and conditions of the contract in the course of its implementation. This latter shall also fulfill the rest of the amount within a particular period, as he shall be considered infringed if he fails in this regard.

Guarantees payment method

In cash to the treasury fund or the contracting authority fund, or through an irrevocable bank guarantee letter issued by a bank acceptable to the Banque du Liban assuring its collection possibility.



Proposals submission

The bidder shall submit his proposal as stipulated in the tender file, taking into account the following elements:

- The method, place and deadline of proposal submission.
- The bidder shall submit his proposal in writing in a sealed envelope.
- The proposal may be submitted in a single cover or two covers, as determined by the bidding documents (one cover includes both the technical and financial proposal - two covers separate the said proposals into 2).
- Upon submitting the proposal file, the bidder gets a receipt from the procuring entity bearing a serial number in addition to the date on which the procuring entity has received the proposal, mentioning the hour, day, month and year.
- The procuring entity maintains the security, safety and confidentiality of the proposal and shall not review its content before the bid opening session.



- ✘ The Tender Committee shall not open proposals submitted after the precise deadline, and shall return them sealed to their owners.

Bid-opening

- The session shall be held upon the expiration of the proposals submission deadline at the time and place specified by the tender file.
- Proposals shall be opened in a public session held by the Tender Committee of the procuring entity.
- The proposal opening session shall be attended by the bidders or their authorized representatives, in addition to the individuals allowed by the tender file. It is also allowed for a supervisor from the Procurement Authority to attend the session.
- It is also allowed for a supervisor from the Procurement Authority to attend the session.
- The procuring entity may invite the media to report the session.



What are the practical procedures for bid opening?



- The events of opening proposals are recorded in writing in a report signed by the head and members of the tender committee.
- Proof of the bidders' attendance through a list of their names signed by the representatives of the procuring entity, the Public Procurement Authority, and the bidders themselves or their representatives.
- The proceedings of the proposal opening session are documented in the procurement procedures record, which should also include all information and documents therein.



Evaluation of proposals

The evaluation criteria must be related to the subject of procurement exclusively mentioned in the tender file and include:

- 1 Price
- 2 Supplies operating costs
- 3 Works, maintenance and repair
- 4 The time of delivery of supplies, completion of works or provision of services
- 5 Characteristics of procurement subject:



- a Functional characteristics of supplies or works.
- b Environmental Characteristics.
- c Executive Scheme.
- d Team work's experience.
- e Conditions for fulfilling the price and related warranties.
- f Other important criteria according to project requirements.

In which are the cases a proposal is considered winning?



- Lowest price value.
or
- The best according to the evaluation criteria and procedures specified in the tender file.

Proposals shall be evaluated within a reasonable period commensurate with the validity period of proposals and the nature of procurement.

What if the proposal's information or documents were incomplete, wrong, or missing?



The procuring entity may request, in writing, clarifications concerning the bidder's proposal, or request the submission or completion of the relevant information or documents within a specified period of time, provided that all correspondence is in writing and that the principles of transparency and equal treatment between bidders are respected in requests for clarification.



What if the proposal is abnormally low priced?



Abnormally low proposals raise concerns about the ability of the bidder to implement the contract.

In such cases, the procuring entity shall ask the concerned bidder in writing for the details of the proposal in a way that allows it to analyze the detailed information and conclude whether the bidder will be able to implement the contract at the proposed price (for example, it can request information and samples that prove the quality of the subject matter of procurement presented in the proposal, or relevant manufacturing methods, selected technical solutions, etc...). In case the procuring entity was not convinced of the details submitted by the bidder, and decided that the proposal is abnormally low in relation to the subject matter of the procurement and its estimated value and that it raises doubts about the bidder's ability to implement the contract, it may then reject the proposal, provided that the rejection decision, the reasons behind it and all the clarifications made with the concerned bidder shall be included in the evaluation report.



Note

Negotiations between the procuring entity and the bidders regarding the proposal are prohibited.

Work site



Procurement proceedings related to the execution of works can only commence once all legal procedures in relation to the preparation of work sites by the procuring entity, including the seizure of such sites.



Work site

- The procuring entity proposes a list of trained and qualified employees of at least the third grade and submit it to the Public Procurement Authority before the month of October.
- Prior to the end of November of the same year, the Authority shall unify the lists and send them to the Central Inspection Bureau, the Audit Bureau and the Higher Disciplinary Council to investigate the proposed names.
- After the response of the regulatory authorities, the Authority revises the unified list and places it under the disposal of the procuring entities on the special database of its electronic platform.
- Names included in the list are not available for the public.



- The committee is formed of a Chairperson and at least two original members, and a Chairperson and two substitute members who complete the committee in the absence of the Chairman or one of the members. The committees are exclusively formed by the employees listed in the special database on the central electronic platform.
- The committee may seek the assistance of experts from outside the administration.
- The tender committees are exclusively responsible for studying the pre-qualification files, opening and evaluating proposals, and determining the most appropriate proposal.

Special Rules in the Application of Public Procurement Law

Public Procurement Law No. 2021/244 grants some privileges or incentives that contribute to advancing local and economic development, in addition to creating rules to empower, guide and qualify bidders in order to achieve the best results in performing procurement operations.

Preferential systems

Proposals containing nationally manufactured supplies are granted %10 preference over proposals containing foreign supplies or services. It is prohibited for the procuring entity to include any provision in the bidding documents or pre-qualification files, leading to the exclusion of nationally manufactured supplies or national consulting and intellectual services.

Procurement Segmentation

Law no. 2021/244 prohibits procurement segmentation for the purpose of reducing the estimated value of the procurement project or evading control or the application of laws in force and their provisions. However, it allows it in the following cases:

- When diversity and multiple sources of supply or various segments are required, provided that the segmentation should lead to a definite benefit, and that the decision shall be justified and subject to oversight.
- When implementing government development policies such as encouraging the participation of small and medium enterprises and women-led organizations in public procurement.



Sustainability and Development Policies

- Adopting sustainable public procurement where possible to direct the procuring power of the state towards sustainable goods and services, in order to reduce the environmental impact and achieve the economic and social goals stipulated in international agreements and in accordance with the national priority.
- Ensuring that the adoption of sustainable public procurement achieves the best value of spending public money and allows giving incentives to small and medium-sized enterprises, local production and national expertise.
Regulations and policies of sustainable public procurement are set by virtue of decrees issued by the Council of Ministers based on the proposal of the competent minister or ministers.
- Encouraging bidding on the basis of lots or groups, provided that the bidding document shall specify the number, nature and requirements imposed for participating in such lots or groups, and the method of awarding, for the purpose of guaranteeing social and economic benefits and the involvement of small and medium enterprises.



Joint Proposals

- The participation of several suppliers, service providers or contractors meeting the technical and legal conditions in the implementation of one public procurement project.
- A main partner represents the participating group, in solidarity, before the contracting authority, signs in its name and carries out its responsibilities.
- Submitting the name of the group representative in an official letter among the submitted proposal documents.

Subcontracting

- Permitting the implementation of part of the contract by a third party other than the main bidder.
- It is prohibited for the main bidder to assign all his contractual obligations to others.
- The bidding documents allow the bidder to entrust a subcontractor to implement part of the service or work contract within the percentage mentioned by the said documents, with a limit of %50 of the contract value.
- Pre-approval for the subcontract must be obtained from the contracting authority, which shall take a justified decision within a time limit specified in the terms of the contract, and its silence upon the expiration of this period is considered an implicit decision of acceptance.



Pre-qualification of bidders

The procurement authorities call for pre-qualification procedures for bidders regarding the procurement project that they will launch, in order to ensure the availability of qualifications, technical, logistical, financial, administrative and human capabilities to implement the contract according to particular specifications and quality. These procedures are held before inviting the bidders to submit procurement proposals, according to standards and requirements specified by the pre-qualification documents.

