

MENA Regional Procurement Conference

Improving Public Procurement Outcomes
through Transparency, Empowering
Stakeholders, and Capacity Building



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Acknowledgments

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List of Acronyms

AfDB	African Development Bank
CIPS	Chartered Institute for Purchasing and Supply
CSO	Civil Society Organization
FIDIC	International Federation of Consulting Engineers
GIZ	Gesellschaft für Internationale Zusammenarbeit/ German Society for International Cooperation
ICT	Information and Communications Technologies
KONEPS	Korea On-line E-procurement System
MASEN	Moroccan Agency for Solar Energy
MENA	Middle East and North Africa
OECD	Organization for Economic Cooperation and Development
OECD/DAC	Organization for Economic Cooperation and Development/Development Assistance Committee
PPP	Public-Private Partnership
SBD	Standard Bidding Documents
SME	Small- and Medium-sized Enterprise
UAE	United Arab Emirates
UNCITRAL	United Nations Commission on International Trade Law

Introduction

Background

Recent events in the Middle East and North Africa (MENA) region have opened unprecedented windows of opportunity to respond to citizens' demands to reform the public sector by making it more efficient, transparent, and accountable. In this effort, public procurement can play a critical and strategic role as it helps to improve delivery of public services. By working together with other actors such as the private sector and Civil Society Organizations (CSOs), public procurement has the potential to improve the quality of and access to goods and services delivered to the public while reducing corruption and enhancing cost effectiveness.

Within this context, the World Bank organized a pair of regional conferences in 2012 for procurement leaders and stakeholders from the MENA region to explore how the reform and modernization of public procurement systems can contribute to more efficient public service delivery and the broader development effectiveness agenda.

The first conference, held in Amman, Jordan in June 2012 and titled "Towards Better Governance and Public Sector Performance in MENA: Harnessing Regional Public Procurement Reform Efforts," examined procurement reform issues from four key development perspectives: governance and social accountability, service delivery, private sector development and trade, and capacity development. The conference signaled the start of a lively inter-country dialogue about the role of public procurement reform in the region and the linkages to many citizens' demands for more equal economic opportunity and development, more influence over government decisions, and more accountability to curb corruption. As a product of the conference in Amman,

"Improving Public Procurement Outcomes through Transparency, Empowering Stakeholders, and Capacity Building"

core actions and recommendations of the discussions were presented in the proceedings.

After the success of the initial conference, public officials and public procurement stakeholders in MENA convened again to continue this dialogue. This second regional conference, titled "***Improving Public Procurement Outcomes through Transparency, Empowering Stakeholders, and Capacity Building***," was held in Tunis, Tunisia in December 2012, and was attended by representatives from 12 countries. Three key takeaways from Amman were selected as topics for more focused discussions in Tunis: first, the need to develop modern approaches and tools for greater efficiency and effectiveness of public procurement; second, the need to work effectively with other stakeholders such as the private sector and civil society, while helping to develop small and medium enterprises (SMEs), and third, the need to invest in the development of those responsible for procurement to increase countries' capacities to meet modern challenges. This document provides a concise summary of the vibrant discussions that took place in Tunis.

Outline of Proceedings

Following this introduction, the proceedings consist of two main

¹ The 12 countries in attendance were: Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Palestinian Territories, Qatar, Tunisia, Yemen and United Arab Emirates

sections. Section 1 provides a detailed overview of the substantive discussions that took place in Tunis arranged by the three aforementioned topics. The legal framework, universally acknowledged in Tunis as an enabler of other reforms, was added as a fourth topic of focus in these proceedings. This section also includes the final recommendations as voiced and agreed to by participants.

Section 2 introduces a World Bank-designed analytical framework with two key purposes: (i) to help countries self-assess their country procurement system's current level of progress in each of the four topics from Section 1, and (ii) to offer practical suggestions for improvement. The framework contains a set of matrices identifying three progressive developmental stages (early, average, and advanced) and highlighting key features that would characterize typical public procurement

systems for each stage. This exercise aims to help those responsible for public procurement systems to pinpoint their relative strengths and identify main areas for improvement, as well as possible next steps. This section also includes a brief analysis and summary of the inaugural application of this framework in the region.

Finally, the conclusion builds on the conference recommendations and introduces a few key actions for moving the regional collaboration on public procurement forward.

A brief addendum following the conclusion provides an update on important actions taken since the conference in Tunis, including, most notably, the establishment of the MENA Network of Public Procurement Experts in June 2013.

Legal and Regulatory Framework

MENA Procurement Report

Legal and regulatory framework is the foundation for reform

The topics discussed at the December 2012 conference in Tunis constitute a new paradigm for public procurement: **A government's procurement processes can—and should—enable cost-effective service delivery and play a wider strategic role in the country's sustainable development.** Throughout the three-day conference, presenters and participants emphasized that a solid legal and regulatory framework is a prerequisite for such a procurement system.

Several aspects of procurement legislation and regulation were discussed, including the often time-consuming and tough process of updating a country's legal and regulatory framework.

Outdated, fragmented procurement laws pose challenges in MENA

The consolidation, completion, and harmonization of the legal framework are required to guide proper implementation of public procurement. Several MENA countries—including Jordan, Morocco, Tunisia, Palestinian Territories, and Yemen—have taken steps toward updating and consolidating legal frameworks.

In some MENA countries, procurement laws and regulations date as far back as the early 1960s. While procurement processes and associated technologies have evolved, many of these laws remain unchanged. Such outdated legislation can lead to procurement delays and inefficiencies. In many cases, the deficient legal framework may actually impede performance and service delivery, rather than facilitate procurement efficiency.

Over the decades, the legal frameworks in various MENA countries have become fragmented. Legal texts may be repetitive, overlapping, and inconsistent, leaving gaps in coverage of key procurement issues. Weaknesses in essential public procurement procedures result in poor and sometimes no enforcement of operational and procedural requirements. With little clarity about applicable rules, procedures may differ and be applied inconsistently from one sector to another.

Updated laws allow for evolution and innovation

A modernized legal framework can support key reforms and innovations in a government's procurement system through:

- Centralizing policymaking, oversight, and management of the procurement system;
- Mandating professionalization of a government's procurement system and building capacity;
- Modernizing procedures and practices such as planning, bid evaluation, e-procurement, centrally established framework agreements for common-use procurement, public-private partnerships (PPPs), and SME participation;
- Ensuring accountability by specifying complaint-review procedures and a procurement code of conduct, as well as by mandating mechanisms for ongoing monitoring, feedback and input by civil society; and
- Supporting procurement modernization via development of ancillary areas of the law.

Below are the highlights of conference discussions about the important features of procurement laws and regulations.

Centralizing oversight, administration, and purchasing

A legislative mandate to create a central procurement policy and oversight office can ensure its establishment, autonomy and authority. To ensure cost efficiency, governments increasingly are setting up centrally established framework agreements for procurement of common-use items, which allow staff in individual departments to obtain many goods, services, and minor works quickly and simply. Such agreements can be posted online and publicized to eligible users. In more evolved systems, users can order goods and services online.

Professionalizing and building capacity

An essential prerequisite to successful procurement reform is capacity building, an issue that permeated conference discussions beyond the presentations devoted to that topic on the second day. Many MENA countries suffer from low capacity and high turnover among staff, which reduces procurement cost efficiency.

The best way to ensure that capacity building programs are implemented and institutionalized over the long term is through legislative mandate. Some conference participants suggested mandating other aspects of professionalization such as:

- Establishing a cadre of “procurement officers” recognized as a public service job category;
- Defining qualification and certification requirements; and

- Setting up procurement units staffed by trained specialists, rather than part-time employees or generalists.

Modernizing procedures and practices

By modernizing its procurement procedures, a government can operate more cost efficiently and be more responsive to the public. Updating a country’s legal framework will allow procurement officials to implement many of the recommended procurement improvements discussed at the conference, including:

- *Procurement planning* — The law should require each procuring entity to prepare and submit for publication an annual procurement plan;
- *Bid evaluation* — When evaluating, comparing, and ranking bids, some countries continue to apply the lowest-bid price as the primary, if not only, criterion. But this approach may not account for additional criteria such as quality, performance, lifecycle cost analysis, and hidden costs. The legal framework should allow for non-price criteria in bid evaluation (e.g., life-cycle cost analysis);
- *E-procurement* — A country’s legal framework must be updated to include specific provisions for conducting procurement electronically. Examples include:
 - Authorizing the use of electronic means of communicating, sharing documentation, and implementing other procurement steps;
 - Calling for the establishment of an official, single-portal procurement website that features

announcements, notices and other information; and

- Enabling the application of additional electronic procurement methods, such as e-marketplace mechanisms and electronic reverse auction.
- *Public-private partnerships*² — PPPs are long-term contracts (5 to 30 years) between a public entity and a private company or consortium. The latter agrees to provide a public service on the basis of a concession, or to invest in, construct, and operate public infrastructure facilities. A country's legal and regulatory framework can and should address issues related to the identification, assessment, planning, implementation, and regulation of PPP projects. Such legislative provisions must codify procurement's basic principles of transparency, competition, quality, fairness, and accountability, especially regarding PPPs' special characteristics; and
- *SME participation* — Several conference speakers said the legal framework should support and promote SME participation in procurement, which in turn can stimulate wider economic development. Legislative provisions can stipulate the creation of SME-preferential programs, replace bid-guarantee requirements with a bid-securing declaration, and facilitate joint-venture participation.

Ensuring accountability

During several conference discussions, participants mentioned establishing accountability mechanisms by incorporating specific language into the legal framework. To instill confidence in the procurement system, the legal framework should outline a clear, comprehensive complaint-review procedure and debarment procedures subject to due process. The legal framework should also mandate the establishment of mechanisms for civil society monitoring of all stages of the procurement process, and methods for gathering CSOs feedback to inform procurement policymaking.

Supporting procurement modernization via ancillary areas of the law

Efficient, modernized procurement systems are supported by laws and regulations that permeate a country's legal framework beyond the procurement section of the law. Here are two examples:

- The introduction of e-procurement should be supported not only by provisions in procurement law and regulations, but also by the wider legal framework for e-commerce, electronic signatures, and e-government; and
- A procurement legal framework should include provisions recognizing the arbitration option for public contracts, as well as a sound national legal framework to support arbitration and accession to the UN Convention on Recognition and Enforcement of Foreign Arbitral Awards, which provides an international system for the recognition of arbitration agreements and court recognition and

² A more detailed discussion on PPPs is presented later in Section 1

enforcement of foreign arbitral award
(New York 1958).³

Updating a country's legal framework

Participants from several MENA countries shared their experiences in reforming and modernizing legal frameworks for public procurement. In some countries, the process has been time consuming. One challenge is the time needed for the

relevant council of ministers to consider proposed changes. The corresponding lesson is the need to raise awareness and get buy-in among senior government officials.

³ United Nations Commission on International Trade Law available at http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYconvention.html

E-procurement as a Cornerstone of a Modern Public Procurement System

Because of e-procurement's essential role in modernizing public procurement systems, during the conference, a full day was dedicated to discussing implementation strategies for e-procurement as well as case studies from the region and world. In the session, participants discussed the role of e-procurement within the context of public procurement's transition from a compliance- and transaction-driven function to a strategic one that is vital to improving the delivery of services to citizens. In the MENA region, coinciding with this transition are citizens' demands of additional transparency and accountability from their governments. E-procurement can help to address both of these changes, while providing additional benefits such as the following:

- Increased efficiency;
- Improved competition through enhanced access;
- Enhanced capacity building;
- Improved monitoring by decision makers and managers;
- Promotion of integrity in the procurement process;
- Increased opportunities for SMEs; and
- Spurred growth of e-commerce and resulting economic development.

