

Country Profile



I. Public Procurement Legislation Review Summary

a. Legislative framework

Public procurement in Jordan is regulated by Procurement Regulation No. 32 of 1993 and the instructions Regulating Tendering Procedures and Participating Conditions No. 1 of 2008 (the PPL). Public works and services are governed by the Regulation of Government Works No. 71 of 1986. Jordan is not a signatory to the Agreement on Government Procurement of the World Trade Organisation (WTO), but is an observer of the Agreement on Government Procurement, and is currently negotiating accession to the WTO. Although Jordanian PPL is based on the principles of fair competition, with the review highlighting that there is clear provision in the PPL which provides that the principle of competition shall be observed, the PPL does allow for domestic preferences⁷*The price preference is calculated according to the preferential differential prices decided by the Cabinet of Ministers*. This introduces an element of discrimination into the public procurement process and hinders the achievement of fairer competition. In addition, although the review revealed that the PPL is stable, it does allow for cancellation of the public procurement process. The contracting entity can cancel the process without specifying reasons provided that the contractor was not notified of the purchase order and the award decision. Moreover, the review highlighted that certain contracting entities have in place specific regulations for the purpose of regulating their procurement exercises. These contracting entities only refer to the PPL if there was a legislative void in the specific regulation being applied.

Jordanian PPL on average scored medium compliance against the EBRD Core Principles benchmark. **Chart 1** presents the results for the quality of the public procurement legal framework. The PPL scored medium compliance for the integrity (60 per cent), competition (65 per cent), economy (62 per cent), uniformity (70 per cent) and stability (70 per cent) indicators, while the accountability (55 per cent), transparency (57 per cent), efficiency (57 per cent) and enforceability (50 per cent) indicators scored low compliance, and the proportionality (45 per cent), and flexibility (47 per cent) indicators scored very low compliance. Although benefiting from good accountability procedures, the PPL does not provide sufficient enforcement instruments for private sector suppliers. Moreover, the assessment also highlighted that the PPL was inflexible as it scored very low compliance with the EBRD benchmark. Such a low score can be traced to a couple of factors. Firstly, tenderers cannot make adjustments to their bids during the procurement process. Secondly, although there are not many, there is a lack of flexibility in terms of the timescales specified *For example, the deadline for the submission of offers cannot be extended, unless more than one tenderer has requested and extension and the relevant personnel was convinced of the seriousness of such a request, or if the relevant personnel deemed*

such an extension necessary.

Chart 1: Jordan - Quality of public procurement legal framework



Note: The chart presents the scores for the quality of the public procurement legal framework for each Core Principles benchmark indicator. The scores have been calculated on the basis of a legislation questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local legal advisers. Total scores are presented as a percentage with 100 per cent representing the optimal score for each Core Principles benchmark indicator.

Source: 2012 SEMED Public Procurement Assessment

b. Regulatory institutions

The Jordanian public procurement institutional framework is not complicated and includes a number of institutions involved in public procurement regulation. With the exception of committees, the members of Jordanian regulatory institutions are independent but perform their duties to support the public procurement function. The committees are ad hoc institutions with their members appointed on a part-time basis and perform their duties in parallel with their full-time commitments. These regulatory institutions include:

- **Public Procurement Department**
The Public Procurement Department (PPD) is the main public procurement regulatory office responsible for the harmonisation of rules, purchasing and managing the procured supplies, and monitoring the compliance of contracting entities. In addition, the PPD is responsible for

reviewing challenges related to public procurement. The PPD is also responsible for conducting the relevant studies related to improving the public procurement process. The PPD is the authority entitled to execute supply agreements between Jordan and any other international authority. The PPD takes instructions and reports to the Ministry of Finance (MoF).

- **Tendering Committee**

The Tendering Committee (TC) is either formed in the PPD, in which case it is called the Central Tendering Committee, or in the contracting entity itself in which case it is referred to as the Local Tendering Committee. In both cases, the TC is responsible for appraising need, publishing notices, reviewing tenders, awarding contracts, and examining complaints. In some instances there is a specific TC that is created by the Cabinet of Ministers pursuant to the recommendation of the MoF. The Specific Tendering Committee is responsible for the purchase of supplies for specific projects, or for a project that is being financed by the government or a foreign committee.

- **The Receiving Committee**

The Receiving Committee (RC) is the committee which takes delivery of supplies and it is either formed in the PPD or the contracting entity itself. The RC ensures the conformity of the supplies with the required specifications, and prepares reports of receipt in which it certifies whether the supplies were accepted or rejected.

- **General Budget Department**

The General Budget Department (GBD) is responsible for approving the purchase of supplies that exceed the value of ten thousand Jordanian Dinars. The GBD reports to the MoF.

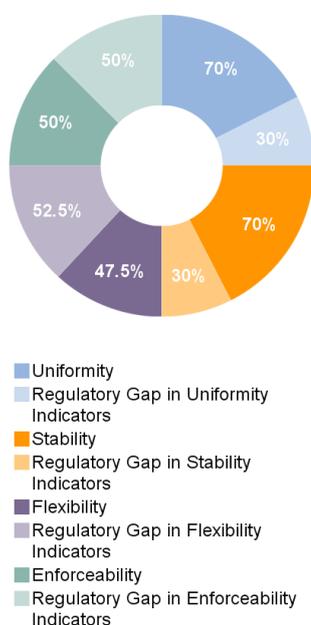
- **Audit Bureau**

The Audit Bureau (AB), which reports to the Lower House The Jordanian Parliament consists of the Upper House and the Lower House. The Upper House has 60 Senators, all of whom are appointed by the King, while the Lower House has 120 elected members. Members of the Lower House are entitled to certain rights such as questioning the government on any

public issue. Accordingly, reports submitted by the AB may constitute basis for questioning the government for certain expenditures, is the central independent authority responsible for reviewing the accounts of each public entity. While the AB is represented on tender committees by auditors who observe the process, its role is not clear with regards to public procurement. However, the AB undertakes its public procurement function as part of its general audit review.

In the review the Jordanian public procurement institutional framework scored medium compliance. **Chart 2** presents the assessment results for the quality of the public procurement regulatory and institutional framework, benchmarked against EBRD Core Principles for institutional and enforcement measures. The PPL scored medium compliance for the uniformity (70 per cent) and stability (70 per cent) indicators, low compliance for the enforceability (50 per cent) indicators, and very low compliance for the flexibility (47.5 per cent) indicators. The legislative gap in the enforceability indicator is because the PPL does not provide sufficient enforcement instruments. For example, monitoring and contract management for private sector suppliers. Whereas the legislative gap in the flexibility indicator is because tenderers are only allowed to amend their offer prior to the lapse of the deadline determined for the submission of the tender.

Chart 2: Jordan - Quality of public procurement institutional and enforcement framework



Note: The chart presents the scores for the quality of the public procurement institutional and enforcement framework. The scores have been calculated on the basis of a legislation questionnaire based on the EBRD Core Principles benchmark for an Efficient Public Procurement Framework and answered by local legal advisers. Total scores are presented as a percentage with 100 per cent (one quarter of the pie chart) representing the optimal score for each of the four institutional and enforcement measures. A regulatory gap, the difference between the assessment results and the benchmark, is marked in light blue, light orange, light purple and light green respectively.

Source: 2012 SEMED Public Procurement Assessment

c. Scope of regulation

Although the review highlighted that the Jordanian PPL attempts to regulate the three phases of the public procurement process: pre-tendering, tendering, and post-tendering, the PPL does not cover the post-tendering phase as robustly as the pre-tendering and tendering phases. For example, the PPL incorporates only minimal standards with regard to monitoring, contract management, payments, and completion dates. In the case of underperformance or late completion by a contractor, the contracting entity can impose penalties, seek damages, terminate the contract, or perform the contract at the expense of the contractor.