Pre-qualification procedures



- Announcing the qualification
- In conjunction with the publication of the invitation, the pre-qualification documents shall be published on the central electronic platform of the Public Procurement Authority and the website of the procuring entity, if any.

The documents include information such as instructions for preparing and submitting pre-qualification requests, evidence, documents or information submitted by bidders in order to prove their competences, as well as the name, job title and address of one or more employees or personnel submitted by the procuring entity, and whose mission is to directly communicate with bidders about qualification procedures, in addition to referral to the Public Procurement Law no. 2021/244, its implementation decrees and other laws related to the pre-qualification procedures and their implementation decrees.

- The procuring entity shall review the pre-qualification files and select the bidders enjoying sufficient qualifications and required conditions.
- The procuring authority informs the bidders if they were qualified or not and the reason behind their ineligibility, provided that only the qualified bidders shall proceed to submit procurement procedures.



Clarification



The bidder may submit a written clarification about the tender files or pre-qualification files within 10 days prior to the submission of proposals or pre-qualification requests.



The procuring entity responds to the said request within 6 days prior to the proposal submission deadline.



The clarification shall be sent in writing at the same time to all bidders supplied with the tender files, without specifying the applicant's identity.



The procuring entity may, at any stage of the award procedures, request clarifications from the bidder related to his qualifications or proposal, in order to ascertain the qualifications or examine the submitted proposals.



The procuring entity may schedule a specific date for potential bidders to view the site.



The procuring entity may, at any time prior to the deadline for submission of proposals or prequalification requests, and for any reason, whether on its own initiative or as a result of a request for clarification submitted by a bidder, amend the tender files or pre-qualification files by issuing an addendum to them. The amendment shall be immediately sent to all bidders who were provided, by the procuring entity, with the tender files or pre-qualification files and published on the central electronic platform of the Public Procurement Authority and on the procuring entity's website, if any.





If, as a result of clarification or modification, the information published in the tender files or pre-qualification files becomes substantially different, the procuring entity shall ensure that the modified information are published in the same manner and by the same mean as the original information, and extend the deadline for submission of proposals or pre-qualification requests.



If the procuring entity holds a meeting for bidders, it shall draw up a minutes of that meeting containing the requests for clarification submitted about the tender files, and the responses it submits to those requests, without specifying the identity of the applicant. The minutes shall be notified to all the bidders who were provided, by the procuring entity, with the tender files or pre-qualification files, in order to enable them to prepare their requests for qualification or their proposals in the light of the provided information .



Confidentiality

Information that shall be kept confidential:



Information concerning the protection of the main security interests of the state, the announcement of which constitutes a violation or impedes the implementation of the law, harms the legitimate commercial interests of bidders or impedes fair competition. No information may be disclosed without an order from the competent judicial authorities.



The technical contents of proposals and pre-qualification files submitted to procuring entities, including professional and technical confidentialities and those protected by intellectual property rights.



Discussions, negotiations, communications, dialogues between the procuring entity and a bidder regarding all that does not conflict with the laws in force, as it is not permissible to disclose any technical or financial information or other information about the proposal without the consent of the second party, unless the law requires it to be announced or an order was issued in this regard by the competent courts.



Language



Tender files and procuring entity's decisions are written in the Arabic language.



English and/or French may be used along with Arabic in correspondences, technical specifications and terms of reference.



The Arabic language text shall be adopted in the event of any collision between the Arabic and foreign texts.



Currency

The bidding document specifies:



Contract currency



The contract's payment method in foreign currency.



Cancellation of Procurement or any of its Procedures

✘ The procuring entity has no right to discretionarily cancel the procurement after launching its procedures. However, the procuring entity may cancel the procurement or any of its procedures during the period extending from issuing the invitation to compete until informing the winning bidder of signing the contract, in the following exceptional cases:

- The occurrence of unexpected substantial changes to the tender file.
- The occurrence of unexpected changes to its budget.
- The elimination of the need for the procurement subject, in which case the award shall not be repeated during the same budget or financial year.
- If no proposals were submitted or if the submitted proposals were not accepted.
- If the winning bidder refuses to sign the contract after being invited to sign; noting that the procuring entity may then contract with the bidder next in the winning marks.
- In case only one proposal was accepted, noting that the procuring entity may contract with this bidder if all conditions were met.

All bidders should be informed of the procurement cancellation or any of its procedures within a period not exceeding 5 days from the date of the cancellation decision. The cancellation should be recorded in the procurement procedures record.



Procurement methods

Choosing the procurement method:

Procurement operations are usually held via public tenders. However, the Public Procurement Law defines 6 other methods to conduct a procurement where terms and conditions shall be set for each.

What are the Public Procurement Methods?

- Public Tender.
- Tender in two stages.
- Request for quotation.
- Request for suggestions for consulting services.
- Direct contracting.
- Procurement by invoice.

In addition to framework agreement.



In which cases methods other than Public Tender can be used?

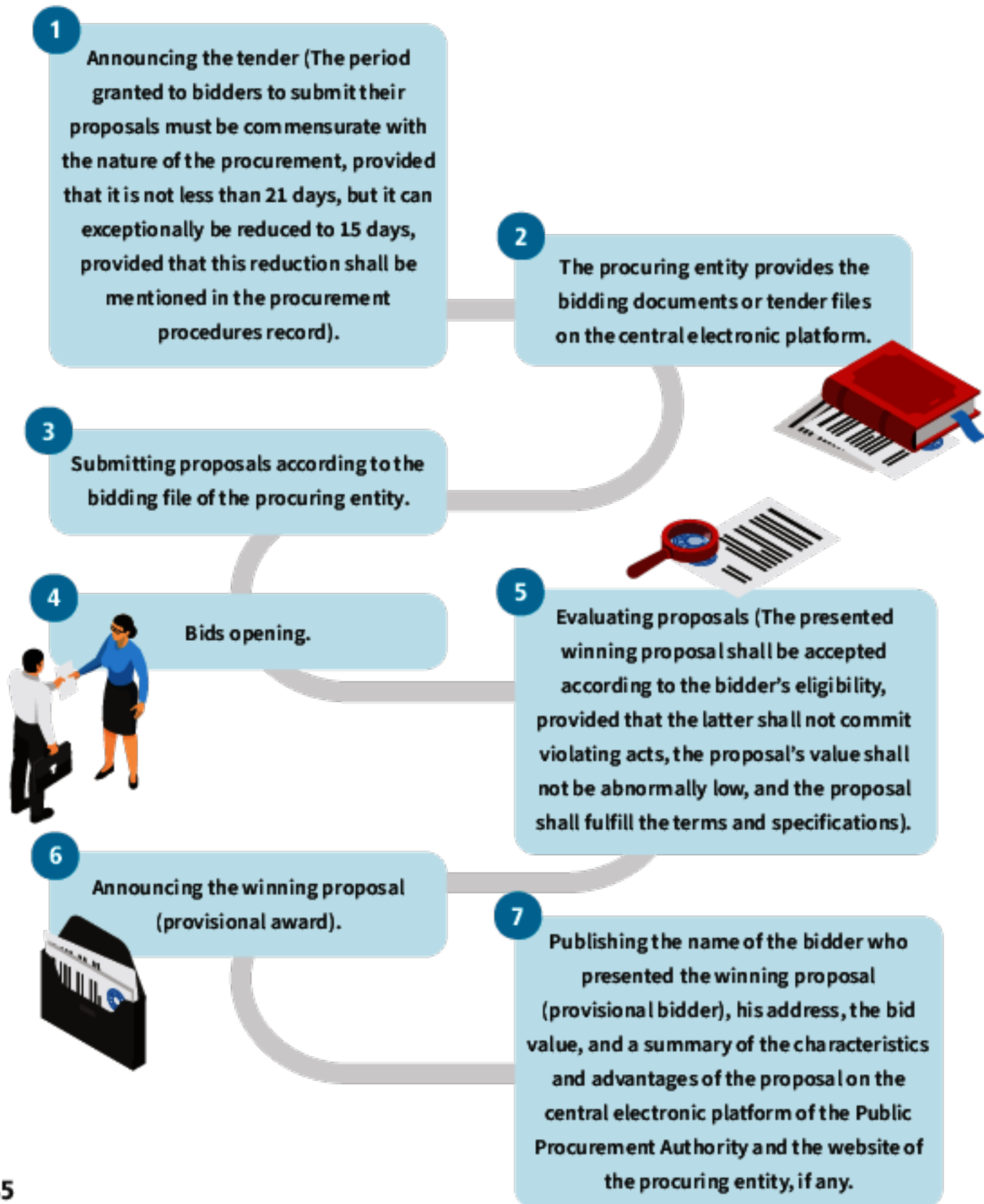
When the conditions for conducting another procurement method are met.