Because of these advantages, e-procurement was shown to be an essential tool for the public sector, civil society, and the private sector. For MENA specifically, it can help to address the key issues raised by citizens by transparently providing them the information they need to ensure accountability of the funds

that flow through the public procurement system.

Common e-procurement features

During the conference, participants agreed on the potential benefits of e-procurement, but they had several questions about the features that e-procurement could support. "E-procurement" was used as a general term in the session to refer to the handling of procurement processes using electronic means; however a number of other definitions are used to describe the various types of functionality offered in popular e-procurement implementation. The three main categories of use of electronic means in the procurement process can be broken down as follows:

- **e-tendering:** an electronic system that conducts traditional procurement processes online. Typically, e-tendering solutions are designed for low-volume and high-value contracts. With such solutions, bids are advertised online, and bidding documents are posted online for download, but bid evaluation is performed manually outside.
- **e-purchasing:** an electronic system that introduces new procurement techniques that enable the purchasing of high-volume, low-value goods and basic services. Such systems are typified by the usage of an online catalog or marketplace, or other mechanisms that make framework agreements accessible online where vendors can list their offerings and prices which public purchasers can then purchase on demand. Sometimes this is also referred to as an "e-catalog" or "e-marketplace."

- **e-contract management:** an enhancement in functionality to an existing system that handles more detailed aspects of procurement processes (e.g., payments, contract variations, bid securities, and other receivables). Despite the name, this is not limited in scope to only supporting the post-contract award period.

Regarding e-tendering, participants wondered if works and consulting services could be included in an e-procurement system, in addition to goods. Experts confirmed that the easiest place to start with e-procurement is with goods and basic, non-consulting services. For contracts covering more complex types of contracts such as works and services, while some of the simpler processes can be handled online (such as the advertising and distribution of bidding documents), some processes, such as completing the evaluation, will need to be handled by staff outside the system due to their complexity.

Presentations at the conference noted that e-procurement is, in and of itself, neither public procurement reform nor a magical solution that will solve the problems that have plagued public procurement in many countries. Outdated legal frameworks, excessive controls, bad planning, poor processes, improper contract management, payment delays, lack of oversight of outcomes, weak capacity of staff, and political interference will continue to impede e-procurement processes, and require separate interventions to remedy. Second, experts noted that e-procurement is not primarily technical: The ‘procurement’ part of e-procurement is more important than the ‘e’, meaning that the development of e-procurement systems should not be led by IT experts. Systems that are IT-driven typically

fail to address the complexities of the underlying procurement system, capacity, processes, and practices.

Business Models, Security Concerns, and Where to Start

Given this backdrop, participants discussed various business models for implementing an e-procurement system, including options such as using off-the-shelf software, outsourcing, or having the country build it itself (possibly by leveraging open-source software). While the pros and cons for each option must be weighed, participants wondered about the security aspects of the system, particularly if outside parties are involved in its creation and maintenance. While many countries worldwide have relied on the private sector to help establish their e-procurement systems, some have faced challenges in keeping sensitive information confidential. However, these risks can be successfully mitigated by taking appropriate measures such as:

- Outsourcing the system’s creation while retaining ownership of the code; then, transitioning management and maintenance to the government after a specified time period; and
- Creating barriers in the IT infrastructure that deny the private company access to view, download, or manipulate sensitive government data.

On the topic of security, e-procurement’s role in helping to mitigate fraud and corruption in the procurement process was discussed. While a system cannot eliminate such problems, it can provide several advantages. For example, electronic documents are easier to secure than hard copies, and e-procurement systems provide a digital trail of activities, including bid submission

Morocco has been working for years to build its own, homegrown e-procurement system. The system is one of the representations of the country's commitment to transparency and anti-corruption, while still gaining economic efficiencies of public expenditures. The step-by-step approach has allowed the process to be highly participative in soliciting feedback from stakeholders; enabled incremental adaptation and improvement of the legal framework to complement the system; and given time to change the behavior of users through a change management component. The initial goals focused on monitoring and on information and decision-making management, with more extensive e-procurement features (such as bulk purchasing, fully electronic tendering process, creating a database of suppliers) reserved for a later phase. The simplification of efforts through this initiative is real: tenders can now be published in two minutes, competition has increased, and

information is available in real time with one click. By harnessing a pragmatic yet progressive approach, focusing on change and behavior management, and ensuring the commitment of all stakeholders, the system is providing benefits.

Tunisia has adopted a different approach. Funded with a US\$5.7 million grant from KOICA (the Korean Agency for International Cooperation), the Government of Tunisia is adapting and implementing a fully-featured e-procurement system that was originally developed and used in Korea and which has since been deployed in other countries. Although the system was not yet operational at the time of the conference, it is expected to contain many advanced functions including e-bidding, e-purchasing (including a shopping mall), and a user management module. A pilot of the system, which began following the conference, is yielding valuable information that will inform further implementation.

time, that is difficult to modify. Experts agreed that the technology has to adapt to meet the challenges as they arise. For example, when the Government of Korea⁴ discovered evidence of collusion in their system, they implemented fingerprint technology to address it.

Because of the complexity of establishing a system, a frequent question was how to begin implementing e-procurement, since there is no single solution for all situations and each system must be adapted to the environment of the country. Participants learned that one thing applicable to all e-procurement systems was they are most successful

when driven by a strategy that defines the policy goals. For example, some countries look to e-procurement primarily as an avenue for improving governance in their country, while others see it as a way to improve the efficiency and quality of their procurement outcomes. Still others may be interested in e-procurement as a means to enhance competitiveness and improve the business climate in the country. There is no “one-size fits all” approach, but examining the experiences of other countries and setting clear objectives for the system will help to identify possible pathways to e-procurement that maximize the return on investment and ensure the system’s success.

Experience shows the importance of high-level support

To clarify this point, presentations on their e-procurement systems were provided by Morocco and Tunisia (as summarized in Box 1) and provide an interesting contrast: Morocco's incremental improvement strategy has enabled it to add modules to its system over time, while Tunisia is deploying an e-procurement system that introduces many advanced features all at once.

Other examples were provided by Dubai Municipality (United Arab Emirates/UAE) and Korea. Although the systems presented had many key differences, they also had common themes, such as the need for engaging stakeholders throughout the procurement process.

The presentations also reinforced the concept that e-procurement must be adapted to country conditions.

The **Dubai** example showed the power and importance of having a clear mandate and strong executive buy-in. In early 2000, a decree was issued that required all government entities to begin using e-government. In implementing this mandate, the government learned about the key factors needed to ensure the success of systems, which they identified as:

- Strong executive sponsorship;
- Effective allocation of financial and human resources;
- Effective marketing and a focus on serving customers with a value proposition for all stakeholders; and

- Continuous change management, and involving the end-user or customer in development.

Because of this, their e-procurement system, "Tejari," which was developed by Dubai and IBM, has been in operation for the past 10 years, has processed contracts valued at more than 12 billion Dirhams (approximately US\$3.25 billion), contains over 4,200 suppliers, and has saved an estimated 7 million Dirhams (approximately US\$1.9 million) annually in time, materials, and archiving.

Korea's on-line e-procurement system (KONEPS) was presented to show that the benefits of an e-procurement system are not limited and can continue to grow exponentially as the features and users increase. KONEPS is considered a fully featured e-procurement system (e-bidding, e-purchasing, e-contract management) that has provided the Government of Korea real benefits, such as:

- *Efficiency:* The process of receiving bids, validating documents, and selecting the winning bid took on average 30 hours in a manual process, but only two hours in KONEPS. In addition, KONEPS saved almost US\$8 million in paper documents costs that were not printed because they were handled electronically.
- *Transparency:* Information is available in real time and the bidding results, including contract details, are made public.
- *Cost Savings:* An estimated US\$8 billion is saved annually by both the private and public sector in transaction costs through the use of KONEPS.

- *Other benefits:* KONEPS provides the ability to track prices and specifications.

Although making the use of a system mandatory in the legal framework is strongly encouraged, KONEPS has also seen success with transactions that are outside of this purview. In a recent year, 53 percent of the requests processed by KONEPS were for those required to use the system, while the remaining 47 percent used KONEPS by choice. Overall, KONEPS transactions accounted for 34 percent (US\$34 billion) of the public procurement activities in Korea in 2011 and involved 44,000 public entities and 228,000 suppliers. Their system is currently being implemented in Tunisia as well as in other countries.

E-procurement's impact on staffing and participation

Some conference participants expressed concern that e-procurement systems will lead to government job losses, as machines handle what used to be done by people. Experts reassured the group that e-procurement systems require skilled professionals, and the system only complements staff capabilities by doing tasks that are more challenging for humans, such as capturing and organizing data, and producing customized reports and graphics. Even advanced systems, such as Korea's KONEPS, feature human evaluation committees who enter their data and findings into the e-procurement system for analysis.

Participants were interested in learning of the impact e-procurement systems would have on the ability of SMEs and international firms to participate in procurement processes. Concern was expressed that SMEs, which make up a large part of MENA's economy, may have

difficulty in navigating an e-procurement system. Experts responded that while less technologically savvy companies may face a learning curve, e-procurement can actually enhance public contract opportunities for SMEs by:

- Making information on available tenders widely accessible and easy to find.
- Lowering the barriers for competition.
- Enabling SMEs to offer their products to public purchasers in an online catalog (for countries with e-purchasing capabilities).

This was highlighted by the case of KONEPS, where, after its introduction, SME registration for participation in bids doubled. Without e-procurement, an SME would have to check newspapers daily for relevant tender advertisements. In contrast, an e-procurement system such as Morocco's would allow them to subscribe to customized email alerts about new tenders that fit certain criteria related to their particular business activities.

Of course, experts acknowledged that educating SMEs and building their technological capacity was a key. But if e-procurement portals were intuitive, SMEs would be able to navigate such systems.

On the issue of international participation under e-procurement, different countries have different policies in place. Some countries' systems have prequalification requirements that are automatically transferred to the e-procurement system, which complicates the bid qualification process for international companies outside the system. To increase competition, some countries impose

TABLE 1

INFORMATION, COMMUNICATION, AND TECHNOLOGY INDICATORS

Country	ICT Development Index rank, out of 159 countries	Fixed broadband Internet users per 1,000 inhabitants	Mobile cellular subscriptions per 1,000 inhabitants
Egypt	96	0.9	506
Jordan	74	2.2	866
Morocco	97	1.5	722
Tunisia	85	2.2	846
UAE	29	12.4	2,086

Source: *Competitiveness and Private Sector Development: New Entrepreneurs and High Growth Enterprises in MENA*, p. 95, published by OECD and the International Development Research Centre, 2012 [<http://www.liv.org/files/OECD%20Competitiveness%20and%20Private%20Sector%20Background-English.pdf>].

only post-qualification requirements, so that only after e-tendering are bidders asked to demonstrate that they meet the requirements.

The UAE extends bidding internationally to companies that agree to open an office in country and obtain a trade license. Korea allows paper bids as an exception for some trade agreement members.

Gaining support for an e-procurement system

While the participants were convinced of e-procurement's value, they wondered how senior officials could be persuaded that it is worth the investment, and how its use could be encouraged after its creation. To gain the top-down support and avoid legislative roadblocks that may delay development, one suggestion was to begin by launching smaller pilots (e.g., inside cooperative ministries) and leveraging successes from the pilots to gain support for broader interventions.

While mandating use through legislation is an important first step (as mentioned in the case of Korea), some countries also offer incentives and punishments. Other countries, such as Australia, Brazil, and New Zealand, offer no other procurement

options than e-procurement. However, in addition to legislation, the opportunity to save time and money is also a great motivator. In the UAE, municipal clearances are completed in one day if requested online, versus one week if submitted on paper. In other cases, countries discount the e-service fee when the system is used, and rank and publicize the use of e-procurement as a part of a broader effort in rating the effectiveness of government departments.