The PPL is applicable to all of the public entities whose budget is listed in the General Budget ^{The General Budget describes the detailed approach of the government of Jordan from the fiscal aspect or the estimate of revenues and expenditure for an upcoming fiscal year. The General Budget department proposes the allocation required for the implementation of the}

^{general policy through examining all programs and projects for which allocations are requested in order to verify their feasibility},

public entities that do not have specific regulations for public procurement, and any other public entity that the Cabinet of Ministers decides to apply the provisions of the PPL. Currently, implementing, supervising, and accounting for public works and services are not regulated under the PPL, but governed by the Regulation of Government Works No. 71 of 1986. In addition, there is no law that governs *concessions*. In Jordan, the legal basis for granting a *concession* is Article 114 of the Constitution. Granting a *concession* is sector dependant, and will be guided by the respective laws regulating the sector in question. For example, in some sectors - such as aviation - ^{Article 18 of the Aviation Law No. 41 of 2007 published on page 3735 of the Official Gazette No. 4828 dated 31/5/2007}

the relevant authority may publish the procurement notice. In other sectors - such as mining - ^{Article 42 of the Regulating Natural Resources Affairs No. 12 of 1968 published on page 229 of the Official Gazette No. 2076 dated 15/2/1968}

the relevant authority may grant a mining right pursuant to its own discretion subject to the eligibility of the applicant. *Public Private Partnerships (PPP) and privatization projects* ^{Privatization projects explicitly refer to projects such as Build Operate Transfer (BOT), Build Own Operate Transfer (BOOT) and Build Own Operate (BOO) etc...} are regulated by the Privatization Law No. 25 of 2000.

The PPL provides to a certain extent for a centralized public procurement function, which is dependant on the estimated purchase or the intended purpose of the procurement. The PPL provided for the creation of three types of committees. These include: Centralized Tendering Committee (CTC) - the general body responsible for executing the duties and powers stipulated in the PPL; Local Tendering Committee (LTC) - responsible for purchasing the supplies required by the public entity in which it is created, provided that the value of such supplies does not exceed twenty thousand Jordanian Dinars; and, the Special Tendering Committee (STC) - created by the Cabinet of Ministers pursuant to the recommendation of the relevant minister and the Finance Minister to purchase supplies for a specific project, or for a project that is being financed by the government or foreign committee. Nevertheless, a representative of the PPD shall always be a member of the LTC and the STC. In addition, the AB monitors the public procurement process, regardless of the committee carrying out the process.

d. Eligibility rules

Jordanian PPL does not expressly provide for general eligibility rules. However, it is understood from the review that a tenderer wishing to take part in a public procurement exercise and intending to purchase a tender invitation shall submit a certified copy of a valid license entitling it to trade, manufacture, sell, or distribute the required supplies. The tenderer shall also submit its commercial registration or a certificate of registration issued by the Ministry of Industry and Trade. If a tenderer is exempt from attaining a license or from registering, then the tenderer shall submit a certificate issued by the relevant authority confirming exemption. It should be noted that the Jordanian PPL gives the director of the PPD or the secretary general thereof, whenever needed, the right to put in place the necessary principles and rules for eligibility to participate in the procurement process. In determining eligibility criteria, the director of the PPD or the secretary general thereof may utilize the help of experts and specialists.

e. Procurement methods

Jordanian PPL provides for several procurement methods. These procurement methods include:

- Open call for tenders
- Soliciting offers
- Direct purchase.

Open call for tender is the default procurement method. In exceptional circumstances the contracting entity may apply any of the other two procurement methods. For example, a contracting entity can *solicit offers*: if there is an unforeseen, unpredictable, urgent, and expedient need for the procurement; there were no more than three sellers, producers, or distributors for the procurement; the value of the procurement does not exceed 5000 Jordanian Dinars; the number of tenderers was not sufficient or appropriate; and, the entity publishing the tender was convinced of undertaking the procurement exercise through *soliciting offers* was the best option. In addition, a contracting entity can consider the option of *procuring supplies* through *direct purchase*. The circumstances include: if the price of the required supplies was fixed by official bodies; the supplies were required to face a general emergency; it was impossible to obtain the supplies from more than once source; the required supplies were replacements or complementary parts; the required supplies were scientific materials; the purpose was the unification of brand or the reduction of the diversity thereof; it was for the purchase of services including maintenance, renovation, inspections provided that the size of work is known at the time of purchase; no suitable offers were submitted, the prices were not reasonable, or if the whole quantity of supplies was not met after the publication of the procurement notice or the solicitation of offers; and there was a legal provision or an international agreement which stipulates that the purchase shall be conducted directly.

f. Procurement process regulation

The review revealed that Jordanian PPL attempts to regulate the three phases of the public procurement process. However, the PPL does not cover the post-tendering phase as robustly as the pre-tendering and tendering phases.

Pre-tendering: The PPL makes endeavours to regulate the pre-tendering phase of the public procurement process. The PPL requires contracting entities to verify the actual need of procuring the required supplies and to ensure that the supplies are not already available in the PPD prior to sending the purchase order. The committee responsible for the procurement shall review all conditions and specifications for the goods / services required and ensure that these are general, accurate, and clear. The committee shall also ensure that a financial commitment for the estimated value of the tender has been duly submitted or that a permission to undertake the procurement has been issued by the GBD. The PPD may verify whether or not there is an actual need and whether or not the required goods / services can be offered by any other public entity. The PPL provides that the director or secretary general of the PPD has the right to put in place the eligibility rules and pre-qualification criteria necessary to participate in the procurement. In

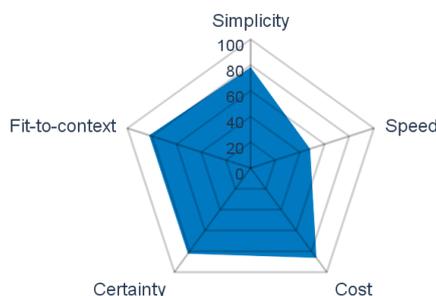
determining the eligibility criteria, the director of the PPD or its secretary general may utilize the help of experts. The director or appointed representative of the PPD shall publish the procurement notice in three local newspapers and / or any other advertisement means, specifying the deadline for selling the tender documents and the deadline for submitting offers. The director or Secretary General of the PPD, based on the request of more than one tenderer or if necessity requires, can extend the period for submitting the tender documents. The review revealed that the deadlines for public procurement procedures are not specified by law, but determined on a case by case basis.

Tendering: The PPL makes endeavours to regulate the tendering phase of the public procurement process. Tenders should be submitted within the deadline stipulated in the tender documents ^{Article 24 of the Instructions for Regulating the Tendering Procedures and Participating Conditions explicitly make reference to this point}. If a tenderer fails to submit its offer within the deadline, the tender will be returned unopened. Tenderers are bound by their bid for the period specified in the tender documents. Tenders will be opened and reviewed at the place, time, and date determined in the tender documents. If the TC is unable to open the tenders at the time specified, then it may postpone the opening until another time provided that all tenderers are made aware of this new time. If the technical evaluation is separated from the financial evaluation, then tenderers shall submit two proposals; a technical and a financial proposal. Tenders are awarded based on the tender evaluation criteria stipulated in the tender documents. If the tendered prices were too high or if the conditions and specifications were not responsive, then the evaluation committee is permitted to cancel the tender in whole or in part, refloat the tender, or resort to procure supplies through either *soliciting offers or direct purchase*.

Post-tendering: Regulation of the post-tendering phase of the public procurement process is not as robust as the first two phases. Jordanian PPL provides that if the date for providing the contracting entity with the supplies was not specified in the tender documents, then the tenderer shall determine the date of providing the supplies. If the date was not specified, then the supply date will be deemed immediate ^{Immediate means within one week of signing the contract}. The tenderer who was awarded the tender, shall complete all procedures required to finalize the contract within the period specified in the letter of award. If the contractor fails or refrains from or did not fully perform his obligations then the TC may revoke the awarded contract and call the performance bond. In addition, the TC may buy the supplies from a different source and claim the difference in price from the contractor. The TC may also include the contractor on a blacklist for a defined period. Moreover, if the contractor fails to deliver the supplies in a timely manner, the TC may impose a penalty for late delivery regardless of damage. In all cases, the TC may revoke the contract, buy the supplies from a different source, and claim the price difference and damages from the contractor. Moreover, the contracting entity is entitled to reject the supplies in the event that they do not comply with the contracts specifications and conditions. Negotiations are not allowed during the tendering process. Although, the TC may address questions or request further documents from any tenderers provided that such questions or requests will not affect competition. Additionally, the TC may negotiate with the tenderer whose offer obtains the preliminary award with the aim of obtaining better value for money without affecting competition.