What does the procuring entity do when it chooses a procurement method other than the public tender?

- Issues an explicit and justified decision explaining the reasons and circumstances for resorting to another method of procuring and registers it in the procurement procedures record.
- Notifies or obtains the approval of the Public Procurement Authority in certain cases.
- Seeks to increase competition in all cases.

Public Tender

Roadmap of public tender procurement procedures



8

Standstill period, during which contract signing is prohibited.



9

Informing the winning bidder that the contract must be signed after the expiration of the standstill period.



10

Signature of the provisional bidder (within 15 days, and in case he refuses to sign the contract, the guarantee of the proposal may be confiscated, and the procuring entity may cancel the procurement or choose the proposal that acquired the second highest marks).



11

Signature of the valid authority/procuring entity of the contract (within 15 days from the temporary bidder's signature of contract. This period can be extended to 30 days in certain exceptional cases).

12

Contract's validity.



13

Announcing the successful proposal, the name of the contractor and the value of contract on the central electronic platform of the Public Procurement Authority and the website of the procuring entity, if any.

14

Contract execution.



Other procurement methods

Request for quotations

Terms of use

When the estimated value of the procurement project does not exceed the financial ceiling set at one billion LBP.

- 1 The procuring entity determines the suppliers and contractors who it wishes to invite to submit procurement proposals, provided that their number shall not be less than 3 bidders.
- 2 Inviting the selected bidders, either directly or by quick and guaranteed means, and setting the announcement period allowing the bidder to prepare his proposal, provided that it is not less than 10 days from the deadline for proposal submission, and it can be reduced to 5 days by a justified decision in cases of justified haste. This decision shall be recorded in the procurement procedure record.
- 3 Subsequently, all the rules and procedures related to public tenders shall be applied except for the invitation, i.e. regarding the clarifications of the bidding document or amendments thereto, the submission of proposals, their opening and evaluation, the implementation of the contract, etc...



Tender on two stages



Terms of use

- When the procuring entity is unable to describe and formulate the procurement subject with the required accuracy due to its complex nature, it then needs to hold discussions with the bidders in order to achieve the most satisfactory solution for its procurement needs.
- When the procuring entity conducts a public tender for a specific project and has not succeeded twice in succession in attracting proposals or the procurement process has been canceled, i.e. the Authority then considers that it will not succeed in contracting through public tender and or conducting a procurement contract.

Procedures

- 1 The procuring entity must obtain a prior approval from the Public Procurement Authority, and it is considered an implicit approval if the authority does not express an opinion on the request within 15 days.
- 2 The procuring entity invites bidders during the first stage to submit initial proposals that include their suggestions without going into the details of financial aspects.
- 3 Selection of initial proposals: The procuring entity may hold discussions with all bidders whose initial proposals have not been rejected on an equal basis. The discussions are documented in writing, electronically, or video graphed and documented in minutes signed by the participants and placed in the procurement record.
- 4 The bidding documents may be amended according to the submitted procurement proposals, such as deleting or modifying aspects of the specifications or adding new specifications and deleting, amending or adding any criterion for evaluating proposals as a result of any change in the technical, functional or performance specifications. Whereas, the subject of the procurement cannot be modified.
- 5 The procuring entity invites bidders, who were qualified from the first stage and their initial proposals were not rejected, to submit final proposals - financial and technical proposals.
- 6 Subsequently, all the rules and procedures related to public tenders shall be applied except for the invitation, i.e. regarding the clarifications on the bidding document or amendments thereto, the submission of proposals, their opening and evaluation, the implementation of the contract, etc.

Direct contracting

Terms of use

- When only one supplier or contractor can provide the subject of the procurement, or when a particular supplier or contractor has an exclusive intellectual rights in relation to the subject matter of the procurement, such that no reasonable alternative or substitute is possible.
- In cases of emergency or catastrophic events.
- Contracting with the main winning bidder when all of the following conditions are met:
 - a When the need arises during the implementation of the contract.
 - b In case of extreme urgency and the necessity of contracting to prevent delays in implementation.
 - c The necessity of standardization and compatibility or similarity with existing goods, equipment, technology, services or works.
 - d Additions shall not alter the objective of the main contract or its economics, or eliminate the principle of competition.
 - e When supplies, works or services are considered to be complementary to the original procurement and form a constituent thereof or when works have to be carried out at the workplace.
 - f In case the additional need cannot be foreseen in the main contract.
- When procuring supplies or services or carrying out works of a confidential nature to maintain the requirements of national security and defense.
- When contracting with public institutions, municipalities or international organizations, in cases where contracting does not cause unequal competition with the private sector.

Procedures

- 1 The procuring entity informs the Public Procurement Authority of its intention to conclude a contract via direct contracting
- 2 It publishes a procurement notice via direct contracting on the central electronic platform of the Public Procurement Authority and its website, if any, 10 days before concluding the contract.
- 3 The procuring entity requests a proposal or quotations from the sole bidder.
- 4 The procuring entity will negotiate with the specified bidder.

Request Suggestions for Consulting Services

Terms of use

- When the procuring entity wishes to purchase consulting services of an intellectual or technical nature, such as:
 - ➔ Training, auditing, information programming projects and specialized consultancy work.
 - ➔ Preparing studies, designs, setting bidding documents, monitoring the implementation of works and projects, and monitoring the provision of services.
- The procuring entity gives priority in evaluating suggestions to the technical and functional characteristics of the proposal related to performance, while separately studying the financial aspect.

Procedures

- 1 Invitation: includes the request for suggestions, the value of the application fee, the technical and functional characteristics, the performance characteristics required for the suggestion, the criteria for evaluating the suggestions, instructions regarding the suggestions, etc.
- 2 The procuring entity evaluates the bidders' technical suggestions first but does not open the envelopes containing the financial aspects.
- 3 The procuring entity informs each bidder whose proposal was rejected (technically) and the reasons for the rejection. The bidder's financial envelope shall be returned to him sealed after completing the bidding procedures.
- 4 Informing each bidder whose suggestion met the required specifications and the obtained degree of evaluation.
- 5 Inviting qualified bidders to a session in order to open the financial envelopes
- 6 Financial envelopes will only be opened for technically accurate proposals; the financial aspects shall then be compared with the technical aspect, provided that the proposal that received the best overall evaluation, according to the evaluation criteria mentioned in the request for proposals, shall win.
- 7 Applying the same rules for determining the winning proposal, publication, notification and contracting applied to public tenders.
- 8 Bidders shall submit suggestions in two envelopes (technical features envelope, financial aspects envelope)

Procurement by Invoice

Terms of use

When the estimated value of the procurement project, including consultancy services, does not exceed one hundred million LBP.

- 1 Invitation to procurement by invoice.
- 2 The procuring entity shall request quotations from the largest number of suppliers or contractors, provided that they shall not be less than two contracts.
- 3 Procurement shall be made from the bidder who offered the lowest price.



Framework Agreement

What is a framework agreement?



An agreement between one or more procuring entities and one or more supplier, contractor, consultant or service provider to complete the procurement within a specified period and at times or circumstances in which the procuring entity needs this service, commodity or works.