Finally, resistance often stems from a lack of understanding or knowledge. Extensive and frequent change-management and training activities are crucial, experts emphasized.

E-procurement implementation faces additional challenges in MENA

As highlighted above, some countries in MENA are moving towards e-procurement solutions. However, overall e-procurement is less mature and utilized in the region when compared to countries in Europe, Asia, or South America.

5 African Development Bank – Economic Brief 2012. [<http://www.afdb.org/>]

One reason that likely contributes to this may be the lack of investment in IT infrastructure in the region. A recent report⁵ from the African Development Bank (AfDB) found that although mobile telecommunications infrastructure in MENA is comparable to OECD (Organization for Economic Cooperation and Development) countries, the broadband market is severely underdeveloped (see Table 1).

Despite the challenges raised by the lack of infrastructure, examples highlighted

during the conference showed that these are not insurmountable, and can be mitigated through various innovative measures including the use of internet cafés and adapting systems to leverage the mobile cellular networks.

Next steps and recommendations

Conference participants showed an overall interest in moving e-procurement forward in their own countries, and further suggested that countries in the region work together to develop an online portal that would allow them to exchange information and experiences with one another on procurement, and serve as a tool for posting announcements of bidding proceedings that would expand business opportunities for companies across the region and increase competition for public tenders. The Morocco delegation offered to host the portal.

Building Capacity in Procurement

Capacity building entails increasing the skills and competencies of those responsible for working with a country's procurement system. Therefore, for any public procurement reform program to succeed, it must have capacity building at its core. Participants in the conference acknowledged that capacity building is increasingly being recognized as a priority in the MENA region, especially as governments aspire to reform their public procurement systems in response to increasing demands from their citizens for greater transparency, accountability, and participation.

Procurement considered a downstream clerical function

There was consensus among participants that the most critical challenge to building procurement capacity in the region, as in many other parts of the world, lies in the lack of recognition by governments of the importance of procurement to the achievement of the countries' development programs. This leads public procurement to be considered as a routine, downstream clerical function, which is not recognized as a professional stream in civil service and offers lower pay levels and very limited opportunities for career advancement. As a result, many public procurement practitioners in the region struggle to maintain the necessary skills and competencies to carry out procurement, and many of those who

receive training and perform well move away from procurement, or are recruited by other organizations offering better conditions.

A further consideration is the imbalance in the interaction between the procurement department of a public entity and the sales department of a private firm, which results from the gap between the profiles of these two groups and the environments in which they work. The lack of equal footing puts the position of the public procuring entity at risk, and in worse-case scenarios can encourage corruption, which in turn impacts the cost effectiveness and efficiency of the procurement transactions and the entity's overall effectiveness.

The role of the enabling environment

The presenters and participants emphasized that capacity building best achieves its objectives when implemented in the framework of a broader reform program, which creates the enabling regulatory and institutional environment for public procurement. The introduction of provisions for improved governance, transparency, and accountability promotes values of integrity and openness, which are critical for public procurement, and the adoption of streamlined procurement procedures, modern tools, and standardized practices indirectly contribute to improved capacity. Likewise, establishing a legislative mandate for systematic capacity building of the procurement workforce creates the basis for providing the needed training and facilitates the institutionalization of the training function within the system. This is best achieved through the creation of a regulatory and oversight body, which would not only ensure procurement is compliant with the rules, laws, and regulations but would

"When procurement is only seen as a back office function, it will not attract the best people."

Sheila White,
International Development Head,
Chartered Institute for
Purchasing and Supply

The Government of Yemen launched a comprehensive program to reform the public procurement system, based on the outcomes and recommendations of the Country Procurement Assessment Report prepared by the World Bank in 2000. Key results included the enactment of a new public procurement law in 2007; the preparation and enactment of supporting regulations for the new law; and the development of national standard bidding documents for goods, works, and consultancy services. The new system introduced provisions for greater efficiency, transparency, and equal opportunity in procurement. Procurement practices and procedures, which promote transparency and integrity and encourage private sector participation, were also introduced.

Building the capacity for the implementation of the new system has been the most critical challenge confronting the reform efforts. Over the years, the Government lost the majority of its qualified procurement practitioners to donor-driven project implementation units and private oil companies, which offered highly competitive pay. The High Tender Board prepared and implemented training programs, which targeted all procurement practitioners and members of tender committees from all governorates. In addition, a series of workshops were organized from 2001 through 2005 to stimulate Government interest in and raise awareness of the principles and benefits of the new procurement law.

Due to the lack of procurement experience and qualifications among procurement practitioners, and in the absence of interest and commitment by the Government, the training process faced a number of challenges that prohibited the achievement of the desired outcomes. The key challenges were:

- Resistance to change and lack of “buy-in” by public officials to the modernization of the procurement system, through increased transparency, accountability, and integrity;
- Reluctance of key government actors to adopt the proposed changes;
- Civil servants nominated to attend the procurement training lacked the background, and were mostly temporary staff;
- Lack of qualified trainers and specialized training institutes; and
- Inadequate or incomplete training curricula, which lacked practical content and were difficult to comprehend.

While some of those challenges are easier to resolve than others, the lack of awareness and recognition among senior level government officials of the importance of procurement in achieving economic, social, and political objectives remain critical.

also be empowered to enforce capacity building of the procurement workforce. On the other hand, training, despite its importance, would not be sufficient to build comprehensive competencies in public procurement in situations where the surrounding environment does not support performance, compliance, and ethical behavior.

Where does MENA stand today?

MENA countries have adopted different approaches towards building the capacity of the procurement workforce with varying results.

Although capacity building approaches are largely driven by country-specific challenges and circumstances, including the status of the country's public procurement reforms, the case studies presented by the Yemeni (see Box 2) and Moroccan delegates, and the follow up discussions, have shown common challenges.

Country procurement capacity building and training programs in MENA countries face a number of common obstacles, including a lack of funds, and an absence of assessments of the needed skills and competencies or the existing gaps. Many countries have taken approaches to capacity building that are highly fragmented, and have not yet been able to adopt the institutionalization of the function to help build the body of knowledge within the country. Other shared challenges include the lack of qualified trainers and specialized training institutes, the quality and coverage of the training programs, and the limited practice of standardized procedures and modern tools in procurement.

Furthermore, procurement training programs offered in the region often do not meet the needs of the procurement practitioners receiving the training, and therefore do not provide the officials with the combination of skills and competencies essential for carrying out their tasks. Many of these programs tend to promote compliance with the rules, regulations, and internal processes instead of providing comprehensive knowledge. In actuality they should emphasize expertise in public procurement systems, rules and regulations; technical knowledge about procurement planning, preparation of bidding documents and technical specifications; bid evaluation techniques, such as life-cycle cost analysis; contract

administration; legal aspects, including dispute settlement and familiarity with national and international trade agreements; supply management; finance and banking aspects; and interpersonal, analytical and problem solving skills, integrity and ethical behavior, etc.

Morocco: capacity building in the framework of a broad procurement reform program

In Morocco, the need to adopt a real strategy for capacity building on public procurement is recognized as a result of several concurrent positive factors: (i) The public debate that started in 2008 and 2009, within the framework of the national conferences about the limits faced by the previous reforms; these limits are due, at least in part, to the deficits/lack of training of public procurement practitioners; (ii) The adoption of a new constitution in 2011, which includes at least 18 articles on promoting transparency, ethics, integrity, accountability, and anti-corruption; (iii) The new Government's engagement in promoting transparency and anti-corruption; and (iv) The importance of reforming public procurement laws and regulations, and their implementation, which needs to be achieved by the managers of those innovations.

The capacity building strategy, in the short term, foresees the training of practitioners on the new public procurement regulations. To do so, a training program is under preparation with the support of the World Bank. The objective is training of trainers, who in turn will be responsible to train the public procurement practitioners.

In the mid-term, the new strategy foresees the need to put in place a

regulatory authority, which will be responsible for overseeing the design and delivery of training programs at all levels. It is expected that within six months, training will reach at least 6,000 practitioners within all relevant ministries, their external services, the local collectivities, and the public institutions. Professional associations will be responsible for training stakeholders from the private sector. The training program employs a blend of delivery means and modalities, including academic courses and training, e-learning, mentoring/coaching, and international cooperation (bilateral and multilateral). Training materials will include methodological guides and multi-media kits.

As to the lessons learned from their relatively recent experience, the Moroccan officials highlighted the importance of:

- Developing a capacity building strategy that responds to the needs clearly identified by an assessment of the existing system;
- Regularly assessing the training, to measure the impacts and eventually take the necessary corrective measures; and
- Ensuring the homogeneity of the training programs and the tools, to improve the cost-benefits relation and sustainability.

How has it worked elsewhere in the world?

As MENA countries strive to build the capacity of their procurement workforce, it is important to learn from the experience of others, for whom building procurement capacity and capability

delivered tangible results. Within this context, a case study from New Zealand and examples of international training organizations that are actively involved in capacity building and have established a presence in the MENA region were presented (see Box 3). Those organizations and others could make good partners to the governments in establishing the capability of their national training and education institutions to deliver “in house” capacity building and training programs.

New Zealand: building procurement capacity and capability achieves tangible results

In 2008, as part of its efforts to save money and improve performance after the global financial crises, the Government of New Zealand embarked on a procurement reform program with an initial NZ\$3 million seed funding and the following four targets:

- Reduce costs through coordinated contracts;
- Build capacity and capability;
- Increase business participation; and
- Improve governance, oversight, and accountability.

A major problem in 2008 was that there were only seven qualified procurement people in New Zealand. Procurement training was unavailable locally, thus staff had to go to other countries such as Australia for training, which is very costly. Procurement was devalued and seen as low priority. It was extremely difficult to hire good procurement staff, because in 2008 someone with a procurement background did not have the right to immigrate to New Zealand, due to visa

The Chartered Institute for Purchasing and Supply

Established in 1932, the Chartered Institute for Purchasing and Supply (CIPS) is a nonprofit membership organization headquartered in the United Kingdom, with four regional offices, including one in Dubai, UAE, which covers MENA countries. CIPS promotes and develops standards, skills, and abilities, offering best-practice tools and techniques and leading edge thinking for people working in procurement and supply management. Examples of CIPS success stories include the following:

- **Bangladesh** – Forty procurement staff passed the CIPS membership/accreditation exam. Three study centers there now offer training in CIPS qualifications, eliminating the country's reliance on international trainers.
- **Bhutan** – More than 500 staff have participated in CIPS training. CIPS helped launch a study center there to deliver all programs. And Bhutan developed a certificate in procurement compliance, the country's first national procurement qualification.
- **Lebanon** – CIPS is reviewing the existing program and developing new procurement training programs.
- **Afghanistan** – Staff are studying for a CIPS Certificate in Purchasing and Supply.

The International Federation of Consulting Engineers launches MENA training center

The International Federation of Consulting Engineers (FIDIC), founded 100 years ago and headquartered in Geneva, Switzerland, promotes and implements the consulting engineering industry's strategic goals on behalf of its member associations, including disseminating information and resources to members. Today, FIDIC membership covers 1.5 million consulting engineers in 94 countries.

FIDIC publishes international standard contract templates and business-practice documents such as policy statements, position papers, guidelines, training manuals, and training resource kits. Management topics covered include quality assurance, risk management, business integrity, environment, and sustainability. Business process topics include consultant selection, quality-based selection, tendering, procurement, insurance, liability, technology transfer, and capacity building. FIDIC also offers accredited contract management training programs to build local capacity in the public and private sectors. In 2012, FIDIC established a regional accredited training center in Amman, Jordan, which offers courses on a variety of topics.