Chart 3 presents the average scores for efficiency of regulation of the public procurement process benchmarked against five key indicators of the Legal Efficiency Concept benchmark. The PPL scored high compliance for the simplicity (78 per cent), cost (86 per cent), certainty (82 per cent), and fit-to-context (82 per cent) indicators, and very low compliance for the speed (48 per cent) indicator. The regulatory gap for the speed indicator can be traced to the fact that the PPL does not prescribe minimum deadlines for the three phases of the public procurement process, and that these deadlines are discretionary and case dependent.

Chart 3: Jordan - Efficiency of regulation of the public procurement process (average scores for key LEC indicators)



Note: The chart presents the average scores for the key Legal Efficiency Concept benchmark indicators for efficiency of regulation of the public procurement process. The scores have been calculated on the basis of a legislation questionnaire based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local legal advisers. Total scores are presented as a percentage with 100 per cent representing the optimal score for each Legal Efficiency Concept benchmark indicator.

Source: 2012 SEMED Public Procurement Assessment

g. National review and remedies mechanisms for complaints related to public procurement

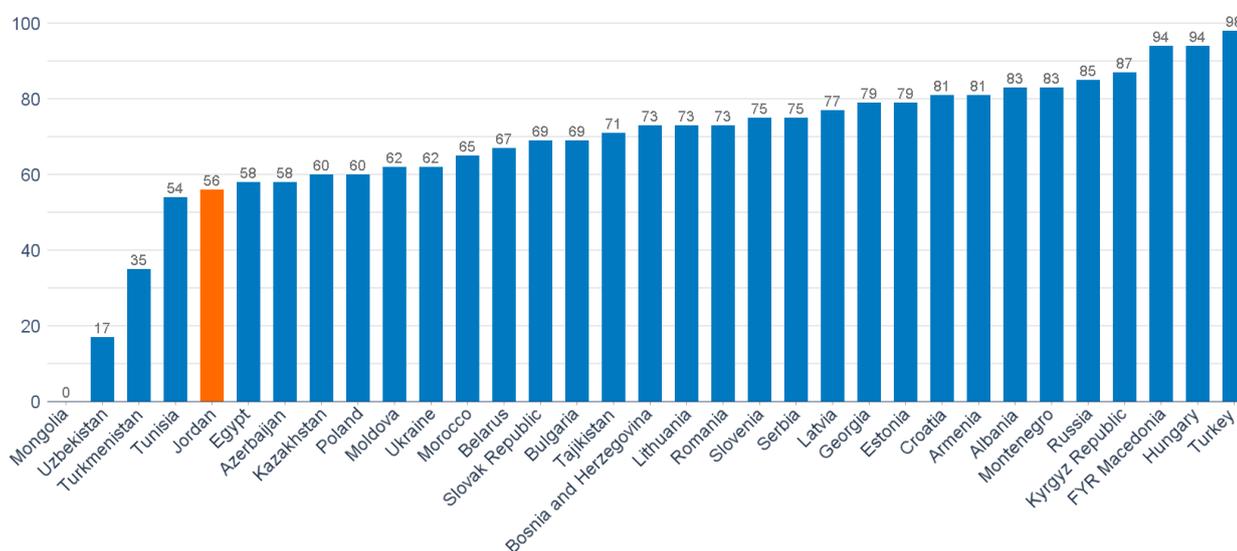
Jordanian PPL provides for an administrative review of complaints related to public procurement. Complaints by unsuccessful tenderers should be lodged within four days from the date of announcing the results of the initial tender award, unless a shorter period for the submission of complaints was determined by the TC. This shorter period cannot be less than two days. The PPL does not provide for an independent review mechanism which ensures procedural fairness, as complaints are submitted to and reviewed by the TC which launched and supervised the tender. Nevertheless, the PPL gives the TC the option of referring the complaint to the technical committee that reviewed the offers, or to an impartial technical committee formed specifically for that purpose. Further, tenderers who are not satisfied with the administrative review decision may resort to the Supreme Court of Justice ^{Administrative Court} (SCOJ), and challenge the decision through an annulment action.

The PPL does not set procedures for dealing with complaints submitted through the administrative route. However, the procedures for filing a case with the SCOJ are straightforward and identified in law. Further, the PPL does not set timeframes for dealing with complaints submitted through the administrative route. However, administrative bodies usually spend a reasonable amount of time in reviewing complaints. Furthermore, the time spent by the administrative court is comparatively reasonable (3 - 6 months), especially since the decisions of such courts are final and conclusive. Additionally, there are no barriers to access as there are no fees to be paid by complainants who resort to administrative bodies. In addition, complainants are also entitled to examine non-confidential procurement records. For example, the technical specifications submitted by other tenderers.

Moreover, a tenderer can claim compensation when filing an annulment action, and if successful the court may award compensation. The fees for filing an action at the SCOJ are determined on a case-by-case basis by the Chief Judge. In all cases, the fees shall not exceed 3000 Jordanian Dinars.

Chart 4 presents the assessment results for quality of public procurement review and remedies regulation as compared to countries in the EBRD region. The PPL was benchmarked against key requirements of the EBRD Core Principles for enforceability of public procurement laws, based on international standards for public procurement review of UNCITRAL and the WTO GPA. Jordan scored 56 per cent for the quality of public procurement review and remedies legislation. This places Jordan in fourth last place compared to other countries in the EBRD region sitting 2 percentage points ahead of Tunisia, 2 percentage points below Egypt, and a full 42 percentage points below Turkey the top placed country. The relatively low score compared to other EBRD countries is because that there is no independent administrative review system.

Chart 4: Jordan - Quality of public procurement review and remedies legislation as compared to countries in the EBRD region

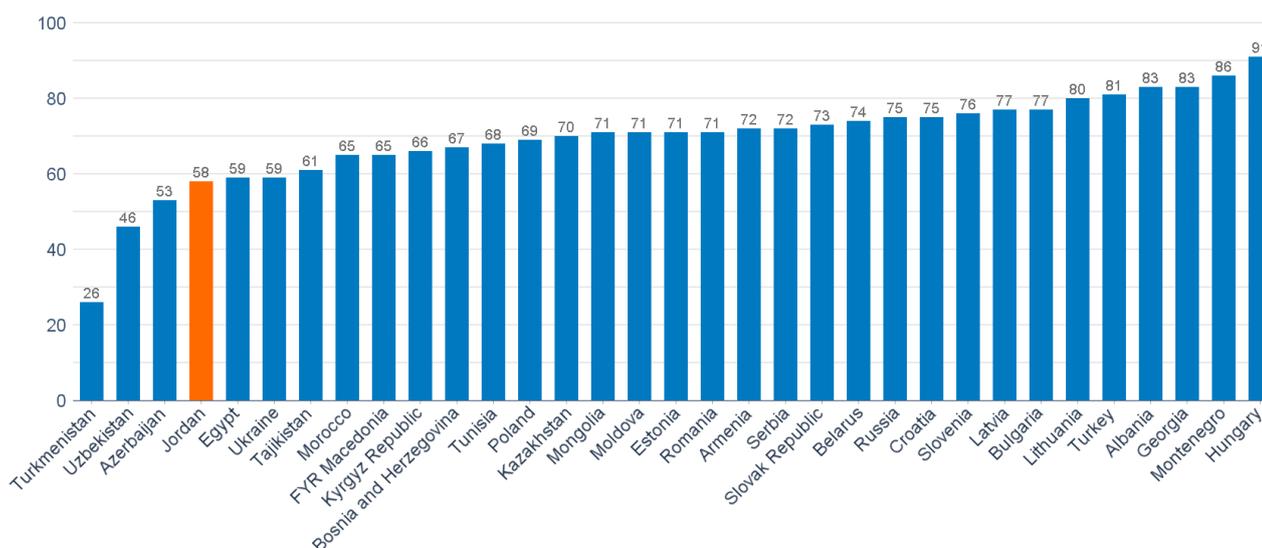


Note: The chart presents the scores for the quality of public procurement review and remedies legislation as compared to countries in the EBRD region. The laws have been benchmarked against key requirements of the EBRD Core Principles for enforceability of public procurement laws. The scores have been calculated on the basis of a checklist on remedies procedures and answered by local legal advisors. Total scores are presented as a percentage with 100 per cent representing the highest performance in the Legal Efficiency Concept benchmark indicators.