When does a procuring entity choose to use a framework agreement?



- When the need is likely to occur repeatedly and the date is uncertain.
- When the need for the subject matter is urgent during a certain period.
- In cases of central procurement of goods, services and works within the framework of a decree issued by the Council of Ministers (only in this case, the Public Procurement Authority does not announce an invitation to submit proposals in advance).

What are the procedures prior to the Framework Agreement?



- The procuring entity informs the Public procurement Authority of its desire to use a framework agreement at least 10 days before the start of the procurement process.
- The procuring entity justifies its reasons and circumstances for resorting to the framework agreement as a means of procurement, and includes it in the procurement procedures record.

Which procurement method leads to a framework agreement?



- Public Tender
 - Tender on two stages
 - Request Suggestions for Consulting Services
 - Request for quotations
- The terms of use and procedures for the selected procurement method shall apply.



What are the procedures to reach a framework agreement?

1 First stage

- The procurement takes the decision to use one of the above-mentioned procurement methods.
- Invitation to competition according to the procedures of the adopted procurement method.
- Concluding the framework agreement according to the general rules that apply to the adopted procurement method.

The framework agreement is concluded in writing and shall specify the following:

1

The framework agreement's term: a minimum of one year and a maximum of four years, not subject to extension or renewal.

2

Description of the subject of procurement and the terms and conditions of the framework.

3

Estimates of the terms and conditions of procurement that cannot be precisely determined at the time of entering into the agreement.

4

If the agreement is concluded with more than one supplier, contractor, consultant or service provider, it will entail a competition during the second stage to award the contract under the framework agreement.

5

Whether the procurement contract will be awarded under the framework agreement, based on the lowest price and best proposal.

6

Procurement contract award method.

7

The agreement concluded with more than one supplier, contractor, consultant or service provider shall be concluded as a single agreement between all parties.





2 Second stage

- The procuring entity awards the procurement contract according to the terms and conditions of the framework agreement, each time it needs to purchase from within this framework agreement.
- Limiting the procurement possibility to the parties of the framework agreement (supplier, contractor, consultant or service provider on one hand and the procuring entity on another).
- The procedures for awarding the framework agreements, conducted with more than one supplier and involving competition in the second stage, shall be as follows:

1

A written invitation to submit proposals shall be addressed to all supplier/s, contractor/s, consultant/s or service provider/s who are a party to the framework agreement and who are able to meet the procuring entity's needs in a timely manner. The procuring entity is required to simultaneously dispatch a notice of the second-stage competition to all parties concerned with the framework agreement in order for them to participate in the said competition.

2

Selection and evaluation of the proposal according to the general rules stipulated by the law, the principles of evaluation and procedures specified in the invitation.

3

Conclusion of contract.

4

Implementation of contract.



Implementation of Contract

Contract's value

- A fixed value that does not accept modification and revision except in unusual cases.
- Applying formulas based on official local or international prices when these formulas are not included in the contract value.
- Tax amendments increasing the financial value of the contract implementation.
- The meet need for compatibility with the existing goods, equipment, technology, services or works, the procuring entity may purchase additional quantities of goods, equipment, technology, services or works, provided that the value of the additional need shall not exceed 20% of the value of the essential contract for supplies and services contracts and 15% for works contracts.



Implementation supervision

Supervision is applied in parallel with the execution of the work required in the works contracts and service and manufacturing contracts, in order to ensure continuity of work and obtain the required results and specifications before delivery date.

Who supervises the implementation of contracts?



- The contracting authority may assign persons with expertise, experience and ability to follow up the work from the department or, when necessary, may contract with experienced and qualified people from outside the department.
Supervisors shall prepare a periodic report stating the progress of work and a description of the execution.
- The supervisor informs the contracting authority of any violation or inconsistent conduct with the regulations and requirements of the contract at work sites.
- The supervisor expresses his opinion on the winning bidder's proposals and the required amendments to the binding works, suggests the convenient requirements to carry out the work in a more appropriate manner, and submits a report in this regard to the contracting authority to take the appropriate decision.
- Whoever supervises the work bears personal responsibility, and is subject to sanctions of imprisonment and financial fines in case of breach of duties.



Statements

The statements shall be specified in the terms of the contract, such as:

- The winning bidder shall submit a statement of goods, services or executed works and certify it by the contracting authority (quality and safety of goods - service effectiveness - project completion in accordance with standards).
- Maximum deadlines given to the contractors to prepare, approve and amend statements by the contracting authority.
- Maximum deadlines for issuing a payment order.



Implementation supervision

- The Acceptance Committee receives the works, supplies or services and submits a detailed report evaluating the provided work.
- The time limit for submitting the report shall be specified in the contract; a maximum of 30 days starting from the date on which the winning bidder submits the acceptance request, which may be extended if the nature of the project requires it, provided that it shall not exceed 60 days.



How does the acceptance process occur?



The acceptance occurs in two stages:

Temporary acceptance: indicates if the winning bidder has executed or provided the required services, supplies or works in accordance with the terms of the contract. All data shall be recorded in minutes signed by the Chairperson and members of the Committee, in addition to their statement of approval as required thereof.

Final acceptance: occurs after the expiration of the period of the guarantee of goods or works, and according to which the said guarantee is reimbursed to the contractor.

- The Committee may refuse to accept the project if any of the contract's terms were violated.
- The committee may accept the project if some minor or non-essential deficiencies or defects occurred within the implementation of the contract, but it imposes sanctions commensurate with the deficiencies or errors committed.



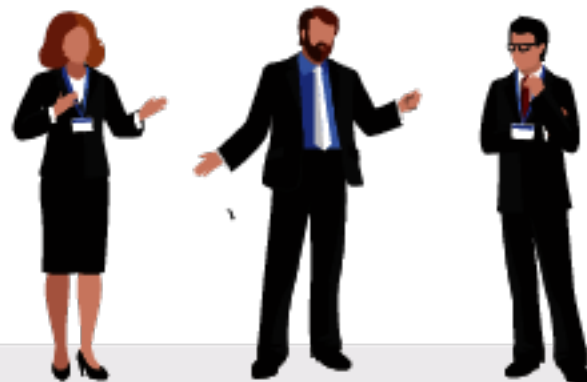
Acceptance Committee Staff

Who is the acceptance committee composed of and what are its duties?



Its formation:

- The procuring entity proposes a list of trained and qualified employees at least of the third grade and submit it to the Public Procurement Authority before the month of October.
- Before the end of November of the same year, the Authority shall unify the lists and send them to the Central Inspection Bureau, the Audit Bureau and the Higher Disciplinary Council to investigate the proposed names.
- After the response of the regulatory authorities, the Authority edits the unified list and places it under the disposal of the procuring entities among the private database on its electronic platform.
- The name list is not publicly available.



Whom is it formed of?

- An acceptance committee is formed from experts and specialists mentioned in the said list. It shall be formed for each procurement transaction by a decision issued by the Director General or the decision-making authority.
- The committee consists of a Chairperson and two members. Its foundations and members differ from those of the Tender Committee, and it does not include those who have supervised the execution of works, studied the market, or set the estimated value of the project.

Its tasks:

- The committees handle the temporary and final acceptance and set duly signed minutes.
- The acceptance committee can seek the assistance of experts from outside the administration in the absence of specific required experiences for



Fulfilling the contract value

Payment method:

The payment method shall be specified within the contract's terms, provided that the amount shall be paid according to the implementation stages or deliverables, and payments must be proportional to the accomplished work and not exceed nine tenths of the due amount.