Source: CIPS website [<http://www.cips.org/>] and FIDIC website [<http://www.fidic.org/>]

restrictions. It was also difficult to attract skilled migrants.

To address those challenges and build procurement capacity, the following set of actions was taken:

- *Signal that “Reform = Change”:* Reform is a major change. There was a clear, strong message that “Procurement absolutely has to be changed in New Zealand.” This needed central coordination, especially in the training program, to leverage scale.

- *Add the procurement profession to the visa regulation system:* just like nurses and doctors, more experienced procurement people started to come to New Zealand.
- *Introduce the CIPS (Chartered Institute of Purchasing and Supply) education program:* this targeted public sector employees; the program was subsidized to make it affordable.
- *Conduct procurement capability reviews:* to build broad capability across the whole procurement operations for the whole government (200 agencies), independent capability reviews of agencies were done with the help of independent consultants. They aimed to have a unique development plan for each agency. Raise the profile of procurement: raise the profile of procurement so that people can recognize its value. This included ministers, chief executives, suppliers, publications (and their websites), the internet, and YouTube. Awards and conferences celebrated success, and marketed procurement.

In 2012, the government achieved NZ\$353 million in cost savings. Over 100 people are progressing through CIPS, with more than 1,500 training days delivered. Key spending agencies are investing in reform, six international awards were received, and the program became self-funding in 12 months. The Cabinet wishes to do more.

For similar reform initiatives to succeed, sending strong change signals is vital. Central leadership, coordination and minister support are critical; however, savings are the oxygen of procurement reform. Finally, the need to create the right incentives, and the importance of marketing, cannot be overstated.

Key recommendations and next steps for building procurement capacity

Develop a comprehensive capacity-building strategy and communication campaign

To address capacity building challenges, participants have highlighted the need to develop and adopt, in each of the countries, a comprehensive capacity building strategy that defines clear objectives, sets the training programs, and outlines the responsibilities and modalities for their implementation, including monitoring of training outcomes. Those strategies should be complemented by proper communication and awareness raising initiatives for all stakeholders, including senior government officials, regarding the strategic importance of procurement in achieving economic, social, and political objectives.

A capacity building strategy should be based on needs assessments of the procurement practitioners and other stakeholders in the country. It would outline: (i) the skill mix and competencies for procurement practitioners; (ii) training programs to be provided, including the integration of procurement training into relevant academic programs offered by universities and colleges along with continued education; (iii) the training institutes; (iv) the production of necessary handbooks and guides; and (v) the institutionalization, harmonization, and coordination of capacity building programs and the assignment of oversight responsibility.

Professionalization of the public procurement function

There is an urgent need to build the procurement function as a distinct

professional stream within the Civil Service of the country. This entails defining the minimum skills and competencies for different grade levels, and ensuring that the function provides decent pay levels and good opportunities for professional career advancement. Under such circumstances, recruitment and promotion processes for procurement professionals within public organizations would be linked to the possession and development of desired skills and competencies, and training. In the long term, a sound licensing and certification program of procurement proficiency (whether gained through formal training, on-the-job training, or experience in public procurement) should be put in place.

Formulate a regional approach to capacity building in MENA

At the regional level, participants recommended the development of regional initiatives for capacity building that will address common challenges and capitalize on existing strengths. Such initiatives could include components on: (i) designing a training program for the training of trainers, which builds on existing resources in the various countries; and (ii) establishing a mechanism to facilitate the exchange and sharing of knowledge about relevant experiences and best practices among procurement practitioners.

Extending Participation in Public Procurement

The need to work effectively with different stakeholders and to engage them in the dialogue on reforms is an emerging challenge for successful public procurement reforms. Given this context, the conference in Tunis focused on three main topics related to the engagement of the private sector and civil society:

- Overcoming skepticism and inexperience: the potential role of the private sector within the framework of Public-Private Partnerships (PPPs);
- The enhancement of local SMEs through public procurement; and
- The role of civil society in advocating for improved service delivery, transparency, and integrity, particularly with respect to the new Open Contracting initiative.

Private sector participation in PPPs

At a time of global financial crisis and budget constraints, there is a pressing need for governments and public administrators to look for alternative sources of financing for public works and the delivery of public services. Under these conditions, the private sector can become a valuable strategic partner in project financing through PPPs.

PPPs have been used for some time as an effective, long-term investment and service delivery tool, particularly for infrastructure and other related services, though primarily in developed countries. However, as the conference highlighted, PPPs have also started to emerge in an increasing number of developing countries, and are becoming an integral part of national infrastructure investment programs in emerging and transition markets. In the decade from 1998 through 2007, at least 136 low- and middle-income countries used PPPs to raise more than US\$420 billion of

infrastructure investments. In middle-income economies like those of many countries in MENA, public revenues for infrastructure investment are in short supply. In these cases, PPPs are an increasingly attractive and widely used option for alternate sources of infrastructure financing.

Yet, the implementation of PPPs in MENA remains in a nascent stage. Local policymakers and public officials are typically accustomed to working with economic systems that are largely dominated by small and medium-size enterprises, often run as family businesses, and large state sectors. Because of this, many public officials in MENA lack the expertise and experience to implement effective PPPs.

The result is a vicious cycle, where inexperience contributes to a general sense of skepticism of the private sector and its potential role in public service delivery; and the absence of effective policy, legal and regulatory frameworks, including procurement procedures tailored for public-private partnerships, hinders the productive engagement of the private sector in public procurement.

At the conference, presentations outlining the theory of PPPs were followed by specific case studies from the region (the Hajj Terminal in Jeddah, Saudi Arabia; and the desalination plant for irrigation in Agadir, Morocco) and from outside (the telephone project in Haiti).

One clear takeaway from the conference was that PPPs are not uncommon in the region, in spite of the fact that very few countries have already adopted concise PPP legal and regulatory frameworks.

According to the experts at the conference, although experience has shown that new legal and regulatory frameworks are not a strictly binding

prerequisite for PPPs, they are highly desirable. Countries that pass strong laws governing PPPs are able to establish a solid, predictable legal environment, which protects investments with transparent rules and laws, while at the same time protecting the public interest. Without such a framework, private sector participation can instead lead to higher costs, worse services, and lengthy legal action (as seen from international experience).

The conference emphasized that such failures demonstrate the need for comprehensive legal and regulatory frameworks for PPPs, both to facilitate their identification and planning and to ease their implementation. All actors involved in PPPs, especially practitioners and policymakers, should examine the initial situation of a given facility or service carefully, to decide whether PPP is the right solution, and if so, which form of PPP would best match the needs of the public sector stakeholders and affected citizens.

Conference participants noted that in the MENA region, there are few existing legal frameworks specifically for concessions. Though some recent reforms have passed in MENA countries including Egypt, Tunisia, and Morocco, and some PPP projects have been successfully implemented, there is still a great need for stronger and more independent regulation of PPPs in this region and more effective contractual arrangements.

Experts at the conference highlighted some key areas for improvement, where existing laws could be modified to facilitate the successful implementation of PPPs projects. These modifications may be embodied in sector-specific laws, the existing procurement law or more generic competition or concession laws.

Though general guidance and external examples are useful, each PPP law needs careful and deliberative drafting to make sure it is consistent with the country's existing legal framework.

MASEN, the Moroccan Agency for Solar Energy, gave an informative presentation on the Ouarzazate solar power plant project currently underway in Morocco. This project highlighted many of the advantages of the public-private partnership, but also showed some of its biggest challenges, including the difficulty of leveraging the vast technical knowledge of large international private partners while still achieving the desired promotion of local industrial development, the need for innovative solutions, and the problems caused by the lack of bidding documents and procurement procedures specific to PPP projects.

During the conference's lively Q&A sessions and discussions, significant concerns were raised about the idea of PPPs in general, as the concept is still rather new and unfamiliar for many of the participants. One common topic of debate was whether PPPs are in fact more expensive for governments (and eventually for their citizens), considering that the private sector will only agree to partner if adequate returns are ensured. However, conference participants were also urged to consider the real capacity of the private sector to create value in circumstances where the public sector had previously experienced substantial losses, as demonstrated by several prominent cases of successful PPP implementation. Several participants asked presenters to provide practical examples of PPPs, and to explain the different methodologies used. Other questions pertained to the funding of PPP projects, risk sharing, and the uses of

e-procurement procedures that might be relevant for tendering of PPP projects.

The complexity and novelty of the topic, sometimes mixed with a certain degree of skepticism, emerged in some of the answers and the recommendations from the experts. Some of the key recommendations made by the experts during the conference are summarized below.

Experience has shown that for public-private partnerships to succeed, laws must allow private companies and individuals to operate, and in some cases to own, public assets. The experts emphasized that the implementation of new laws is a critical component of PPP success. These laws serve to protect private investments (particularly direct foreign investment), ensure transparent bidding processes and evaluation criteria, and regulate such projects and concessions, while protecting the public interest. Strong regulatory systems are also needed to craft clear contractual arrangements and to closely monitor implementation. Other issues to be addressed in the legal system include risk sharing, tariff setting mechanisms, project monitoring, company progress reports, invoicing procedures, tax collection, dispute resolution, sovereign immunity, and protections from expropriation. None of these obstacles is insurmountable, but they cannot be ignored.

Experts emphasized that the market sector structure should be carefully considered during the decision-making process before promoting any PPP project. PPPs are not thought to wholly shift the financial burden to the private sector; the public sector carries a part of the risk involved. Because of this, before making a decision about

PPPs a government should identify its specific needs, especially in the case of large infrastructure projects that may be expected to last for many years. On this note, it was explained during the conference that PPP projects can take different forms, ranging from concessions, to Build-Operate-Transfer, to Design-Build-Operate projects, and many more (see Table 2 for a complete classification and characterization of private sector participation arrangements). Eventually, though, the property of the project reverts to the State once the project and the concession to operate the facility are concluded.

Choosing the best form to use for a PPP project should always take into consideration the necessary risk sharing. Risk sharing will vary according to which option is chosen, and policymakers should remember the basic rule that stakeholders should bear those risks that they are best able to manage and to mitigate. Whichever form is chosen, PPPs will always have to demonstrate value for money. The impetus is on the public authority to prove that a private operator will deliver better results than a comparable, publicly controlled company at a given price. It must also make sure that the suitability, quality, affordability for end-users, and other criteria of the infrastructure and services being procured will be met.

Overall, the ideal public private partnership should leverage what both parties have to offer according to clearly specified terms and conditions. Underlying all of the discussions about PPPs in Tunis was an understanding that governments need to thoroughly review the way in which they conduct public procurement processes. Without that review, it will be much harder to carry out successful PPP projects. Specific

TABLE 2

CLASSIFICATION AND CHARACTERIZATION OF PRIVATE SECTOR PARTICIPATION ARRANGEMENTS

	Service (or Management) Contract	Lease Contract/Affermage	BTO/DBO/DBFO/	Concession	Privatization
Asset ownership	Public	Public	Public	Public/ Private	Private
Capital investment	Public	Public	Public (BOT: Private)	Private	Private
Operational efficiency	Limited	Yes	Yes	Yes	Yes
New services	No	Yes	Yes	Yes	Yes
User fee	No	Yes	No	Yes	Yes
Typical length	1-15 years	5-25 years	15-30 years	10-50 years	Undetermined

Note: BTO: Build-Transfer-Operate; DBO: Design-Build-Operate; DBFO: Design-Build-Finance-Operate; BOT: Build-Operate-Transfer; BOOT: Build-Operate-Own-Transfer

outcomes for public service delivery should be determined, desired levels of performance should be targeted, awards and sanctions processes should be clarified, and innovative ways to make the desired outcomes durable should be identified.