Source: 2012 SEMED Public Procurement Assessment

Assessment overview

Chart 5: Jordan - Quality of national legal framework as compared to countries in the EBRD region



Note: The chart presents the scores for the quality of the national legal framework (law on the books) as compared to countries in the EBRD region. The scores have been calculated on the basis of a legislation questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local legal advisors. Total scores are presented as a percentage with 100 per cent representing the highest performance in the Legal Efficiency Concept benchmark indicators.

Source: 2012 SEMED Public Procurement Assessment

Chart 5 presents the assessment results for the quality of national legal framework compared to countries in the EBRD region. Jordan scored 58 per cent for the quality of its public procurement legal framework. This places Jordan in fourth last place compared to other countries in the EBRD region, 5

percentage points above Azerbaijan, 1 percentage point below Egypt and Ukraine, and a full 33 percentage points below Hungary the top placed country. This low score is because the PPL does not allow for an accurate estimation of the procurement process, the PPL allows for domestic preferences, the PPL does not robustly monitor the post-tendering phase of the process, and incorporates only minimal standards with regard to monitoring and contract management.

In addition, the assessment highlighted several strengths, weaknesses, opportunities and risks regarding the legislative framework. These include:

Strengths

The review highlighted several strengths. For example, the PPL is based on principles that aim to promote competition, equal opportunity, accountability, and stability of the legal framework. In addition, the PPL aims to promote accountability through the harmonizing of rules undertaken by its regulatory institutions. Moreover, the eligibility rules attempt to promote fairer competition by encouraging participation from micro, small and medium sized enterprises facilitating economic development.

Weaknesses

The review revealed numerous weaknesses. For example, effecting the economy of the process the PPL does not allow for an accurate estimation of the duration of any of the procurement phases. In addition, as the PPL allows for domestic preferences this impacts the aim of securing fairer competition. Moreover, as there is no dedicated national regulatory agencies or independent national review and remedies mechanism this results in the achievement of low levels of enforceability. Furthermore, as the PPL does not robustly monitor the post-tendering phase of the procurement process, incorporating only minimal standards with regard to monitoring, contract management, payments, and completion dates, and does not provide sufficient enforcement instruments for private sector suppliers this impacts accountability and economy.

Opportunities

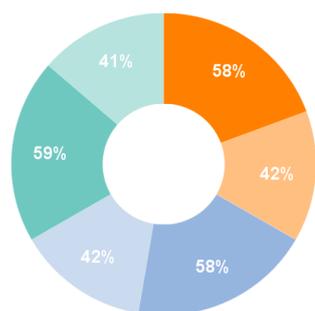
The review highlighted several opportunities for regulatory reform. For example, utilizing the online tender publication facility will enhance the levels of transparency enjoyed, and the integrity achieved in the procurement process. In addition, to enhance levels of enforceability the PPL should establish a dedicated national regulatory agency to administer an independent national review and remedies mechanism. Moreover, to achieve economy the PPL should provide timeframes for undertaking each phase of the public procurement process. Furthermore, contracting entities should reveal the reasons for cancelling a procurement. This will contribute to increased levels of satisfaction regarding transparency and increased levels of integrity.

Risks

Throughout the review several regulatory risks were identified. For example, the lack of transparency with regards to cancelling public procurements may adversely affect certainty in the public procurement process and deter tenderers from future participation. In addition, the lack of an independent review and remedies mechanism impacts the level of enforceability achieved and may deter stakeholders from challenging procurement decisions impacting integrity. Moreover, accountability is at risk as the PPL does not cover the post-tendering phase as robustly as the pre-tendering and tendering phases of the procurement process.

Chart 6 presents the results of the assessment for public procurement policies on the books in three fundamental evaluation categories. All three categories scored low compliance assessed against the public procurement regulatory framework: integrity safeguards (58 per cent), efficiency instruments (58 per cent), and institutional and enforcement measures (59 per cent). Consequently, as a result of these low compliance scores the review highlights regulatory gaps across all three evaluation categories suggesting that both laws and institutional and enforcement capacity needs to be strengthened and modernised to comply with current international transparency and efficiency standards for public procurement. Concerning the integrity safeguards, the regulatory gap could be explained by the fact that the communication between the contracting entities and tenders is rigid since electronic communication is not utilized. Concerning the efficiency instruments, this gap could be explained by the fact that the PPL is not developed enough to follow standards in public procurement advocated by international institutions. Finally, as there is no independent body to review and monitor the compliance of contracting entities this impacts institutional and enforcement measures.

Chart 6: Jordan - Public procurement policies on the books (transparency safeguards, efficiency instruments, and institutional and enforcement measures)



- Integrity Safeguards
- Regulatory Gap in adopting transparency safeguards
- Efficiency Instruments
- Regulatory Gap in adopting efficiency instruments
- Institutional and enforcement measures
- Regulatory Gap in adopting appropriate institutional and enforcement framework

Note: The chart presents the results of the assessment of public procurement policies on the books in three fundamental evaluation categories (transparency safeguards, efficiency instruments, and institutional and enforcement measures). The scores have been calculated on the basis of a legislation questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local legal advisers. Total scores are presented as a percentage with 100 per cent (one third of the pie chart) representing the optimal score for each evaluation category. A regulatory gap, the difference between the assessment results and the benchmark, is marked in light orange, light blue and light green respectively.

Source: 2012 SEMED Public Procurement Assessment

II. Practice Review Summary

a. Legal framework in practice

The local practice survey revealed that Jordanian PPL is not fully comprehensive, is slightly inflexible, leans towards over bureaucracy and although makes endeavours to promote fair competition does allow for domestic preferences. The survey highlighted that the PPL is supplemented by internal procurement rules and instructions that are followed by procurement officers. These internal rules and instructions are enacted in compliance with the law and provide procurement officers with specific guidelines regarding the public procurement process. Regardless of the applicable law, internal roles in the procurement process are clearly allocated. For example, internal rules and instructions set specific timelines for the procurement process and enable procurement officers to understand their duties. Although these procurement rules and instructions are updated regularly, they are not publicly available. In addition, the survey revealed that the PPL does not apply to all contracting entities, as some contracting entities have their own specific procurement regulations. For example, the procurement of supplies and works for the Jordan Enterprise Development Corporation (JEDCO) is governed by the Regulations for Procuring Works and Supplies for JEDCO No. 131 of 2009. The decision to update these specific regulations is Government led and is undertaken every 5 to 7 years.

The local practice survey revealed that contracting entities applying the PPL provide training for their public procurement officers regarding their roles, rights, and obligations in the public procurement processes. This is in line with the duties of the PPD under the PPL whereby it is responsible for cooperating with contracting entities to conduct professional development workshops and seminars for procurement officers. However, the survey also revealed that contracting entities applying specific regulations do not provide regular training to public procurement officers. Moreover, the survey revealed that contracting entities have in place a code of ethics which is strictly observed by procurement staff.

On average Jordan scored 78.6 per cent (high compliance) for the general quality of local public procurement practice. **Chart 7** presents the scores for the quality of local public procurement practice. The survey revealed that accountability (79 per cent), competition (79 per cent), economy (90 per cent), efficiency (90 per cent), uniformity (81 per cent) stability (85 per cent), flexibility (77 per cent) and enforceability (81 per cent) scored high compliance, with transparency (72 per cent) scoring medium compliance, and integrity (56.6 per cent) scoring low compliance. The performance gap for the integrity indicator could be explained by the fact that communication between contracting entities and tenderers is rigid since contracting entities currently do not utilize electronic means of communication.