On hold last payment:

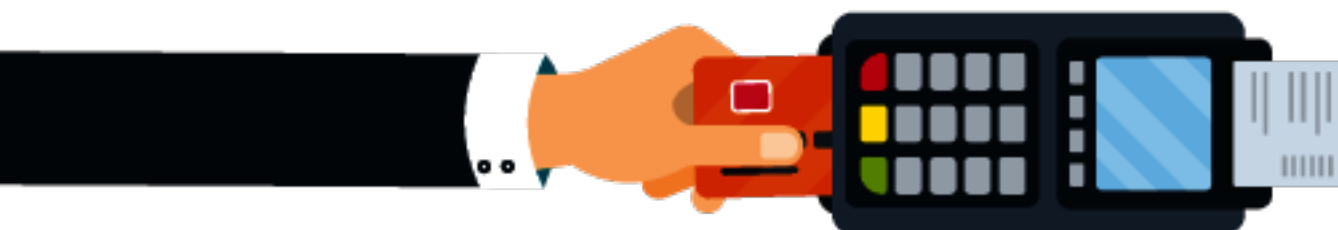
- The last tenth remains on hold until the final acceptance is accomplished.
- The contracting authority shall reimburse the last payment upon final acceptance if the contract does not specify a period to guarantee the supplies, works or services (The contracting authority has the right to replace the tenth payment with a parallel guarantee).

Advance payments:

- The contracting authority may grant the contractor an advance payment not exceeding %20 of the contract value provided that it shall not exceed one billion LBP.
- The bank guarantee shall be reimbursed to the winning bidder upon deduction of the advance amount.

Currency and payment method in foreign currency:

Shall be specified by the bidding document.



Fines

The contract specifies fines that may be imposed on the winning bidder who does not comply with the time limits set in its terms, without the need for damage proof.



Internal Audit

The Public Procurement Law requires procuring entities to conduct an internal audit in order to ensure the implementation of the provisions of the law, regulatory decrees and resolutions. These tasks are conducted by one or more of the procuring entities' employees, by virtue of a decision issued by the head of these entities, in order to immediately notify the Public Procurement Authority and the regulatory authorities of any violations or negligence, and deposit a copy of the notification at the headquarter of the administration.



On the other hand, the Public Procurement Authority and the procuring authority inform the competent regulatory authorities of any violation committed by employees in order to take the necessary action in accordance with the laws and regulations in force.



Note

Disciplinary prosecution procedures in case of violation do not prevent criminal prosecution before the competent courts.

Bidder's Conduct Violation Cases

Conflict of interest

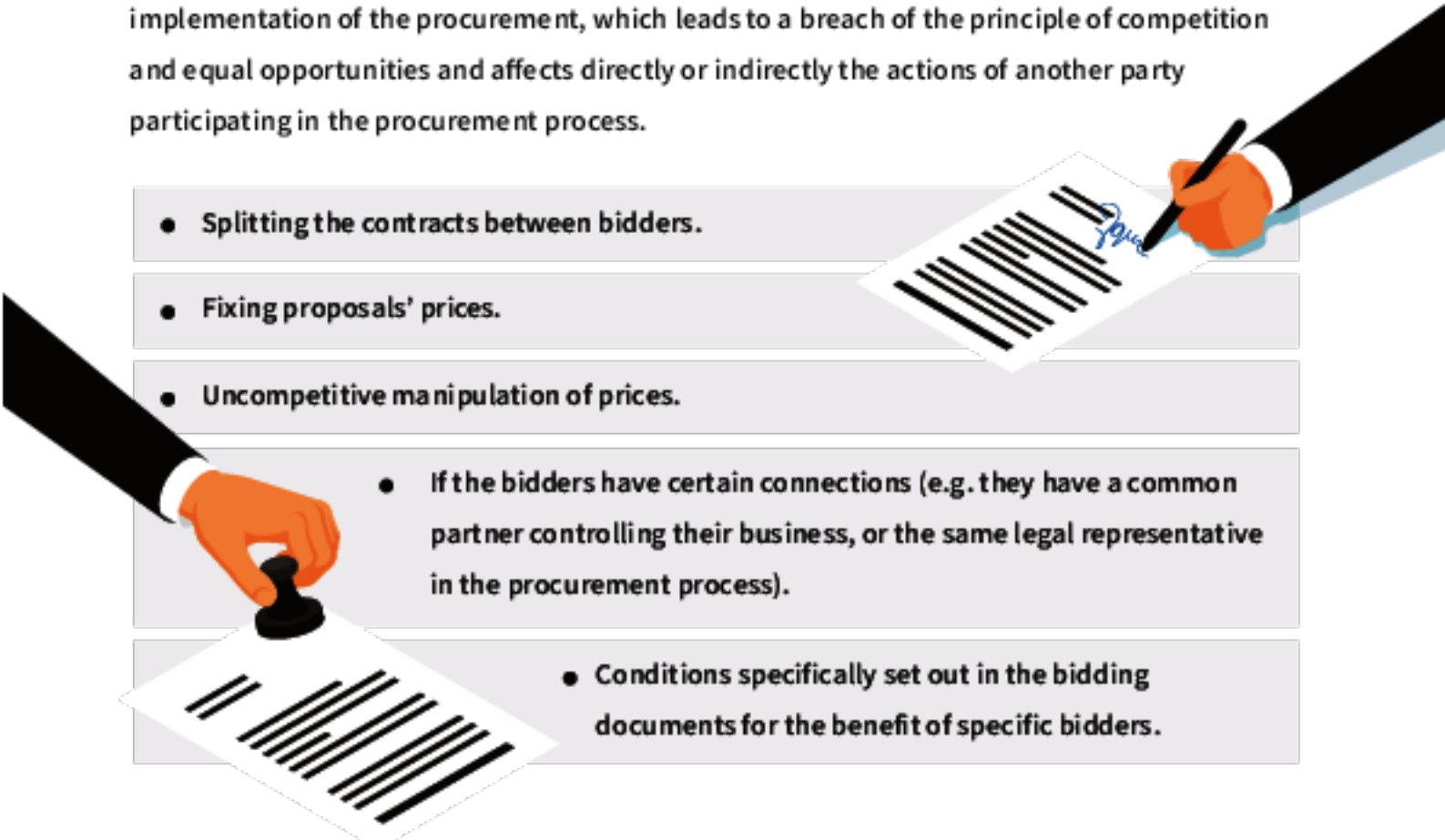
When an employee of the procuring entity or one of the bidders or others who have an influence on the procurement process, directly or indirectly, have any financial or economic personnel interest that may threaten the impartiality and independence of the procurement procedures.

- If the bidder or one of his employees worked during the previous two years for an institution that carried out these services (except for procurement cases carried out in an integrated manner).
- If the bidder submits more than one proposal and procurement process, unless the bidding documents allow it.
- If the bidder is related to the employee concerned with the procurement process up to the fourth degree (when the relationship gradually reaches both maternal and paternal cousins), which necessitates the employee's relinquishment from participating in the procurement procedures.
- If there are clear common interests between the bidder, his employees, or his partners and the employee concerned with the procurement process, which necessitates the employee's relinquishment from participating in the procurement procedures.



Collusion

When two or more parties, before or after submitting the procurement proposal, agree between themselves by orchestrating an illegal order or tampering with details related to the implementation of the procurement, which leads to a breach of the principle of competition and equal opportunities and affects directly or indirectly the actions of another party participating in the procurement process.

- 
- Splitting the contracts between bidders.
 - Fixing proposals' prices.
 - Uncompetitive manipulation of prices.
 - If the bidders have certain connections (e.g. they have a common partner controlling their business, or the same legal representative in the procurement process).
 - Conditions specifically set out in the bidding documents for the benefit of specific bidders.

Infringement

- When the contractor violates the terms of the winning bidder or of the bidding documents and fails to compensate for his lessening after the contracting authority warned him to abide by the obligations and granted him a period ranging from 5 to 15 days as a maximum to do so.
- The winning bidder is considered an infringe upon the issuance of a justified decision by the contracting authority based on the approval of the Public Procurement Authority.
- The winning bidder shall be canceled without the need for any notice from the contracting authority.
- The infringe shall be debarred from the procurement procedures according to the case, and his name shall be mentioned in the public debarment list available on the central electronic platform.