Private sector participation – strengthening SMEs

A second topic explored during the conference was the engagement of SMEs in public procurement. In this arena, public procurement can be viewed as a trigger to promote local industrial development, which in the MENA region is driven in large part by SMEs. In the MENA region, as elsewhere, SMEs, often run at the family level, constitute the majority of existing businesses and as a result, account for over 50 percent of GDP and 60 to 70 percent of formal employment. Conference speakers discussed how procurement expenditures can be harnessed to create greater opportunities and promote economic development through SMEs, including awarding procurement contracts to SMEs and other forms of SME participation in

public procurement like subcontracting and joint ventures. Increasing the share of procurement contracts awarded to micro-, small-, and medium-sized enterprises will bring a number of benefits to a country. Some of these possible benefits include fostering job growth, enhancing innovation in public service delivery, and spurring economic development. In some cases, SMEs may charge less since their overhead costs are lower, while at the same time helping to ensure government procurement is not dominated by a small number of large and very powerful contractors. Since SMEs comprise the majority of MENA businesses, the share of SME contracts in the government contract portfolio can be measured against the percentage of the economy that SMEs represent.

One conference presentation highlighted various instruments that can be used to promote greater SME engagement in public procurement. The presentation aimed to show that the implementation of pro-SME policies and practices is not simply limited to the application of preferential policies. Instead, other alternative solutions exist and could be

very effective, particularly the removal or mitigation of barriers encountered by SMEs (e.g., unnecessary and duplicative administrative burdens related to documenting qualifications; unclear, incomplete and inconsistent procurement rules; inefficient, outdated procedures; and guarantee requirements that add little value; all of which add to the costs for SMEs and deter participation). Conference presenters used international examples to highlight ways to address these obstacles, including the introduction of a bid securing declaration as a possible replacement for a bid security requirement, and the establishment of special facilities to assist SMEs financially in order to participate.

Challenges in engaging the private sector

Throughout the conference, discussions and recommendations were keenly concentrated on the unique context of public procurement in the MENA region. A special focus was placed on PPPs and SMEs to respond to the demand from participants to better understand how the State could benefit from partnering with the private sector to deliver better services to citizens, and how procurement practices could develop the local business market. The experts and the participants both recognized that MENA has a distinct institutional setup where state-owned enterprises have always played a central and powerful role in the economy. In this type of environment, it may be more difficult for the State to delegate part of its designated functions to the private sector. Second, stakeholders must recognize and account for the nature of the existing industrial sector in MENA Countries. Because the sector is

largely dominated by SMEs, its firms are unlikely to have the necessary resources alone to provide the construction and the management of large-scale infrastructure. These challenges that are specific to MENA are an important part of the backdrop to the conference and must be considered in selecting strategies for the implementation of future reforms.

Engagement of civil society

Aside from the private sector, another key stakeholder group that needs to be engaged in public procurement is civil society—the ultimate owner and beneficiary of the procurement system in every country. As such, civil society is directly affected by and concerned about the manner in which scarce public finances are managed and the detrimental effects of inefficiency and misuse of public funds on essential service delivery and projects. Such concerns on the part of civil society have helped fuel popular demands for change in the MENA region.

Meaningful engagement of civil society organizations (CSOs) is essential for achieving the contemporary paradigm for modern procurement systems, which features values such as effective service delivery to the population, social accountability, and good governance. In a continually increasing number of countries, it is being recognized that civil society can play a unique, indispensable role, not only in promoting transparency, integrity, and accountability in public procurement, but also in ensuring effective decision-making and implementation at all stages of the procurement process.

The various possible oversight roles of civil society include advocacy for

The OECD recognizes the role of civil society in curbing corruption in public procurement by stating that:

Governments and administrations set procurement rules, and public officials execute the actual procurement processes, however, civil society can play important roles in the conduct of procurement and in procurement reform.

In a rather classic role, civil society actors scrutinize procurement procedures. Procurement is carried out to provide services to citizens, and citizens pay for the goods, works and services procured; they therefore have an obvious role in contributing to needs assessment decisions and in scrutinizing the proceedings that administrations carry out on their behalf.

Source: OECD website [www.oecd.org]

procurement reform; overall monitoring of procurement activities (identification of needs, competition, compliance with procedural requirements); and external and active monitoring (e.g., during the implementation of specific procurement contracts in cases such as delivery of essential services and infrastructure).

In particular, OECD recognizes the role that civil society can play in curbing corruption (see Box 4).

All these roles demonstrate that civil society has been assuming an increasingly visible role in public procurement.

At the conference, the role of civil society organizations in public procurement was presented in the context of the Open Contracting initiative (see Box 5). The Open Contracting initiative is a new movement advocating for the disclosure and monitoring of government contracts along all stages of the contract cycle, from planning to implementation. More collaborative engagement of non-state actors through initiatives such as Open Contracting is expected to lead to more effective use of public resources, which

eventually will benefit all of society (government, private sector, and citizens). Open Contracting is growing at the moment, with current members including several international organizations such as GIZ (Gesellschaft für Internationale Zusammenarbeit/ German Society for International Cooperation), Oxfam, Transparency International, and the World Bank Institute, and is part of a broader movement for Open Government and Open Development.

Concluding thoughts

The discussions at the conference provided a valuable opportunity to survey new possibilities available to countries in the MENA region, and new ways to better engage relevant stakeholders in public procurement. Participants agreed that the more effective participation of the private sector and civil society could bring remarkable benefits to public procurement in MENA, but that the current level of engagement needs development in order for MENA to gain the full benefits from it. Here, as in the other areas addressed in the conference, the proposed creation of a regional online platform for sharing of practices and legal

In October 2012 about 150 representatives from governments, the private sector, civil society, and the media convened in Johannesburg, South Africa for a gathering on Open Contracting. Six priority focus areas were identified:

- **Engaging stakeholders** including governments and the private sector
- **Building capacity** to support the mainstreaming of open contracting
- Establishing **global principles** for enhanced transparency and monitoring of contracting
- Designing tools to **measure impact** and generate evidence of progress
- Developing **technical standards** for disclosure of contractual information to increase information access
- Using **communications and media** to elevate open contracting as a crucial topic

instruments could be instrumental. The platform would provide a place to collect and disseminate data and documents on PPP projects, initiatives for SME

promotion, and innovative mechanisms for strengthening the interaction on public procurement between the public administration and civil society.

Conference Representatives' Recommendations:

Following transparent and constructive debates, the representatives in Tunis unanimously agreed on a set of recommendations that were subsequently endorsed by their Governments. These recommendations include, first and foremost, the establishment of a network to support the development and harmonization of public procurement reform in the region. The network would be comprised of public procurement experts representing governments, civil society, and professional organizations from each country and would establish a framework for exchanging best practices and programs. The network would also be responsible for implementing the following additional recommendations:

Establishing a regional platform (electronic portal): The network would establish a regional, online platform (e-portal) devoted to procurement issues. The e-portal would facilitate the: (i) exchange of experiences among practitioners in the region, and dissemination of internationally recognized benchmarks that could be adapted to the countries' specific needs; (ii) sharing best practices on issues such as e-procurement implementation and Public Private Partnerships (PPPs); and (iii) publication of bids and procurement notices, which will enhance business opportunities and access to information, especially for SMEs.

Strengthening the capacities of procurement managers: In view of the need to strengthen procurement capacity, the network will ensure the development of a regional strategy for capacity building and the professionalization of public procurement that will include

components on: (i) designing a training program adapted to the training needs of procurement stakeholders in the public and private sectors alike; and (ii) establishing a training center for the training of trainers.

Modernizing the legal framework: The modernization of the legal framework for public procurement is the essential foundation for reforming public procurement systems. Progress in reform therefore requires prioritizing and fast-tracking the reform and modernization of procurement legal frameworks. The establishment of the network and the e-portal would help by disseminating countries' laws, regulations, and trade agreements dealing with procurement, as well as by promoting awareness by government officials of the imperatives of procurement reform. In addition, to support the modernization process, each country should have an independent entity ensuring the oversight and regulation of public procurement.

Promoting the public-private partnership: The network will help in developing greater understanding and awareness in the region of the role of public procurement systems in facilitating private sector growth, jobs creation, and economic development through techniques such as PPPs and enhanced opportunities for SME participation in procurement markets, and the benefits that may accrue from enhanced private sector participation. For example, there is a need for improved understanding of the potential PPPs may offer.

Section 2: Analytical Framework

Introducing the analytical framework:

Background

The regional procurement conference in Tunis, as summarized in the previous section, served as a forum to discuss improving public sector service delivery in MENA through modernizing procurement tools, better engaging the private sector and civil society, and increasing capacity building. As a supplementary tool in that ongoing process, this section presents an analytical framework, which is intended to help countries self-assess their current level of progress with respect these topics, and to provide suggestions for actionable next steps that can be adopted in customized action plans.

For each topic in the Tunis conference, this framework identifies three progressive developmental stages (early, average, and advanced), and highlights the key features that would characterize a public procurement system that falls into one or another of these stages. Legal and Regulatory Frameworks were added as an additional fourth pillar, as this is a critical, crosscutting component of effective procurement reform. The key features for each topics have been grouped into four matrices that will be used in operating this analytical framework.

One way to think about the main topics discussed in Tunis is to envision them, as pillars of a high-level strategy for a successful public procurement reform. By dividing the policies into these four sections, actors will be able to identify the relative strengths and weaknesses of their own public procurement systems. Conceptualizing reform in this way can help countries think strategically about which areas of procurement still exhibit the greatest need for improvement, and

about what actions they might take to improve them.

Methodology

The basis for this framework was largely derived from the information gathered through the OECD/DAC self-assessment and other self-assessment tools used by many countries of the region. Such information has been complemented by the responses to a questionnaire that was prepared and answered by World Bank procurement specialists, based on their knowledge and experience with public procurement in MENA. All this data made it possible to identify a set of relevant sub-topics and indicators for each of the four categories. Sub-topics can be found on the left-hand column of the matrices, and the above mentioned indicators represent the characteristics of the progressive developmental stages. Given the challenges of summarizing complex situations into four simple matrices, the framework strives to balance the need for ensuring it is applicable to all countries in MENA while being specific enough to provide useful customized recommendations for individual country strategies.

Functionality of the matrices

Countries should use the matrices to assess themselves on the status of their public procurement system. The tool allows countries to assign themselves an overall position and to assess themselves under each sub-topic. This setup reflects the nature of procurement reform: it is possible that countries can be advanced in some areas, and still early or average in others.

Suggested Actions

Some possible actions have been proposed for each development stage to give countries recommendations as to how to move forward. Although these actions are to be customized for each country, they are intended to be progressive, meaning that stage 1 actions should normally be completed before moving to stage 2 actions. The framework aims to encourage countries to find the quickest path to the advanced development stage since this is the optimal level of a public procurement system. The recommendations provided for the final stage aim to ensure that the

gains a country makes in its procurement system are sustained over time.

Finally, one should note that these recommendations are not intended to be compulsory or exhaustive. There is no single correct path to build an optimal public procurement system, and countries may achieve the same results through very different routes. Many other actions could be taken to complement or replace those suggested here. This is not a “one-size-fits-all” model.