Chart 7: Jordan - Quality of local procurement practice



Note: The chart presents the scores for the quality of local procurement practice for each Core Principles indicator. The scores have been calculated on the basis of a practice questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local contracting entities. Total scores are presented as a percentage with 100 per cent representing the optimal score for each Core Principles benchmark indicator.

Source: 2012 SEMED Public Procurement Assessment

b. Institutional framework in practice

With the exception of committees, members of the Jordanian regulatory institutions are independent, but perform their duties to support the public procurement function. Committees are ad hoc institutions with their members appointed on a part-time basis, performing their duties in parallel with the duties of the institutions they represent.

- **Public Procurement Department**

The PPD is the primary regulatory office for procurement functions. It is responsible for formulating and executing public policy for procurement and purchasing, and maintaining and managing procured supplies. In cases where the contracting entity has its own procurement regulations in place, the PPD's role is supplementary. In such cases the contracting entity will request the involvement of the PPD.

- **General Budget Department**

The GBD is approached by the TC responsible for the purchase if the value of the supplies exceeds 10,000 Jordanian Dinars. The GBD appraises, and approves or disapproves the purchase. Contracting entities with specific regulations for procurement are not required to approach the GBD. However, such entities may not purchase any supplies nor enter into any contracts for the extension of service, unless a financial provision by the contracting entity was made.

- **Administrative Department**

The Administrative Department (AD) or any department under a different name with an equivalent function is a department within a contracting entity which does not apply the PPL, but rather applies their own specific regulations for procurement. The AD forms a unit of the organizational structure of the contracting entity itself and is the functional equivalent of the PPD. The AD is mainly responsible for putting in place the necessary plans to manage the procured supplies, providing the contracting entity with the supplies it requires, publishing tenders and keeping records, conducting studies to develop the management of procured supplies, and providing supplier management consultancy services to other departments.

- **Tendering Committee**

The TC is either formed in the PPD or in the contracting entity and is responsible for appraising and reviewing tenders, awarding contracts, and examining complaints.

- **Receiving Committee**

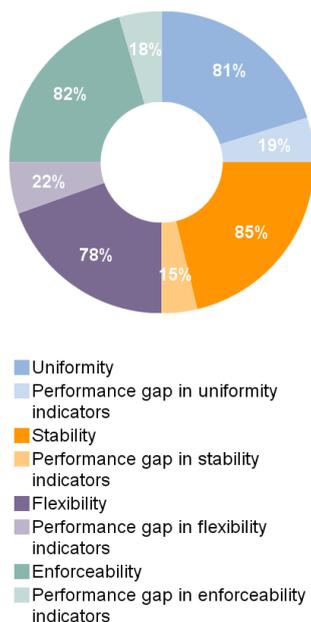
The RC takes delivery of the supplies and it is either formed in the PPD or the contracting entity, and is responsible for preparing a report of receipt in which it clarifies if the supplies were accepted or rejected. Such reports are used to evidence the receipt or rejection of the procured supplies.

- **Audit Bureau**

Reporting to the Lower House, the AB is the central independent authority responsible for reviewing the accounts of each contracting entity. While the AB is represented on the TC by auditors who observe the process, its role is not clearly illustrated with regards to public procurement. However, the AB undertakes its public procurement function as part of its general audit review.

Chart 8 presents the data on the public procurement institutional and enforcement framework in practice. The data illustrates how the institutional framework has been evaluated by local contracting entities and practitioners. High compliance scores were recorded for all four indicators namely: uniformity (81 per cent), stability (85 per cent), flexibility (78 per cent), enforceability (82 per cent). These scores suggest that in practice public procurement is in compliance with the PPL. Although equal or below the SEMED average, the survey revealed minor performance gaps in the framework: uniformity (19 per cent), stability (15 per cent), flexibility (22 per cent), and enforceability (18 per cent). These performance gaps may indicate that the institutional framework is not fully comprehensive, is slightly inflexible, and leaning towards over bureaucracy.

Chart 8: Jordan - Public procurement institutional and enforcement framework in practice



Note: The chart presents the scores for the public procurement institutional and enforcement framework in practice. The scores have been calculated on the basis of a practice questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local contracting entities. Total scores are presented as a percentage with 100 per cent (one quarter of the pie chart) representing the optimal score for each of the four institutional and enforcement measures. A performance gap, the difference between the results of the survey of local practice and the benchmark, is marked in light blue, light orange, light purple and light green respectively.

Source: 2012 SEMED Public Procurement Assessment

c. Scope of regulation

The survey of local practice confirmed that the contracting entities follow in practice the published PPL procedures, which cover all three phases of the public procurement process. In addition, the survey highlighted that contracting entities supplement the PPL, during all three phases of the process, with instructions and manuals. Moreover, contracting entities also regulate the procurement and internal decision making process. The survey also highlighted that contracting entities have in place procurement guidelines on how to draft tender documents.

Pre-tendering: The survey highlighted that each contracting entity prepares an annual procurement plan. The plan includes the project definition, selection methods, completion schedules and accurate cost estimates. In practice, contracting entities have procedures in place for planning the procurement of recurrent contracts, with tender documents providing all the information necessary to submit a tender. The survey highlighted that efficiency of the process in practice scored (81 per cent) high compliance.

Tendering: Despite that the PPL provides for the use of electronic means of communication, the survey revealed that in practice, electronic means are not used by contracting entities. In addition, the PPL does not set a specific timeframe that must be adhered to during the tendering process, and leaves the matter to each contracting entity, to specify in the tendering documentation. The survey revealed that in practice sufficient time is allowed to prepare and revise tenders following a modification of the tender documents. Moreover, the survey revealed that tenders are opened promptly after expiry of the submission deadline, and that the tender is always opened at the time stipulated in the tender documents. The survey showed that the deadlines prescribed by the PPL for the submission of complaints are observed. Concerning the language used for the tender documents, the practice clearly expressed that contracting entities formulate tender documents in Arabic - the official language of Jordan. However, tender documents are also made available in a language customarily used in international trade ^{Primarily English}. The survey highlighted that efficiency of the process in practice during the tendering phase scored (76 per cent) high compliance rate.

Post-tendering: The post-tendering procedure has been reported to be simple, clear and easy to follow, with contracting entities undertaking the required contract monitoring requirements. Contracts are generally completed within the original contract price and on schedule suggesting effective contract management. The survey highlighted that any modification to the contract concerning the price and the schedule is approved between the contracting entity and the contractor. The survey highlighted that the efficiency of the process in practice during the post-tendering phase scored (93 per cent) very high compliance.

d. Eligibility rules

In practice, primary eligibility criteria for suppliers can be deduced from provisions setting out grounds for exclusion from the public procurement exercise. Grounds for exclusion from the exercise include; non-compliance or delay in the execution of previous contracts; submission of false documents or information (financial, technical, administrative, legal), or the use of deceitful methods, manipulative practices or fraud for the purposes of having an offer accepted or a contract executed; previous negligence, fraudulent representation of having the capacity of an authorized signatory of a company or an institution, claiming or hiding the status of a sales agent, or the conviction of a crime of an economic nature or relating to participation in previous tenders; the absence of a signature or a seal from a duly submitted offer, or the insufficiency or ambiguity of an offer, or if such an offer contained deletions or additions that prevent awarding the tender. Moreover, the TC shall give rise to the efficiency and experience of the tenderer in providing the required supplies, its commercial reputation, its facilities and its capabilities. In addition, a conflict of interest occurs if a tenderer submits

an offer based on its relationship with another tenderer who has applied for one or more of the supplies contained in the offer. Moreover, the same tenderer is not permitted in practice to submit two independent offers for the same supplies whether in a personal capacity or in partnership with another tenderer. A breach of these rules in practice gives the TC the right to exclude the tenderer from the public tender.

e. Procurement procedures as applied by contracting entities

Although contracting entities use all the available procurement procedures as provided by the PPL, the survey highlighted that *open call for tender* is the default procurement procedure. However, the choice of the procurement procedure is not discretionary and is governed by the condition of application set by law ^{Article (15) of the Procurement Regulation No. 32 of 1993 published on page 1042 of the Official Gazette No. 3898 dated 29/5/1993}, with selection of the procedure depending on the specificity and nature of the procurement. Specified by the PPL, the non-use of the *open call for tender* is justified by exceptional circumstances. For example, unforeseen, unpredictable, urgent, and expedient need for the supplies justifies procuring supplies through *soliciting offers*. Whereas if the supplies are required to an emergency, then procuring supplies through a *direct agreement* is justified.

f. Efficiency of the procurement process regulatory framework in practice

Jordanian PPL does not prescribe specific deadlines for completion of the procurement process. The survey revealed that the typical length of the process to sign a public contract for goods with a value greater than EUR 250,000 and a public contract for works with a value greater than EUR 500,000 is 2 months. Moreover, the survey revealed that public contracts are generally completed on schedule confirming efficiency of the public procurement process in practice during the post-tendering phase.