Cancellation of Contract

- Upon the issuance of a final judgment against the winning bidder for committing any of the following crimes:
Corruption - collusion - fraud - deceit - money laundering - terrorism funding - conflict of interest - forgery - fraudulent bankruptcy.
- When the winning bidder offers benefits to an employee of the procuring entity or another governmental entity related to the procurement process which may affect the outcome.
- Peddling of influence.
- Bribery.
- Unfair competitive advantage.
- Loss of winning bidder's eligibility.



Termination of Contract

- In case of the winning bidder's death (the contract remains in force if the contracting authority decides to continue its implementation by the heirs).
- Bankruptcy, hinder or dissolution of the company.
- Failure of the winning bidder to perform any of his contractual obligations as a result of force majeure.



What happens in the cases of infringement and termination of contract?

Infringement

Termination

Re-awarding according to the rules

Or the execution of the project by the contracting authority if it enjoys the capacities and capabilities

Confiscation of the guarantee of performance until



What happens in case of bankruptcy or financial default of the contractor?



- Temporarily confiscating the guarantee of performance for the benefit of the treasury account.
- The contracting authority shall organize a detailed statement of the executed works, supplied goods, provided services, or stocked materials prior to the date of filing for bankruptcy and the value of such statements shall be temporarily disbursed in the name of the Treasury.



If the contracting authority decides to complete the project itself after the cancellation or termination of the contract it has to:

- Reimburse the guarantee of performance to the Attorney of the bankrupt.
- If the contracting authority's census of the performed works, supplies, services or saved materials results in an increase in costs, this increase shall be deducted from the guarantee of performance, and the remainder shall be reimbursed to the Attorney of the bankrupt. If the excess exceeds the value of the guarantee of performance, the value of the guarantee and disclosure shall be considered sufficient.
- If the new award or execution results in savings in costs, the savings shall be returned to the treasury, and a guarantee of performance and the supervision value shall be paid to the bankruptcy agent.

What happens in case of the death of the winning bidder and the failure to continue the implementation by the heirs?



The contracting authority shall receive the executed works, goods or services, while the rest of the dues are paid to the heirs.



What happens if the winning bidder commits a heinous crime that leads to the termination of contract?



The contracting authority does not pay any compensation for the provided services or the executed works.

Objection Procedures

Who has the right to object?



- Public Procurement Authority.
- Bidder/Potential bidder/winning bidder.
- Procuring entity/contracting authority.
- Concerned or interested parties.



What is the effect of objection?



- Submission of the objection entails a ban on signing the contract, meaning that the procuring entity is prohibited from signing the contract from the date it receives the request for reconsideration or the complaint until a decision is issued regarding the objection.
- The ban on signing the contract lapses 5 working days after notifying the objector of the decision issued regarding his objection (request for reconsideration or complaint).
- Upon receiving a complaint, the Complaint Authority can also decide to suspend the procurement procedures if it deems necessary, for a period of 10 days that can be extended.



What is the effect of objection?



Request for reconsideration before the Complaints Authority

- A request submitted by the concerned party exclusively before the Complaints Authority concerning a decision or measure taken by the procuring entity regarding the procurement procedures.
- It shall be submitted in writing exclusively to the Complaints Authority.



When is the application submitted?



- Before the deadline for submitting proposals if the issue is related to the conditions of the invitation, the pre-qualification, the decisions of the procuring entity or the adopted measures.
- During the standstill period (10 working days starting from the date of notification of the winning bidder), if the matter is related to the decisions and actions taken by the procuring entity within the framework of the procurement procedures, such as the evaluation results.
- When the standstill period is not applied, the application shall be submitted at any time prior to the entry into force of the contract or framework agreement.



What are the procedures and referrals that the application goes through?



- The Complaints Authority receives the written application and immediately refers it electronically to the procuring entity. It also publishes a notice containing a summary on the request's subject and its reasons on the central electronic platform of the Public Procurement Authority.
- The procuring entity issues its decision within 5 working days from the date of receiving the electronic referral sent by the Complaints Authority.
- The procuring entity electronically refers its decision to the Complaints Authority.
- The Complaints Authority shall notify the decision to the applicant and all other participants in the objection and procurement procedures within a day of receiving the referral.
- The procuring entity's failure to initiate any response to a request shall be considered an implied refusal.
- The procuring entity may reconsider, cancel, modify, approve or correct any action in the procurement procedures, upon the request for reconsideration.

Complaint before the Complaints Authority

It is exclusively submitted to the Complaints Authority in two cases:

- ➔ Concerning a decision or action taken by the procuring entity or any of the procurement parties concerning the procurement procedures.
- ➔ Concerning the failure of the procuring entity to issue a decision regarding a request for reconsideration that was submitted in advance within the time limit, as it is attached to the legal and factual reasons on which the request was based.
- ➔ The complaint shall be submitted in writing.



When shall a complaint be filed?



Before the deadline for submission of proposals, if they relate to:

- Terms of Invitation.
- Pre-qualification.
- Decisions or actions taken by the procuring entity.
- During the standstill period (10 working days starting from the date of notifying the successful bidder).
- At any time prior to the contract's entry into force, if the procurement contract is by invoice, direct contracting (only in 2 cases thereof) or framework agreement, noting that the standstill period is not applicable in this case.
- Within five working days from the date on which the reconsideration applicant is supposed to be notified of the decision of the procuring entity.



When does the Complaints Authority accept the complaint?



- When the complaint is serious and based on legal obligations and documents, with the aim of protecting the interests of the complainant, provided that it shall be submitted before the deadline for submitting proposals.
- The procuring entity and all participants identified in the procurement procedures to whom the complaint relates will be informed of the content of that complaint.
- In case the Complaint Authority decides to suspend the proceedings, it shall determine the period of suspension and inform all participants identified in the procurement proceedings to whom the complaint relates of its suspension decision.
- A notice containing a summary of the complaint's subject and its reasons shall be published on the central electronic platform of the Public Procurement Authority.
- The Commission may reject the complaint if it is not based on legal or factual grounds.
- It informs the complainant, the procuring entity and all other participants in the procurement process of the refusal and the reasons thereof.



What are the procedures and referrals that the complaint goes through?



- Obligating the procuring entity and other parties concerned with the procurement process to abide by the provisions of the Public Procurement Law.
- Total or partial cancellation of the act or decision of the procuring entity which violates the provisions of the Public Procurement Law, during the pre-awarding stage.
- Obligating the procuring entity to correct any action or decision it has taken and that violates the provisions of the Public Procurement Law, during the pre-contracting stage.
- Emphasizing the procuring entity's decision.
- Completing the procurement procedures.
- Rejecting complaint.
- Adopting alternative actions.



- ➔ Informing the Court of Audit and the Central Inspection Bureau of the violations detected while deciding on the complaint, to take the necessary action.
- ➔ The Complaints Authority issues its decision within 20 working days after receiving the complaint.
- ➔ The Commission notifies its decision to the procuring entity, the complainant, and all participants in the objection and procurement procedures.
- ➔ Upon the issuance of the Complaints Authority's decision, the procurement procedures suspension shall be immediately annulated
- ➔ All decisions of the Complaints Authority are written and justified. The adopted actions explain the reasons and obligations that led to the decision, except for the implicit decisions.
- ➔ The procuring entity records the complaint received by the Complaints Authority and this latter's decision in this regard, among the procurement procedures record.

Reviewing the decisions of the Complaints Authority before the State Council

The decisions of the Complaints Authority may be reviewed before the State Council within 7 days of its notification date.

Legal Time Limits

The Complaints Authority shall notify the applicant for reconsideration and all other participants in the objection and procurement procedures of the procuring entity's decision

- One working day from receiving the decision from the procuring entity.

Reimbursement of the guarantee of proposal to bidders who have not been awarded

- A maximum period of contract entry into force.



Dispatching notices to the complainant, the procuring entity, and other participants in the procurement process

- Maximum 3 working days.