Matrices:

LEGAL AND REGULATORY FRAMEWORKS MATRIX

Legal and Regulatory Frameworks			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Form of legal framework	Legal framework is fragmented and vague, with substantial gaps and exclusions; regulations are non-existent or fragmented.	A consolidated procurement law is in place, but supporting regulations are non-existent or fragmented.	A procurement law with a consolidated scope of application has been enacted, and is supported by consolidated regulations; there are few exclusions.
Standard bidding documents and general contract conditions	There are no standard bidding documents and contract conditions, or only some have been issued; they are not comprehensive, and their use is not mandatory.	Standard bidding documents have been issued for goods, works, and services, but not simplified versions for low-value transactions.	General conditions for contracts and standard bidding documents have been issued for goods, works and services, including simplified versions for low-value transactions, and their use is mandatory.
Central policy and oversight body	The country lacks a central body to perform policy and oversight functions (interpretations of legal framework, developing updating legal framework, developing standard documents, capacity building, development of innovative practices and policies, establishing a single-portal website, soliciting input from stakeholders, preparation of annual report on procurement system).	Some policy and oversight functions are carried out by a body that perhaps also has an operational role in procurement proceedings; or, policy and oversight functions are scattered among several bodies.	A central policy and oversight body exists to perform a full range of policy and oversight functions, and it is not involved operationally in procurement proceedings.
Review of complaints from bidders	No formal procedures exist for administrative review of complaints. Access to the courts is available, but not swift or effective.	A formal procedure for submission and review of complaints may exist, including independent administrative review, but it lacks the power to order correction of violations.	An independent review mechanism exists, and it can order correction of violations. When a complaint is submitted, the procurement proceeding is suspended pending a decision. Decisions are published online.
Procedures -procurement planning	There is no requirement for preparation and publication of an annual procurement plan.	Procuring entities are required to prepare an annual procurement plan, but not to publish it.	Procuring entities are required to submit an annual procurement plan for publication on the single-portal website.
Assessment of bidders' qualifications	Rules for assessment are not clearly defined, and no distinction is drawn between prequalification and post-qualification. There is no clear requirement that only pre-disclosed criteria may be used for assessment.	Assessment criteria categories and requirement for pre-disclosure are defined. However, there is no clear distinction between prequalification and post qualification.	Provisions indicate assessment criteria categories and that criteria and supporting documentation to be submitted by bidders must be disclosed in the bidding documents. A clear distinction is drawn between prequalification (to be used only in specified types of circumstances) and post-qualification.

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Legal and Regulatory Frameworks			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Procedures – procurement method	The legal framework provides neither a satisfactory range of procurement methods nor sufficient guidance on when to use particular methods or a preference for competitive methods; or, it does not provide sufficient details on the procedures for each method.	Procurement methods are provided with clearly defined situations for their use, but there are gaps in the methods (e.g., no special method for consultancy services). Tools such as framework agreements and e-procurement may or may not be mentioned, but procedures for their use are not defined.	A full range of procurement methods is defined and authorized, with clearly defined circumstances and procedures for their use (including methods for consultancy services, PPPs and other complex projects). Tools such as framework agreements and e-procurement are enabled with sufficient procedural details.
Procedures – opening and evaluation of bids	Public bid opening is either not required, or poorly timed. Rudimentary provisions on evaluation exist, but lack detail, and no provision is made for criteria other than lowest bid price. The notion of “substantial responsiveness,” based on a distinction between minor and material deviations from the requirements in the bidding documents, is not articulated.	Public bid opening is required, and must take place soon after the bid submission deadline. Provision is made for evaluation of bids on non-price criteria. However, clear guidance is not provided as to how to apply a mixture of criteria objectively.	Public bid opening is required, and must coincide with the bid submission deadline. The legal framework articulates the notion of “substantial responsiveness” and permits the “lowest evaluated bid” approach, in which both non-price (e.g., life-cycle cost analysis) and price criteria may be considered, and specifies how to quantify non-price criteria.
Procedures – price revision	It is not permitted to include a price revision clause, even for longer-term contracts.	Price revision clauses are permitted for longer-term contracts, but the manner in which they should be formulated is not defined.	Price revision clauses are permitted for longer-term contracts, and where there is significant price fluctuation, the type of formula and types of price indices are described.
Ethics and conduct provisions	Code of conduct or conflict of interest provisions do not exist, or are of a general nature not tailored to the procurement. There are no provisions on debarment.	Some code of conduct and conflict of interest provisions are in place, but they are incomplete or apply only to lower-level officials, or only minimally, if at all, to private sector participants. There may be provisions on debarment, but no clearly defined procedures.	Context-specific codes of conduct and conflict of interest provisions have been elaborated for all participants, covering officials at all levels and private sector participants. Anti-fraud and corruption provisions are included in all contracts. Due process procedures for debarment are in place.
Ancillary parts of legal framework	Significant gaps or weaknesses exist in ancillary parts of the legal and regulatory framework for public procurement (e.g., dispute settlement, e-commerce/e-government, freedom of information, and anti-corruption).	Only a small portion of those ancillary areas are addressed in modern legislation and regulations.	The procurement legal framework's ancillary parts are well developed, addressing arbitration, e-commerce and e-signature, and accession to the UN Convention on Recognition and Enforcement of Foreign Arbitral Awards. The country is a party to the UN Convention Against Corruption.

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Legal and Regulatory Frameworks			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Actions	<ol style="list-style-type: none"> 1. Consolidate the legal framework for procurement on the basis of a consolidated procurement law and consolidated regulations. 2. Prepare standard bidding documents, including general conditions of contract, for the main types of procurement (goods, works and services). 3. Establish a central procurement policy and oversight body. 4. Establish a mechanism for expedited independent administrative review of complaints from bidders. 5. Modernize procurement procedures, including: <ol style="list-style-type: none"> a. Instituting the mandatory practice of preparation and publication of annual procurement plan for each procuring entity b. Elaborate provisions on qualifications, including distinction between prequalification and post-qualification c. Provide a full range of procurement methods, and with clear guidance as to when each method may be used, and the procedures to be applied for each method 	<ol style="list-style-type: none"> 1. Eliminate excessive exclusion from scope of application of procurement law; develop consolidated regulations. 2. Ensure that there is a range of SBD for lower value transactions. 3. Consolidate policy and oversight functions in a central body and remove any operational functions it may have. 4. Ensure that the complaint review body has the power to issue binding remedies. 5. Modernize procurement procedures, including: <ol style="list-style-type: none"> a. Mandate publication of annual procurement plan for each procuring entity; b. Clarify the distinction between prequalification and post-qualification; c. Fill in gaps as to the range of procurement methods, and define procedures for framework agreements and e-procurement methods if those methods are provided; d. Elaborate clearer provisions on bid evaluation techniques; and; e. Clarify procedures related to contractual price revision clauses. 6. Further develop ancillary areas of legal and regulatory framework (e.g., e-commerce, e-signature, arbitration). 	<ol style="list-style-type: none"> 1. Update procurement law and regulations periodically to reflect developments in practice and experience. 2. Develop SBD for specialized procurement transactions (e.g., IT, medical, educational, supply and installation). 3. Establish online database of interpretations and other guidance such as standard specifications issued by the policy and oversight body; develop innovations such as sustainable procurement policies; ensure that mechanisms are established for systematic feedback and input from stakeholders, including civil society. 4. Establish online searchable index of complaint review decisions. 5. Further modernize procurement procedures, including: <ol style="list-style-type: none"> a. Compilation of annual procurement plans in an interactively searchable online database; b. Enable procuring entities to verify qualification and eligibility information of bidders that is accessible in governmental databases without requiring bidders to submit documents pertaining to such information; c. Update procedures for framework agreements and e-procurement methods to reflect developments in practice;

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Legal and Regulatory Frameworks			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Actions (<i>continued</i>)	<p>d. Elaborate provisions on public bid opening and evaluation of bids, including use of non-price criteria such as life-cycle costing analysis, and the notion of “substantial responsiveness” of bids; and</p> <p>e. Provide for possibility of contractual price revision clause.</p> <p>6. Elaborate provision on ethics and conflict of interest tailored to the procurement context.</p> <p>7. Develop ancillary areas of legal and regulatory framework.</p>	<p>7. Further elaborate and fill gaps in provisions on ethics and conflict of interest tailored to the procurement context, and ensure applicability to all participants in the procurement process elaborate provisions on debarment, including related procedures.</p>	<p>d. Further elaborate bid evaluation techniques (e.g., life-cycle costing analysis for various specific sectors and types of procurement); and</p> <p>e. Update indices available for implementing price revision formulas.</p> <p>6. Distribute and disseminate ethics and conflict of interest rules to all participants in a procurement process; institute a declaration of assets procedures for all officials at every level involved in procurement process.</p> <p>7. Ensure updating of ancillary areas of legal and regulatory framework.</p>

E-Procurement			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Strategic planning	There is no assigned leadership or adopted strategy towards the modernization of a procurement system and the full implementation of e-procurement.	Despite the lack of assigned leadership and an adopted strategy to modernize its procurement system, ad-hoc efforts are underway to create e-procurement and the government is supportive. An e-procurement readiness assessment may have been completed but has not been acted upon.	Leadership is assigned, and a strategy adopted to modernize the public procurement system based on an assessment is in place. Funding has been appropriately allocated to implement the strategy, and the strategy itself may already have multiple approved versions and enjoyed the support of all stakeholders (i.e., public and private sectors, academia, etc.).
Legal Framework for Procurement	The legal framework for procurement is outdated and does not support the use of modern procurement methods. Moreover, the wider legal framework may be hindering e-procurement by a lack of provisions regulating the use of electronic documents and electronic signatures, and the implementation of electronic transactions.	While the legal framework does not explicitly support modern procurement tools and methods, it does not prevent their adoption, including e-procurement. There may be a general reference in the legal framework to the use of electronic means, but few if any procedural details are defined.	The legal framework allows for the use of the most modern procurement instruments, including e-procurement at various stages of the procurement process, including and electronic submission of bids, and authorizes new e-procurement methods and defines their proper use. Full support from the wider legal framework for e-commerce and e-government, which reflects international standards as stated in the UNCITRAL Model Law on Electronic Commerce and the UNCITRAL Model Law on Electronic Signatures.
Implementation process	Responsibility for implementing and supporting e-procurement is neither defined nor adequately supported.	Limited progress has been made towards implementing the e-procurement strategy, but barriers (e.g., political, social, economic and/ or technological) are negatively affecting or have halted the process of modernization, including on e-procurement.	An organization is legally empowered and properly funded to oversee the e-procurement efforts. Multiple iterations of an e-procurement system have been released and new, advanced features have been added. Government has hard-won experience in developing, supporting and managing the e-procurement system.