Contracting entities comply with the PPL and conduct the public procurement process impartially, predictably and with integrity. Public procurement plans in practice are prepared in sufficient detail to ensure the project definition, adequate selection methods, completion schedules and accurate cost estimate are undertaken. In addition, contracting entities have in place procedures for planning the procurement of recurrent contracts through inventory control, and the forecasting of future purchase needs. Moreover, contracting entities use for the purpose of simplifying, standardizing and enhancing efficiency of the public procurement process standard tender documents for goods, works, and service contracts.

Contract administration is mandatory for public contracts, Contracting entities hold records on their contract administration, and establish appropriate procedures to monitor the delivery of goods and services to verify quantity, quality and timeliness. During the tendering phase negotiation between the contacting entity and the bidder concerning the terms and conditions of the contract is not allowed. Moreover, during the post-tendering phase any modifications or waiver of the terms and conditions of a signed contract must be submitted to a review and approval procedure.

Chart 9A - 9D presents the results for the efficiency of the public procurement process for all three phases of the public procurement process. The charts highlight several anomalies with regard to the Legal Efficiency Concept Indicators. For example, in the pre-tendering phase the simplicity, cost, certainty and fit-to-context indicators scored very high to high compliance. However, the speed indicator scored very low compliance. This could be explained because the PPL does not set specific timeframes. In the tendering phase, only the certainty indicator scored very high compliance, with the fit-to-context indicator scoring medium compliance. The simplicity, speed and cost indicators scored very low compliance. The simplicity score could be explained by the fact that electronic means of communication are not used by the contracting entities. In addition, as there is no specific timeframe that must be adhered to during the tendering process this impacts the speed of the procurement process and consequently the costs of participation. The post-tendering phase scored better than the previous two-phases, with the certainty, cost and speed indicators scoring very high compliance, and the simplicity and fit-to-context indicators scoring high compliance. These scores can be explained because contracts are generally completed within the original contract price and on schedule, and that modification to the contract concerning the price and the schedule is approved between the contracting entity and the contractor.

Chart 9A: Jordan - Efficiency of public procurement process in practice

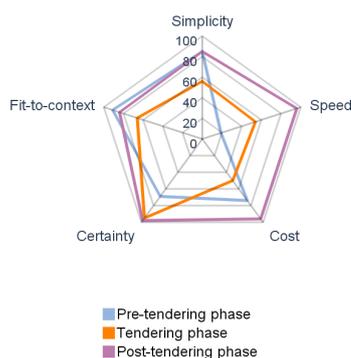


Chart 9B: Jordan - Public procurement process in practice (efficiency of the pre-tendering phase)

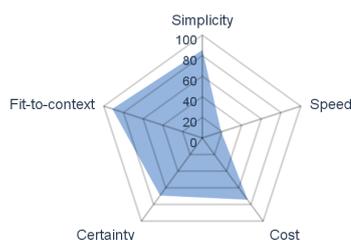
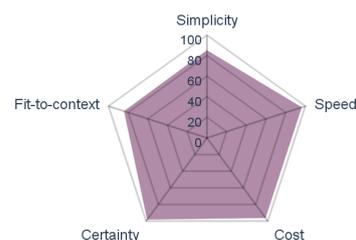


Chart 9C: Jordan - Public procurement process in practice (efficiency of the tendering phase)



Chart 9D: Jordan - Public procurement process in practice (efficiency of the post-tendering phase)



Note: The charts present the average scores for the five Legal Efficiency Concept benchmark indicators for efficiency of the public procurement process in practice in the pre-tendering, tendering, and post-tendering stage of the public procurement process. **Chart 9B** presents the assessment scores for efficiency of local procurement practice in the pre-tendering stage of the public procurement process. **Chart 9C** presents the assessment scores for efficiency of the local procurement practice in the tendering stage of the public procurement process. **Chart 9D** presents the assessment scores for efficiency of the local procurement practice in the post-tendering stage of the public procurement process. The scores have been calculated on the basis of a practice questionnaire based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local contracting entities. Total scores are presented as a percentage with 100 per cent representing the optimal score for each Legal Efficiency Concept benchmark indicator.

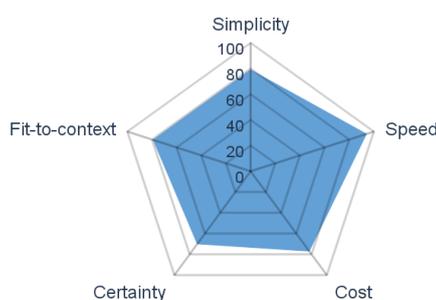
Source: 2012 SEMED Public Procurement Assessment

g. Efficiency of the review and remedies system in practice

The Jordanian administrative reviews of complaints makes endeavours to cover each phase of the public procurement process. Compliance with the PPL is monitored by regulatory institutions including: PPD, AD, TC, and AB. The PPL clearly illustrates the scope of work that shall be performed in practice by the TC in relation to the complaints mechanism. The survey highlighted that contracting entities applying specific regulations do not perceive the complaints process to be straightforward, as do contracting entities applying the PPL. In addition, the administrative review and remedies mechanism is free of cost and as such does not constitute an obstacle for stakeholders. The survey further indicated that the complaints process is undertaken in a timely manner, whereby a monitoring decision is issued by the regulatory authority within 15 days. Moreover, the survey highlighted that although the review and remedies authorities are perceived to be unbiased and non discriminatory, they are considered to be unpredictable. This is because the decisions of the authorities do not form legal precedents.

Chart 10 presents the results for efficiency of the public procurement review and remedies in practice. In the survey speed scored very high compliance (91 per cent), suggesting that the timeframe for the review mechanism as set by law is excellent. Simplicity (79 per cent), cost (77 per cent), certainty (70 per cent), and fit-to context (79 per cent) fall between medium to high compliance. These scores suggest that system as it currently stands in practice is easy to follow, cost efficient, and regulated.

Chart 10: Jordan - Efficiency of public procurement review and remedies in practice



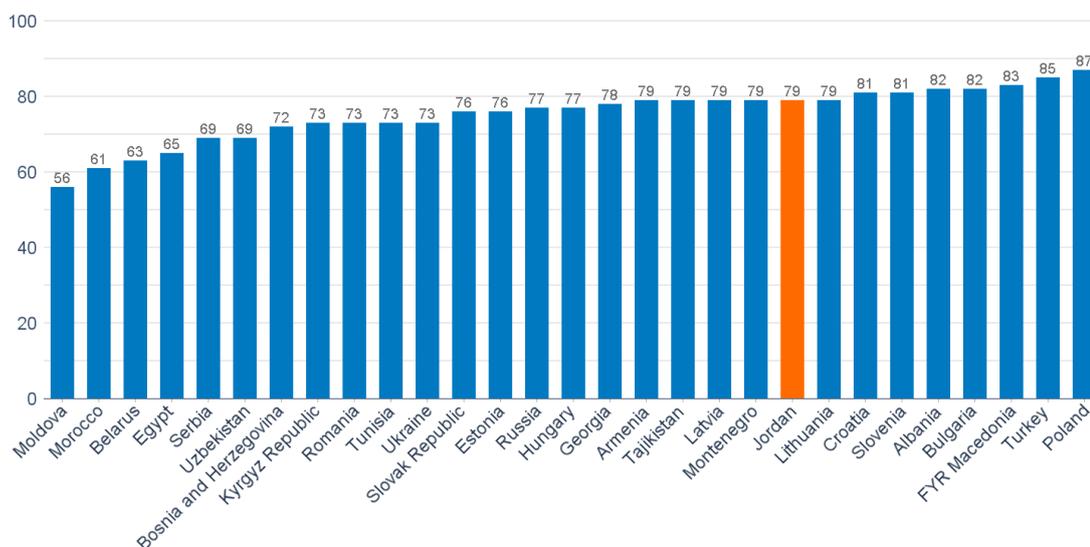
Note: The chart presents the average scores for the five Legal Efficiency Concept benchmark indicators for efficiency of the public procurement review and remedies procedures in practice. The scores have been calculated on the basis of a checklist on remedies procedures and case studies answered by local legal advisors. Total scores are presented as a percentage with 100 per cent representing the highest performance in the Legal Efficiency Concept indicators, equivalent to full compliance with the Legal Efficiency Concept benchmark.