Informing participant bidders of the procurement cancellation

- Not exceeding 5 days from the date of procurement cancellation decision.

Prohibition period after raising an objection

(Prohibiting the signature of the contract or framework agreement or their implementation)

- 5 working days from the date on which the complainant, reviewer or procuring entity and all other participants are notified.

The procuring entity may issue a decision regarding the request for reconsideration and immediately forward it electronically to the Complaints Authority

- 5 working days from the date of receiving the electronic referral from the Complaints Authority.



Prohibition period against signing the contract upon filing a review before the State Council

- Within 7 working days from submitting the review application.

The procuring entity shall submit to the Public Procurement Authority its annual plan, in which it defines its needs

- 10 working days from the date of approving the budget, whilst preparing its expenditures in accordance with the needed appropriations.

Announcement duration for quotation request

- Not less than 10 days before the deadline of proposal submission.
- It can be reduced to 5 days but a justified decision must be submitted.

Maintaining the prohibition of signing the contract upon the submission of a review before the State Council

- 7 working days from the date of submitting the application.
- The prohibition shall be lifted after the expiry of the prohibition period, unless the State Council decides to maintain it by an express decision.



The procuring entity shall inform the Public Procurement Authority of its intention to conclude a contract via direct contracting

- At least 10 days before the date of concluding the contract.

Standstill period

- 10 working days from the publishing date on the central electronic platform of the Public Procurement Authority.

Suspension of procurement procedures after receiving a complaint

- 10 working days when the Complaints Authority receives the complaint.

The procuring entity shall inform the Public Procurement Authority of its intention to use the framework agreement

- At least 10 days before starting with the procedures.

The Public Procurement Authority publishes the consolidated annual procurement plan

- Within 10 working days after receiving procurement plans from public administrations and institutions.



The issuance of the Complaints Authority after receiving the complaint

- 20 working days after receiving the complaint.

The deadline for the competent authority to sign the contract after the expiration of the standstill period

- Within 15 days from the date of the provisional bidder's signature. It can be extended to 30 days in certain cases to be identified by the competent authority.

The deadline for the provisional bidder to sign the contract after the expiration of the standstill period

- Within 15 days from the publishing date on the central electronic platform of the Public Procurement Authority.

Providing a guarantee of performance

- 15 working days from the publishing date on the central electronic platform of the Public Procurement Authority.
- The guarantee of proposal may be confiscated in case of failure to provide a guarantee of performance.

The Public Procurement Authority expresses its opinion on the approval request sent by the procuring entity to adopt the tender in two stages

- 15 days, the authority is considered approving if it failed to provide its opinion within this period.

Proposals submission announcement period

- In accordance with the procurement nature.
- Not less than 21 days from the deadline for submitting proposals.
- It can be reduced to 15 days in exceptional circumstances, while reasons must be justified.
- The advertisement publication date shall not be included in the calculation of the time limit.
- The legal time limit shall be extended to the first working day, in case the last day for proposals submission coincides with an official holiday or forced closing, without the need for prior notification.

Accepting supplies, services and works by the Acceptance Committee - Acceptance report from the committee

- A maximum period of 30 days starting the date of the acceptance request submission by the winning bidder.
- It can be extended to a maximum period of 60 days, with the need to justify the reasons and circumstances thereof in writing.

Proposal validity specified in the tender files

- Not less than 30 days from the legal time limit for submitting proposals, provided that it shall be commensurate with the procurement nature.

Guarantee of proposal validity

- 28 days additional to the validity of the proposal.

15-20
DAYS

20-30
DAYS

Reimbursement of the guarantee of proposal to bidders who have not been awarded

- A maximum period of contract entry into force.

The allowed period to conclude the framework agreement between the procuring entity and the company

- 1 to 4 years, non-renewable or extendable.

Exclusion, when the proposal is considered infringed

- 1 year for the first time.
- Two years for the second time.
- 5 or more years for the third time.
- The expiration of the period specified by the ruling or of the prohibition restores the right to participate.

1-5
YEARS

Consolidate the lists of employee names and send them to the Central Inspection Bureau, the Audit Bureau and the Higher Disciplinary Council to investigate the proposed employees for the Tender and Acceptance Committees

- Before the end of November of the year in which the list of names was proposed.

The procuring entity's proposal for a list of employees of the third grade to the Public Procurement Authority to be selected members for the Tender and Acceptance Committees

- Before October of each year.

The Chairperson of the Complaints Authority obtains the names and resumes of experts from professional syndicates, unions, economic chambers and associations to use their assistance and expertise to decide on any objection

- Before October of each year.

BEFORE
OCT-NOV

Financial Guarantees



Guarantee of proposal

A lump sum, provided that it does not exceed %3 of the estimated value of the procurement project.
It takes into account the value and importance of the project without limiting competition.



Guarantee of proposal for procurement projects which the estimated value does not exceed a specific financial ceiling of 500 million LBP

The procuring entity may decide not to oblige the bidder to provide a guarantee of proposal.



Guarantee of performance

Not exceeding %10 of the contract value.



Guarantee of performance for contracts concluded by direct contracting

Exempted.

Financial Ceilings⁶



Financial ceiling
for RFQ usage

One billion LBP.



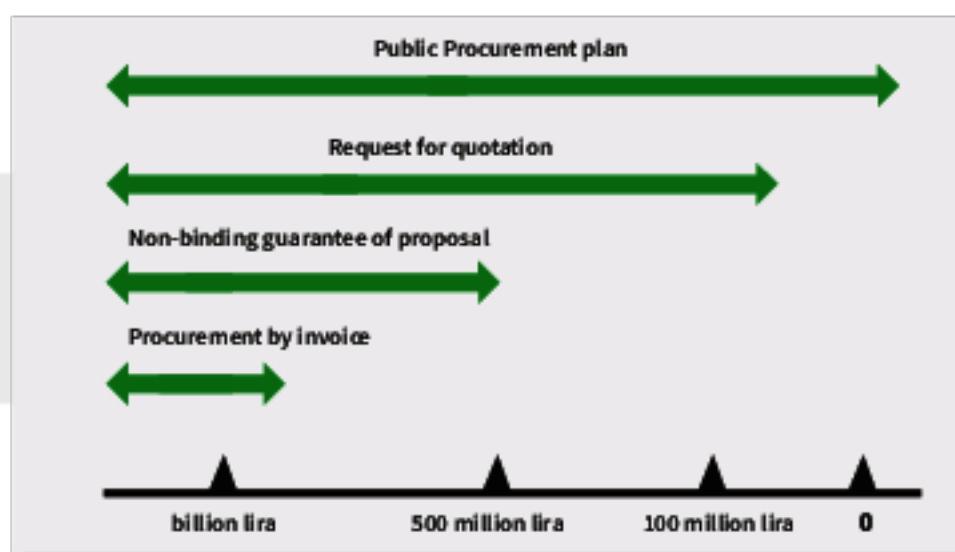
Financial ceiling for using
procurement by invoice

100 million LBP.



The financial ceiling of advance
payments allowed to be
granted by the contracting
authority to the contractor

One billion LBP.



⁶ The financial ceilings stipulated by the Public Procurement Law may be amended according to the recommendation of the Public Procurement Authority by virtue of a decree issued by the Council of Ministers based on the proposal of its President, provided that the amendment shall not lead to a violation of the objectives and principles of the law.

Special Cases



Preference will be given to proposals providing supplies or services of national origin

10%



The permissible percentage in cases where the bidding documents allow the contractor to deal with a subcontractor (works and services contracts)

Not exceeding 50% of the contract value.



The value of advance payments allowed to be granted by the contracting authority to the contractor

Not exceeding 20% of the contract value and not exceeding a specified financial ceiling of one billion LBP



The allowed percentage of additional value on contracts from the initial value, during the implementation stage

20% for supplies and services contracts
15% for works contracts

Fulfilling the Contractor's Financial Expenses by the Contracting Authority

The payment method shall be specified in the bidding documents, provided that the amount shall be paid according to the implementation stages or achievements, and payments must be proportional to the accomplished work and not exceed nine tenths of the due amount, while the last tenth remains on hold in the treasury until the final acceptance.