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E-Procurement			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Functionality	<p>The country does not have an e-procurement system; or an e-procurement system exists and provides basic information on public procurement including objectives, strategies, laws and regulations, and institutions and exceptions, but it does not have information on bidding opportunities or contract awards.</p>	<p>An e-procurement system exists within at least a few key ministries or at the national level that provides the same functionality as the “Early” stage, as well as:</p> <ul style="list-style-type: none"> a. searching for information on the public procurement system; b. searching for tender notices; c. accessing the suppliers database; and d. searching for awarded contracts. <p>The web-based system is widely and easily accessible and does not require proprietary hardware or software to use it.</p>	<p>A web-based e-platform for procurement exists, which contains all/most of the functionality from earlier stages as well as:</p> <ul style="list-style-type: none"> a. submitting bids online; b. modalities like framework agreements and e-catalogs; c. online reverse auctions; d. integration with other systems in the country (financial management, etc.); e. further development of the online database of procurement information, providing interactive searching capability, contract performance information, including the list of suspended or debarred firms, and customized reports; and f. features such as customized reports and support for mobile phones (e.g., SMS alerts about procurement opportunities).
Usage	<p>The usage of a system, if any exists, is not mandatory, and few, if any, stakeholders actually use the system. No marketing campaign or training efforts to encourage usage are underway.</p>	<p>The usage of the system is mandatory but not enforced, leading to low actual usage. Ad-hoc marketing and training campaigns to increase usage are undertaken, but are not coordinated or properly funded. Paper-based transactions continue to be the majority.</p>	<p>The functionality available on the e-portal is fully utilized by all public institutions; its usage is mandatory for all public institutions, and effective mechanisms to enforce compliance are in place.</p> <p>Paper-based transactions rarely occur.</p> <p>Large representation and usage of the business community in e-procurement, from all interested sectors.</p> <p>CSOs use the system to monitor procurement in the country.</p>

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E-Procurement			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Infrastructure	Adequate infrastructure does not exist to support the implementation of e-procurement. Access to internet services is limited, slow and restricted to a few areas around the capital and the main centers.	Adequate infrastructure to support the implementation of e-procurement exists. Access to high speed internet services is granted in major cities and surrounding areas. Alternatives to successfully overcome the lack of universal internet access in local areas are in place and used (i.e. internet cafes).	Advanced infrastructure to support the implementation of e-procurement exists over all parts of the country, including in remote areas.
Actions	<ol style="list-style-type: none"> 1. Complete a readiness assessment on the current e-procurement environment to identify opportunities for starting the implementation of the new system. 2. Create capabilities for enabling the e-procurement implementation, such as: <ol style="list-style-type: none"> a. Create organizations; b. Define a pilot stage; c. Develop a strategic plan for full e-procurement design and implementation; and d. Develop a suppliers' database. 	<ol style="list-style-type: none"> 1. Define the requirements for implementing a new e-procurement system and define the sourcing strategy. 2. Develop a simple portal for sharing basic public procurement information, including publishing bidding notices and contract awards. 3. Organize a marketing program to increase the usage of the system for the government, private sector and CSOs. 4. Add more advanced features to the system in accordance with the strategic plan. 	<ol style="list-style-type: none"> 1. Implement a “Business Intelligence” solution, to generate reports and perform multidimensional analysis. 2. Support the full procurement cycle electronically, including the usage of e-signatures. Design, develop and implement new functionality for the e-procurement portal, such as Contract Management, e-catalog, Reverse Auction, e-payment, and e-tendering.

Capacity Building			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Strategy	The country does not have a strategy for procurement capacity building. The required skills and competencies for procurement practitioners have not been defined.	The country is undertaking a study for the elaboration of a capacity building strategy, which aims to define objectives, content, beneficiaries, and methods of implementation.	The country adopted, and is implementing, a comprehensive strategy for the development of procurement practitioners' skills and competencies, which is based on previously identified gaps. The strategy defines clear objectives and it sets the training programs and the modalities for their implementation.
Institutionalization	The country lacks a single entity which is responsible for supervising the design and delivery of all training programs and other learning opportunities in public procurement.	A national authority, which has the mandate for overseeing capacity building in public procurement, is in the process of elaborating the institutional set up for training delivery, in collaboration with existing training institutes and other stakeholders.	A national authority oversees the design and delivery of all training programs by relevant training institutes at all levels, ensuring their harmonization and adequacy.
Training Programs	<p>Training institutes with the specific mandate for training on public procurement are absent in the country.</p> <p>Opportunities for specific training programs on public procurement are absent in the country; and the only available trainings are offered by international organizations, in the context of managing the projects they fund.</p>	<p>Training is offered by some national training institutes and other entities to benefit civil servants, but is often restricted to description of laws, regulations and procedures.</p> <p>Inadequate budget and limited faculty resources hamper the public institutes' capacity to organize and deliver procurement training.</p> <p>The country lacks qualified trainers having the right mix of theoretical knowledge, experience, and awareness of recent innovations.</p> <p>The training programs offered (if any) are neither harmonized nor authorized by a central supervising authority.</p>	<p>Training is well resourced, both in terms of budget and faculty. Several trainings are offered at different levels, including: induction training for new professionals, systematic refreshment training for those in service, and specific training for senior procurement staff.</p> <p>Training programs have been developed in accordance with common guidelines set by a national authority.</p> <p>Universities and other institutes offer training programs (including as part of academic programs) leading to the obtainment of acknowledged certificates on public procurement.</p>

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Capacity Building			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Training Programs (<i>continued</i>)			<p>Training is designed to provide procurement practitioners with a combination of skills and competencies in several fields, including: knowledge of public procurement systems, rules and regulations, technical knowledge about procurement planning, preparation of bidding documents and technical specifications, bid evaluation techniques such as life-cycle cost analysis, contract administration, knowledge of legal aspects including dispute settlement, familiarity with national and international trade agreements, supply management, finance and banking aspects, as well as interpersonal skills, analytical and problem solving skills, integrity and ethical behavior, etc.</p> <p>Training is also provided for officials that implement functions related to the procurement systems.</p>
Use of standardized handbooks, guides and SBD and access to information and modern tools	<p>Standard bidding documents (SBD) are not available for use by procurement practitioners, nor there is a procurement manual.</p> <p>Procurement practitioners do not have access to relevant information, which they need in carrying out their daily work.</p>	<p>The country is in the process of developing SBD and a procurement manual/guide for use by procurement practitioners.</p> <p>Procurement practitioners have limited access to relevant information, which helps them innovate and develop customized solutions.</p>	<p>A standardized manual, guides and SBD are used by the practitioners in their daily work.</p> <p>Procurement practitioners have constant access to relevant information that may have an impact on or be impacted by public procurement (e.g., market trends, international and regional trade agreements) as well as information specific to public procurement (e.g., innovative practices and experiences, market trends, etc.).</p> <p>The country uses an e-procurement system that sets protocols and standards, shapes consistent practices, and indirectly contributes to capacity building.</p>

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Capacity Building			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Professionalization	<p>The country does not recognize procurement as a distinct professional stream in the public service.</p> <p>Public procurement is considered a clerical function and practitioners are at low levels of the civil service hierarchy; their pay levels are low and the opportunities for career advancement within the procurement function are very limited.</p> <p>The majority of procurement practitioners lack the necessary skills and qualification profile consistent with modern procurement systems. Many of those that receive training, are experienced, and perform well move away from procurement or are recruited by other organizations offering better working conditions.</p>	<p>The country acknowledges the importance of the procurement function and intends to take the necessary steps to include procurement as a distinct professional stream in the public service, as part of a comprehensive procurement reform program.</p>	<p>The public service structure recognizes procurement as a distinct professional stream, and defines the minimum skills and competencies for different grade levels. It provides decent pay levels and good opportunities for professional career advancement within the procurement function.</p> <p>Recruitment and promotion processes for procurement professionals within public organizations are linked to the possession and development of desired skills, competencies, and training.</p> <p>A sound licensing and certification program of procurement proficiency (whether gained through formal training, on-job training, or experience in public procurement) is in place and is recognized by the public administration.</p>
Actions	<ol style="list-style-type: none"> Identify the institution that would have the authority and the competencies to oversee the design and delivery of procurement capacity building. 	<ol style="list-style-type: none"> Establish the implementation framework that meets the timeline set by the strategy. Mobilize the necessary human and financial resources to implement the strategy. 	<ol style="list-style-type: none"> Establish exchange and evaluation frameworks for the capacity building system involving the procurement system regulatory body, the training institutions and the public procurement practitioners to provide evidence-based guidance for the further development of the capacity building program.

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Capacity Building			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Actions (continued)	<p>2. Elaborate, in collaboration with all stakeholders, the vision, strategic objectives, priorities, and timeline for the country capacity building strategy.</p> <p>3. Engage with all the stakeholders to define the skills and competencies of procurement practitioners needed by the organizations, identify the gaps in competencies and skills and the program needed to bridge these gaps (training needs assessment).</p> <p>4. Conduct an analysis of available training institutes and their capacity to deliver the needed capacity building program(s).</p> <p>5. Develop standard bidding documents and manual(s) for use by practitioners.</p>	<p>3. Identify the institutes and the entities responsible for providing training opportunities on public procurement.</p> <p>4. Develop the training materials and the programs to be offered by the respective training institutions.</p> <p>5. Establish a program for training of trainers. Take the necessary actions to recognize the procurement function within the public service.</p> <p>6. Establish a licensing and certification mechanism of procurement proficiency.</p> <p>7. Disseminate standard bidding documents and manual(s) for use by practitioners.</p>	<p>2. Monitor the implementation of proposals to improve outcomes through feedback and evaluation sessions.</p> <p>3. Update the programs and the training tools to take into consideration the evolution of the procurement law and regulations, the modernization of procurement procedures and best international practices.</p> <p>4. Update the practitioners' manual(s), the guidelines, and the standard bidding documents.</p> <p>5. Consider establishing a professional association of procurement practitioners to be actively involved in advocating profession-related causes with all stakeholders and to provide a venue for sharing knowledge at the national level and with similar regional and international associations.</p>

Extending Participation – Private Sector (PPPs, SMEs) and Civil Society			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Strategy for extended participation	<p>There is no strategy to widen participation of the private sector in public procurement.</p> <p>There is an absence of mechanisms for enabling participation of civil society in the public procurement process.</p>	<p>The system is in the process of elaborating a strategy for private sector participation, aimed at defining objectives, beneficiaries, roles and methods of implementation of PPPs.</p> <p>The system is in the process of defining mechanisms to increase the opportunities for local SMEs to contribute to the local industrial development through public procurement.</p> <p>Some initial steps have been taken towards a strategy for developing civil society participation in public procurement, but the strategy's formulation and implementation is still incomplete.</p>	<p>A strategy for enabling private sector engagement in public procurement procedures through vehicles such as PPP has been adopted and is being implemented.</p> <p>A strategy for the use of public procurement to increase opportunities for local SMEs has been adopted and is being implemented.</p> <p>A strategy including mechanisms for civil society's engagement at all stages of the procurement process has been adopted and is being implemented.</p>
Legal and regulatory frameworks	<p>There is no provision for partnerships with the private sector in public infrastructure and service delivery.</p> <p>Promotion of SME participation is not featured in the legal and regulatory frameworks.</p> <p>There is a lack of enabling mechanisms for the participation of civil society in public procurement.</p>	<p>Some PPP projects have been implemented, although without passage of a legislative or regulatory framework for PPP projects.</p> <p>SME participation may be mentioned in the legal and regulatory framework, but without sufficient detail as to the practical steps that may be taken for their active participation.</p> <p>Civil society participation may be mentioned in passing or in very general terms, but specific mechanisms are not fully elaborated, or participation only of professional associations is envisaged.</p>	<p>The legislative and regulatory frameworks provide special procurement methods suitable for PPP projects.</p> <p>Guidelines, templates and SBD specifically for PPP projects are used and mastered by public procurement practitioners.</p> <p>The legislative and regulatory frameworks not only affirm the need to promote greater SME participation, but also provide specific procedures for doing so.</p> <p>The legal and regulatory frameworks contain specific provisions enabling civil society monitoring at various stages of the procurement process and procedures for ensuring follow-up on recommendations for public procurement coming from civil society.</p> <p>The legal and regulatory frameworks call for the establishment of one or more advisory council(s) for providing feedback and input from stakeholders in the procurement system.</p>

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Extending Participation – Private Sector (PPPs, SMEs) and Civil Society

	Early Development Stage	Average Development Stage	Advanced Development Stage
Implementation of local industrial development strategies/policies through public procurement	There are no special financing mechanisms or other types of measures for the promotion of local industry through increased local SME participation in public procurement.	Few special preferential conditions and/or other mechanisms for the promotion of local industry have been established, to increase participation and more equal opportunities for SMEs in public procurement.	Specific tools are applied to foster greater SME participation, such as setting a minimum share or level out of the total amount of public contracts to be awarded to local SMEs; establishing the possibility for procurements to be subdivided into several smaller lots to boost SME participation; facilitating establishment and participation of joint ventures; ensuring visibility of subcontracting opportunities; and financing facilities to enable SME participation.
Implementation of PPP projects	PPP projects have not been implemented, and there are still concerns about private sector partnerships in public infrastructure and service delivery to be addressed prior to PPP projects being implemented in the country.	A few PPP projects have been implemented in the country but with some limitations and /or on a small scale, and the legal, regulatory and policy frameworks for such arrangements are still not very well defined.	There is experience in successful PPP projects across a number of relevant sectors, featuring effective identification, planning and preparation of the projects, procurement procedures tailored for PPPs, and thorough monitoring of concessionaires' performance and their strict adherence to contracts and legislation.
Civil Society Engagement	Forms of social accountability are not implemented, as CSOs do not have any specific role of monitoring public procurement. CSOs are not actively campaigning for greater transparency, equity, efficiency and accountability in public procurement and there is no system for comprehensive collection of data on procurement activities accessible to the general public.	There are specific roles for CSOs at some stage or stages of the public procurement process (e.g., advocacy or participation in contract implementation monitoring), but they are incomplete (e.g., not all stages covered, insufficient autonomy of the civil society monitors, lack of compliance with or follow-up of CSOs recommendations, and lack of adequate collection and accessibility of information on procurement activities).	Practices along the lines of the ‘Open Contracting’ (http://www.open-contracting.org/) principles are implemented, and CSOs are engaged at all stages of the procurement process with specifically defined and enabled roles designed to facilitate social accountability. Data on public procurement activities and proceedings are regularly and systematically collected and made available to the public in an interactively searchable online database.