Source: 2012 SEMED Public Procurement Assessment

Assessment overview

Chart 11 presents the assessment results for the quality of the Jordanian local procurement practice as compared to countries in the EBRD region. Jordan scored 79 per cent (high compliance) for the quality of local procurement practice. This places Jordan level with 5 countries including Montenegro and Lithuania, 2 percentage points below Croatia and Slovenia, and 8 percentage points below Poland the top ranked country. This position was achieved through the high scores achieved in the scope of regulation, the implementation of eligibility rules by contracting entities, the use of all the available procurement procedures, and efficiency of the procurement process regulatory framework in practice.

Chart 11: Jordan - Quality of local procurement practice as compared to countries in the EBRD region



The chart presents the scores for the quality of local procurement practice as compared to countries in the EBRD region. The scores have been calculated on the basis of a practice questionnaire, based on the EBRD Core Principles benchmark for an Efficient Public Procurement Framework and answered by local contracting entities. Total scores are presented as a percentage with 100 per cent representing the optimal score.

Source: 2012 SEMED Public Procurement Assessment

In addition, the assessment highlighted several strengths, weaknesses, opportunities and risks regarding the PPL. These include:

Strengths

The survey highlighted several strengths regarding local procurement practice. For example, the PPL is supplemented by internal procurement rules and instructions promoting accountability. In addition, as procurement officers observe the code of ethics this elevates the levels of integrity achieved and increases certainty. Moreover, pre-tendering rules regarding the preparation, submission and opening of tenders are observed which positively impacts integrity. Furthermore, economy and efficiency are achieved as the post-tendering procedures are simple, clear, easy to follow and implemented well promoting cost.

Weaknesses

The survey unearthed several weaknesses regarding local procurement practice. For example, the PPL does not apply to all contracting entities, as some contracting entities have their own specific procurement regulations which impacts the levels of accountability achieved. In addition, contracting entities applying specific regulations do not provide regular training to public procurement officers effecting integrity and efficiency. Moreover, transparency is impacted as electronic means of communication are not used. Furthermore, enforceability is compromised as contracting entities do not perceive the review and remedies system to be straightforward and the bodies undertaking reviews are perceived unpredictable.

Opportunities

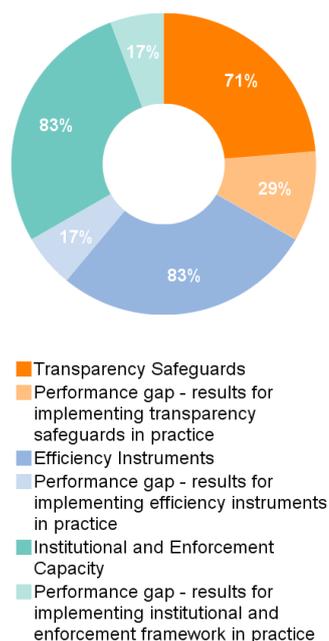
The survey highlighted several opportunities for reform. For example, to increase the levels of accountability, integrity and transparency achieved all procurement activity should be conducted electronically promoting speed of the procedure and cost of participation. In addition, to achieve integrity and efficiency contracting entities should provide procurement officers with recognised training leading to professional qualifications promoting simplicity and certainty. Moreover, to increase enforceability dedicated national regulatory agencies implementing independent review and remedies mechanisms should be created which in turn will aid certainty.

Risks

Throughout the survey several regulatory risks were identified. For example, the PPL does not prescribe specific deadlines for the completion of the procurement process which impacts the levels of economy achieved. In addition, although prescribed by law electronic communications are not used influencing the levels of integrity and transparency enjoyed. Moreover, and most unfortunately with regard to accountability and enforceability, the bodies undertaking the review and remedies function are perceived to be corrupt.

Chart 12 presents the results of the assessment of quality Jordanian public procurement policies in practice. The chart presents the results of the assessment in three fundamental evaluation categories with transparency safeguards scoring (71 per cent) medium compliance, efficiency instruments scoring (83 per cent) high compliance, and institutional and enforcement capacity scoring (83 per cent) high compliance. The performance gap in implementing transparency safeguards indicates that contracting entities should be more transparent in their procurement policies. This can be achieved by publishing internal procurement rules and instructions that should be followed by procurement officers.

Chart 12: Jordan - Public procurement policies in practice (transparency safeguards, efficiency instruments, and institutional and enforcement measures)



Note: The chart presents the scores of the survey of public procurement policies in practice in three fundamental evaluation categories (transparency safeguards, efficiency instruments, and institutional and enforcement measures). The scores have been calculated on the basis of a practice questionnaire, based on the EBRD Core Principles for an Efficient Public Procurement Framework and answered by local contracting entities. Total scores are presented as a percentage with 100 per cent (one third of the pie chart) representing the optimal score for each evaluation category. A performance gap, the difference between the results of the survey of local practice and the benchmark, is marked in light orange, light blue and light green respectively.

Source: 2012 SEMED Public Procurement Assessment

III. Conclusions and recommendations

Overview

Both primary and secondary legislation govern public procurement in Jordan. The PPL is based on the principles of fair competition and non-discrimination and makes endeavours to regulate all three phases of the public procurement process. Although the PPL is based on the principles of fair competition, with a clear provision in the PPL which provides that the principle of competition shall be observed, the PPL does allow for domestic preferences. This introduces an element of discrimination into the public procurement process and hinders the achievement of fair competition. In addition, although the review revealed that the PPL is stable, it does allow for the cancellation of the public procurement process without specifying reasons. A number of contracting entities have in place specific regulations for the purpose of regulating their procurement exercises. These contracting entities only refer to the PPL if there was a legislative void in the specific regulation being applied. Compared with other EBRD countries Jordan scored medium compliance regarding quality of laws.

In practice, the PPL is slightly inflexible, leans towards over bureaucracy and although makes endeavours to promote fair competition allows for domestic preferences. As the PPL does not apply to all contracting entities, as some contracting entities have their own specific procurement regulations, the PPL cannot be considered to be comprehensive. The PPL is supplemented by internal procurement rules and instructions that are followed by procurement officers. These internal rules and instructions are enacted in compliance with the law and provide procurement officers with specific guidelines regarding the public procurement process. Regardless of the applicable law, internal roles in the procurement process are clearly allocated. However, although these procurement rules and instructions are updated regularly, they are not publicly available. Contracting entities have in place a code of ethics which is strictly observed by procurement staff. Assisted by the PPD, most contracting entities provide training to their public procurement officers regarding their roles, rights, obligations in the public procurement processes. However, contracting entities applying specific regulations do not provide regular training to public procurement officers. On average Jordan scored high compliance for the quality of local public procurement practice.