Punitive Provisions Upon Violation



Action



Prison term



Sanction shall be executed by



Fine/punitive measure

Disclosing technical and commercial information, data, or secrets
Providing information related to the work that constituted a personal benefit to a third party in violation of fair treatment

Two months to two years

The employee in charge

From 20 to 200 times the minimum wage in force on the date of the violation.

Corrupt practice
Fraudulent practice
Collision practice
Compulsive practice
A practice that negatively affects the procurement process

Not less than two years

The employee in charge

**Ranging between two to three times the expected or a achieved financial benefit.
From 20 to 200 times the minimum wage in force on the date of the violation if the accurate determination of the financial benefit was impossible.**

Violations committed within the supervision and acceptance of services, supplies, or executed works, neglecting the control of violations, breaching the implementation of the terms of contract, neglecting supervision, or delaying the adaptation of necessary measures

1 to 3 years

The employee in charge or the supervisor

Ranging between two to three times the value of the part of contract responsible for monitoring its implementation, its acceptance or its supervision



Action



Sanction shall be executed by



Fine/punitive measure

Violations committed by the procuring entity of the provisions stipulated in the Public Procurement Law

The procuring entity from its annual budget

From 20 to 200 times the minimum wage in force on the date of the violation

Abuse of the right to object

The bidder

From 20 to 200 times the minimum wage in force on the date of the violation

**Act of collusion or conflict of interest
Peddling of influence
Offering a bribe or benefit to an employee to influence the procurement process
Unfair competitive advantage**

The bidder

Exclusion from participating in the procurement

**Corruption
Collusion
Fraud
Deceit
Money laundering
Terrorist funding
Conflict of interest
Counterfeiting
Fraudulent bankruptcy**

The winning bidder

**Due compensations stipulated in the contract.
The contracting authority does not pay any compensation for the provided services or the performed works.**



Action



Sanction shall be executed by



Fine/punitive measure

Non-compliance or breach of contract terms (infringement)

The winning bidder

**Due compensations stipulated in the contract.
The contracting authority does not pay any compensation for the provided services or the performed works.**

Offering a bribe or benefit to an employee of the procuring entity or any other government agency related to the procurement process affecting the outcome

The winning bidder

**Due compensations stipulated in the contract.
The contracting authority does not pay any compensation for the provided services or the performed works.**

**Peddling of influence
Unfair competitive advantage
Disqualification**

The winning bidder

**Due compensations stipulated in the contract.
The contracting authority does not pay any compensation for the provided services or the performed works.**

Receiving compensations, commissions, rebates, or payments related to the contracting, other than the amounts due under the contract concluded with the contracting authority

The winning bidder, his partners or employees

**Due compensations stipulated in the contract.
The contracting authority does not pay any compensation for the provided services or the performed works.**

E-procurement

1 First stage

Includes publishing on the central electronic platform of the Public Procurement Authority and includes the procedures related to the procurement process:

- Notifications
- Announcements and notices related to procurement and award procedures such as announcing a procurement
- Annual procurement plan
- Used procurement method
- Tender files and all amendments thereof
- Pre-qualification documents
- Any modification to the date of proposals submission
- Accepting the winning proposal and notifying the concerned bidder

- Publishing the notice of the award of procurement contract
- The decision to cancel the contract
- The exclusion decision from public procurement against the infringed winning bidder
- Indicating all requests for reconsideration, complaint or review requests
- Final decision issued on reconsideration, complaint or review requests

The platform will also include all instructions and steps to be followed by procuring entities and potential bidders, and surveys when suggesting regulatory or legal amendments to the public procurement system. Furthermore, an annual report on the functioning of the Public Procurement Authority will be published, as well as keeping and updating the list of the Tender Committees and the Acceptance Committees, and the accessibility to standard bidding documents and tender files issued by the Public Procurement Authority.

The platform will enable the Public Procurement Authority to store information related to procurement operations through a database providing an automatic and open access to relevant authorities at the state level, the private sector, civil society organizations and citizens, in line with internationally approved open procurement data.





2 Second stage

Transition to e-procurement after the issuance of its implementation decrees (the minutes of applying e-procurement shall be prepared by the Public Procurement Authority and shall be determined by a decree issued by the Council of Ministers based on a proposal by the Prime Minister).

The e-procurement system will be adopted in public procurement operations in state administrations, as the central electronic platform of the Public Procurement Authority will be designated for this purpose. All procuring entities will be able to secure their needs in terms of supplies, works and services through this integrated digital technical system.

What does the electronic procurement system include?



- Electronic registration mechanism
- Special pages for proposals and their electronic reception: These pages only work from the date of issuing the competition until the date of ending the electronic and traditional bidding procedures.
- Procurement procedures from electronically announcing procurements to submitting proposals, opening and awarding them.
- Virtual market.
- A unified portal for traditional announcements and the use of model documents.



E-procurement procedures

- E-signature
- The exchanges enjoy proving power
- Providing a system maintaining the confidentiality and integrity of transactions on an open information network without discrimination between entities, in addition to being subject to related procedures.
- Obeying the laws and regulations in force related to e-signature.



E-procurement procedures

- Any person wishing to electronically participate in the public procurement must register in the electronic procurement system, to obtain a personal identifier, i.e. a user name.
- The system documents the date of electronically submitting registration requests and proposals, so that the transmission system proves the exact date and time.
- In case the procuring entity fails to use the electronic procurement system, for technical reasons, it may resort to traditional methods, within the specified deadlines.



Electronically Opening and submitting proposals

- Electronically awarding, contracting and issuing a commencement notification.
- An electronic public session via virtual means of communication.



Note

Noting that the goal behind using the central electronic platform is to enhance transparency through the obligation to publish basic information related to the procurement stages, allowing access to information and data for all interested and concerned persons, while maintaining the confidentiality requirements stipulated by law in detailed cases in Article 6 thereof.

Terminology

Procuring Entity/Contracting Authority

The state and its administrations, public institutions, independent administrative authorities, courts that have their own budgets, authorities, councils, funds, municipalities and municipal corporations, security and military agencies and their affiliated institutions and administrations, diplomatic missions abroad, regulatory authorities, companies in which the state own shares and operates in a monopolistic environment, public utilities operated by private companies for the benefit of the state, any person of public law spending public money.

Bidder

The bidder, potential bidder or any person participating in the award or pre-qualification processes.

Proposal

Presented by the bidder to provide a service, works or supplies.

Consulting Services

Services of an intellectual or guidance nature (engineering, economic, environmental, legal studies, of environmental impact, surveying works, etc..)

Non-Consulting Services

Services of a physical work nature (maintenance, guarding, cleaning, transportation, insurance, etc..)



Competent Authority

The competent authority in charge of engaging expenses in accordance with the laws in force.

Contract

An agreement signed between the procuring entity and the service provider, contractor, consultant or supplier resulting from the procurement procedures.

Winning Bidder

Supplier, contractor, consultant, service provider with whom the contract was concluded.

Deliverables

Provided supplies or performed services or works during the implementation of the procurement contract.

Specifications

Technical or functional specifications or performance specifications and technical and functional instructions related to performance included in the tender files setting out specifications and functions of supplies, services or works.

Notice

Official announcement regarding a specific topic sent by one or several entities.

Unfair competitive advantage

An advantage, condition, clause, or conduct that gives the bidder a preferential position over other competitors.

This guide is made possible by the generous support of the American people through the United States Department of State. The contents are the responsibility of the Gherbal Initiative and do not necessarily reflect the views of the Department of State or the United States Government.



MEPI

This guide has been prepared by the Gherbal Initiative in collaboration with Institut des Finances Basil Fuleihan.