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Extending Participation – Private Sector (PPPs, SMEs) and Civil Society			
	Early Development Stage	Average Development Stage	Advanced Development Stage
Actions	<p>1. Define a strategy (objectives, targets, implementation path, responsibilities, stakeholders, time, resources, etc.) for the engagement of the private sector in public procurement, including through PPPs in relevant cases and promotion of greater participation by SMEs.</p> <p>2. Reform the public procurement legal and regulatory frameworks to boost the participation of the private sector in public procurement, including the necessary legislative provisions for PPP projects, and for growing SME participation.</p> <p>3. Devise, and define in the legal and regulatory framework, effective ways of enabling CSOs to be engaged in monitoring of all stages of the procurement process.</p> <p>4. Regularly publish procurement plans and contract awards.</p> <p>5. Establish a system for the comprehensive, real-time collection of data on procurement activities, including an online, interactively searchable database accessible to the general public.</p>	<p>1. Taking into account experience in the PPP projects that have been conducted, adopt new legal and regulatory frameworks specifically for PPPs which include the rules for monitoring of concessionaires' performance and strict adherence to the contracts.</p> <p>2. Develop standard templates for simpler types of PPPs.</p> <p>3. Define specific steps and procedures to be taken to promote expanded participation of SME's in public procurement contracts.</p> <p>4. Include in the legal and regulatory frameworks enabling mechanisms to allow for the participation of civil society at all stages of the procurement process, including contract implementation.</p> <p>5. Establish a dialogue with CSOs and define their monitoring and advisory role on public procurement.</p> <p>6. Establish a process and platform for receiving recommendations from the CSOs engaged in public procurement and establish the mechanism for follow up on the implementation of those recommendations.</p> <p>7. Improve the collection and dissemination of information on procurement activities, including establishment of a system for the comprehensive, real-time collection of data on procurement activities, including an online, interactively searchable database accessible to the general public.</p> <p>8. Establish one or more advisory councils to provide feedback from stakeholders to procurement policymakers.</p>	<p>1. Conduct performance measurement exercise with regard to various aspects of the engagement and extended participation of stakeholders in the procurement system.</p> <p>2. Update as needed the legal and regulatory framework for PPPs and for promoting SME participation in order to reflect experience and developments in practice.</p> <p>3. Ensure that the open contracting principles and procedures are reflected in the procurement law and regulations and other existing, related texts.</p> <p>4. Establish clear systems of social accountability, also developing technical standards for disclosure of contractual information to increase information access; collect and disseminate procurement data and conduct analyses.</p> <p>5. Publish annual public procurement reports.</p> <p>6. Enforce the rules for accountability of public procurement practitioners. Implement community social audit systems (including needs assessments, procurement processing, awards, contract management and outcomes).</p> <p>7. Utilize and follow up on the feedback and recommendations emanating from civil society monitors and from stakeholder advisory councils.</p>

Application of the new framework

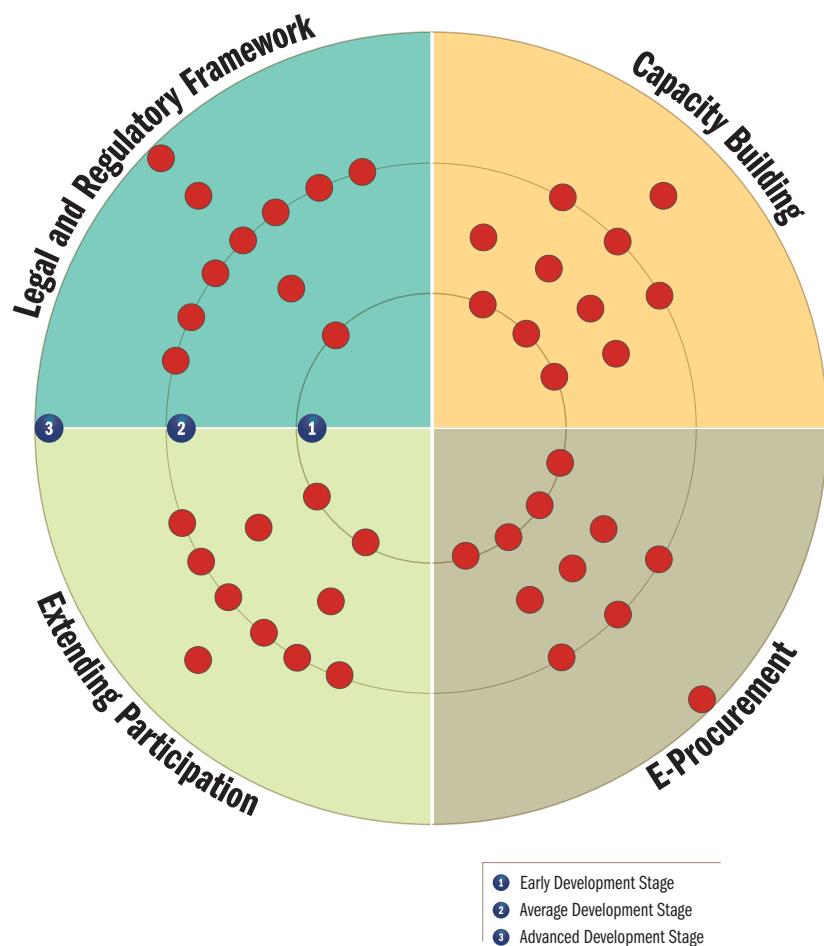
In a recent self-assessment exercise completed following the Tunis conference, members of the **MENA Network of Public Procurement Experts** utilized this new analytical framework to evaluate their level of progress vis-à-vis the four pillars covered in Tunis. The assessment, which allowed members to identify common strengths and weaknesses, represented the inaugural use of the framework and served as a test case for its future application. The results of this exercise⁶ can be found in the graphic included below as **Figure 1**.

For each pillar, the government delegations assessed and assigned their countries a position on a scale of 1 to 3, with 1 representing the early

development stage and 3 the most advanced one. Subsequently, Figure 1 was developed to reproduce all the positions collected from the region with each red dot representing a country. The diagram serves as a visual representation of the current status of public procurement in the MENA region as a whole, with respect to the four pillars.

Some of the observations from this exercise are summarized as follows:

- The region overall recognizes that it can do more to improve public procurement, evidenced by the fact that most countries positioned themselves at the first or second stage of development.



- The countries in the region remain at varying, and at times divergent, stages of progress in reforming the four pillars.
- The development of the **Legal and Regulatory Frameworks** was the category in which the countries scored the highest. This reflects some of the remarkable advances that have been achieved in the recent past. However, much more work remains to be done. Strong legal and regulatory systems must be comprehensive and need to include features that will lay the foundations for enabling progress in the other pillars as well. Most of the countries in the region are now trying to move beyond the legal aspects of the reform, and towards the actual implementation of the new frameworks. These efforts will allow them to push their reform agenda, while creating a stronger impact on service delivery.
- **Capacity Building** is a key area where countries have faced challenges in moving forward. Only one country reported surpassing the second level. To help overcome these challenges, the Tunis recommendations recognized the need for dramatic investments and collaboration on capacity building, and selected this as a topic of high priority.
- The majority of countries remain at the early stages in their development and use of modern procurement tools (such as **e-procurement**). Although the interest and progress in this area are accelerating (with many countries in planning and piloting phases), most existing systems feature basic functionality.
- Countries have experienced mixed levels of progress in **Extending Participation**. To improve the effectiveness of their public procurement systems, countries should seek to engage and involve a number of partners including CSOs and the private sector (especially SMEs).

6 The exercise has been conducted during a following gathering of the MENA Network of Public Procurement Experts that is presented in the Addendum of these proceedings

In sum

Public procurement has the ability, and therefore the responsibility, to better citizens' lives through its impact on service delivery. When public service delivery is more effective and efficient, more people benefit from needed goods and services. When systems are transparent and well run, countries are better able to obtain value from public funds, foster competition, and boost investment in their economies.

The discussions of December 2012 in Tunis identified three of the most crucial dimensions where reforms can help public procurement to make such a contribution: first, by developing modern approaches and tools for greater efficiency and effectiveness of public procurement; second, by working effectively with other stakeholders such as the private sector and civil society; and third, by investing in those responsible for the function to strengthen their capacity to address modern challenges. Participants also agreed that a modern legal and regulatory framework is an essential foundation for reforming public procurement systems.

During the conference, participants strongly voiced their belief that enhanced regional collaboration and coordination will strengthen results achieved thus far, and serve as a catalyst for other governments in the region to join efforts to reform and modernize country public procurement systems.

Following the constructive debates, participants articulated and agreed upon a set of recommendations aimed at helping countries to move forward in the reform process. The main priority of

these recommendations was to establish a network of representatives from MENA countries who would support the development and harmonization of public procurement reform efforts within the region. Other recommendations included:

- Developing an online portal to enable public procurement experts from the region to exchange best practices and share documents;
- Strengthening procurement capacity in a sustainable manner across the region;
- Modernizing legal frameworks; and
- Promoting increased collaboration in public procurement, especially with respect to the private sector, CSOs, and SMEs.

Although significant improvements in public procurement have been achieved in the region in recent years (most notably in the adaptation of legal and regulatory frameworks), public procurement remains an important piece of future governance reforms.

In the coming months and years, the efforts to modernize, build capacity, and extend participation will benefit from countries' commitment to collaboration, particularly given the current political and economic environment in MENA. The success of countries' endeavors will often hinge not just on their commitment to reform, but also on their willingness to learn from the experiences of neighbors.

Addendum

Subsequent to the Tunis conference and building on its momentum, government-nominated representatives from the MENA region met in Marseille, France in June 2013 to establish the MENA Network of Public Procurement Experts (the Network), and agree on the Network's goals, structure, and leadership, including laying the foundation for a regional platform for procurement.

During this meeting, Network members unanimously voted and confirmed delegations from Lebanon, Morocco, and Yemen to lead initiatives aimed

at addressing the priorities identified in Tunis and confirmed in Marseille. Lebanon will temporarily act as the Network's Secretariat and propose the responsibilities and composition of the Secretariat function; Morocco will lead the creation of a MENA e-portal for public procurement; and Yemen will lead efforts aimed at enhancing procurement capacity building in MENA.

The members in attendance at Marseille unanimously agreed that the Network should continue to meet periodically to evaluate the progress made and strengthen the Network.



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