Conclusions

Unsatisfactory transparency safeguards: The assessment highlighted the performance of several 'on the books' indicators with regard to transparency safeguards. For example, although the indicator for integrity managed to just secure medium compliance both the accountability and transparency indicator scored low compliance. This indicates that although the PPL is making endeavours to promote integrity across the procurement function there is room for improvement. The score for accountability suggests that the PPL is not adequately promoting accountability across all stages of the procurement process, balancing public and business dimensions and it does not provide sufficient enforcement instruments for private sector suppliers. Regarding transparency, the score implies that procurements do not appear to be public, transparent or objective. In the survey of local practice the accountability indicator managed to just secure high compliance, with the transparency indicator securing medium compliance. A reversal in the survey of procurement practice has the integrity indicator scoring low compliance. This medium score for transparency suggests that there is a need

to ensure that procurement opportunities are promoted through a single point of access. The low score for integrity could be explained by the fact that communication between contracting entities and tenderers is rigid since contracting entities do not utilize electronic means of communication. These varying levels of achievement between the review of legislation and the survey of practice highlights that in general the transparency safeguards are not aligned to achieve their overall aim. Until the safeguards are fully aligned transparency of the process will be at risk and little or no improvement regarding accountability, integrity or transparency of the process can be achieved. This will result in unbalanced business dimensions, partial delivery of government policy, and ineffectual anti-corruption safeguards throughout all phases of the public procurement process. Overall, both 'on the books' and in practice the assessment highlighted several regulatory and performance gaps which require immediate attention.

Insufficient efficiency instruments: In the review of the PPL the efficiency instruments scored poorly. Although the competition and economy indicators scored medium compliance the efficiency and proportionality indicators scored low and very low compliance respectively. The score for competition is because the law allows for domestic preferences. Regarding economy the law should be reviewed to ensure that public procurement can be accomplished in a reasonable time frame. The low score in the efficiency indicator implies that the legal framework does not embrace the concept of making endeavours to ensure value for money is achieved. The very low score for proportionality indicates that the law does not encourage the formality of the public procurement procedure to reflect the scope and size of the contract. In the survey of local practice the economy, efficiency and competition indicators scored high compliance. However, although improving on its score in the review the proportionality indicator only scored medium compliance. This suggests that contracting entities are failing to align the value and scope of the contract with the choice of contract type and tendering procedure available. In terms of efficiency instruments contracting entities were found to apply in practice higher standards than required by law, with the survey of local practice recording higher marks than in the legislative review. This indicates that contracting entities are mindful that public procurement should be seen to be transparent and objective, competition should be encouraged, the timeframe for undertaking the procedure should be reasonable and that value for money should be achieved. That said, both 'on the books' and in practice efficiency instruments were assessed in aggregate as average with the assessment highlighting several regulatory and performance gaps which require treatment.

Regulatory and performance gaps: The assessment revealed inconsistencies and opportunities for improvement between the legislative framework and local procurement practice. These implementation gaps require attention and treatment in the short-run. The assessment for the quality of the Jordanian local procurement legal framework as compared to countries in the SEMED region highlighted that with the exception of uniformity and stability where a high performance was achieved, the PPL scored very low compliance to medium compliance with the benchmark. The assessment of the quality of the local procurement practice highlighted an improved performance with all indicators, apart from integrity and proportionality, scoring high compliance regarding the essential transparency safeguards and efficiency instruments. However, the results of the assessment suggest that the PPL in its current state does not provide a solid base for supporting modern public procurement practice. In addition, the assessment discovered numerous inconsistencies between the legal framework and local public procurement practice. These inconsistencies include the implementation of inadequate integrity safeguards, weak efficiency instruments and poor institutional and enforcement measures. The regulatory and performance gaps, and the resultant implementation gaps, identified regarding the adoption of inadequate integrity safeguards are explained by the fact that although benefiting from good accountability procedures, accountability in general is compromised as there is no dedicated national regulatory agency or an independent review and remedies mechanism. This is compounded as the PPL does not provide sufficient enforcement instruments for private sector suppliers. The regulatory gap in the transparency indicator is due to the fact that the public procurement process may be cancelled without providing an explanation. The gap in the institutional and enforcement framework is because the PPL does not provide sufficient enforcement instruments for private sector suppliers. Enforceability is also compromised as the institutions operating the complaints mechanism are perceived to be corrupt. This corruption has also impacted on the levels of economy and efficiency achieved. These inconsistencies have resulted in the identification of unacceptable levels of risk regarding the procurement, contracting and execution of publically administered projects. Consequently, these inconsistencies and implementation gaps suggest several opportunities for improvement between the legislative framework and local procurement practice. In addition, the legislative framework requires updating to fully comply with regulatory standards recommended by international best practice. Moreover, the PPL is not compliant with the WTO GPA standards as it allows for domestic preferences and does not make adequate endeavours to promote fair competition. Moreover, it is important that a dedicated national regulatory agency be established and a revised and updated independent review and remedies mechanism implemented. Furthermore, there is an urgent need to fully utilize ICT and specifically the internet to better manage public procurement activities

Chart 13 presents the regulatory and performance gaps identified in the assessment of public procurement laws and practice.

Chart 13: Jordan - Regulatory and performance gaps identified in the assessment of public procurement laws and practice



Note: The chart presents the scores for the regulatory gaps identified in the review of public procurement legislation, and the performance gaps identified in the survey of local procurement practice for each Core Principles benchmark indicator. The regulatory gap is marked in light blue, while the performance gap is marked in dark blue. The implementation gap (the percentage difference between the higher scoring regulatory gap and the lower scoring performance gap) highlights issues regarding the implementation of public procurement legislation in practice. The wider the percentage performance gap the greater the issues regarding the implementation of public procurement legislation.

Source: 2012 SEMED Public Procurement Assessment

Main policy recommendations

Analysis of the assessment data has informed the development of several policy recommendations. These include:

- **Establish a dedicated national regulatory agency supported by a revised and updated independent review and remedies mechanism.** An independent regulatory institution with regulatory powers to develop policy and monitor the compliance of contracting entities will enhance the current levels of accountability, integrity and enforceability enjoyed. A dedicated remedies body implementing an independent review and remedies mechanism will promote integrity and transparency of the process across the pre-tendering, tendering and post-tendering phases of the public procurement process. The enhancement of the levels of accountability, integrity and enforceability will contribute to fair competition which in turn will increase the perception of fair trade with contracting entities. This will result in higher levels of satisfaction by local businesses and enterprises regarding participation in public tenders.
- **Utilize ICT and the internet to promote online submissions and electronic communication between stakeholders.** There is an urgent requirement to use ICT and specifically the internet to better manage public procurement activities across the pre-tendering, tendering and post-tendering phases of the public procurement process. The effective use of modern ICT tools will encourage the modernisation and simplification of public procurement procedures. This in turn will reduce transaction costs for both contracting entities and local businesses and enterprises and foster increased levels of participation from the local supplier community promoting economic development.
- **Dedicated public procurement policies should be used to facilitate economic development.** The introduction of simplified procedures for small value contracts will encourage the participation of local SMEs in public tenders. This will contribute to economic development at a sub-regional, regional and national level.
- **Escalate enforceability levels.** Revise the existing public procurement law to incorporate enforcement instruments for public sector suppliers, timescales for completion of all aspects of the process including payments, and compensation in the event of the cancellation of a procurement. This will result in regulatory mechanisms being better placed to assess the compliance of the contracting entities and employ appropriate corrective measures where required.
- **Increase the current levels of accountability achieved.** The current public procurement legal framework should be reviewed with a view of promoting accountability across all stages of the procurement process, balancing public and business dimensions of the process. Robust accountability instruments should be developed to ensure a level of operational ability commensurate with that required to satisfy WTO GPA standards. Robust accountability instruments will develop a clear chain of responsibility between management, budget and procurement officials. This in turn will contribute to increased levels of simplicity and certainty achieved.
- **Promote the continuous personal development of procurement staff.** Develop an online "body of knowledge" to assist procurement staff in their continuous personal development obligations leading to purchasing and supply awards recognised at both national and international levels. This increase in the skills levels of procurement staff will contribute to increased levels of accountability, integrity, efficiency and economy of the public procurement process.
- **Deliver policy through procurement.** The government should utilise public tenders and the public procurement process to implement its environmental and social policy commitments.