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HARNESSING VALUE THROUGH PROCUREMENT TRANSFORMATION

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Section 1

Introduction



Marmore MENA Intelligence (“Marmore”) has been engaged by Kuwait Foundation for the Advancement of Sciences (“KFAS”) for the project titled ‘Harnessing Value Through Procurement Transformation’.

The project objective could be briefly stated as, “Preparing a strategy roadmap to enhance the public procurement process in Kuwait, with a broader objective of driving greater private sector participation (including SMEs) in public procurement. The strategic report would analyse the current public procurement system from different dimensions, identify the pain points and suggest an executable operational strategy to increase the process efficiency and drive greater participation from the private sector.”

Section 2

Executive Summary



Kuwait spends a considerable amount, nearly 13.4% of its GDP, for procurement of various goods and services. The current operating environment of prolonged lower oil prices and fiscal imbalances lends a strong case for delivering maximum return on the ongoing public spends. It is well documented that the present situation of being reliant on oil revenues is unsustainable in the long-term. Alternatively, finding new avenues to boost government revenue streams is challenging. The prospect of raising existing taxes or introducing new taxes is easier said than done. In such context, rationalizing existing spending and improving efficiency assumes prime importance. Improving the efficiency of public procurement has been a successful policy lever for governments worldwide.

SMEs constitute large proportion of enterprises but only a small portion of them acts as suppliers to government projects. There are several barriers for SME participation in public procurement due to their small scale of operations, low administrative capacity, and constrained financial and technical capabilities. Additionally, inadequate opportunities for buyer-seller interactions in the form of events and exhibitions; time, cost and effort required for tendering process hinders SMEs from actively participating in public procurement process.

Improving efficiency of public procurement could be dealt in structured and systemic manner. It includes a gamut of options such as reviewing current spending process and prioritizing key projects that would deliver economic gains; encouraging the use of advanced procurement techniques such as combination tendering, centralized procurement to promote purchasing synergies; and promoting usage of digital analytical tools such as automated RFP analysis, predictive spend analytics for real-time budgeting. Leveraging technological and digital advancements for process improvements is a low hanging fruit that results in enhanced transparency, improved accountability and substantial savings in a short span of time.

SME participation in public procurement could be increased through a range of measures such as splitting contracts into smaller parts (lots), SME-friendly selection criteria, relaxation of financial requirements, improved access to finance, timely and efficient payment terms, setting procurement targets, e-procurement etc. Based on international experiences, Kuwait could double the share of SME to 25% of its GDP in 10 years' time.

Better procurement practices could deliver cost savings for the government, generate higher jobs, and improve economic activity. Based on our calculations, Kuwait has the potential to save 1.8% of its procurement spending once the fully integrated digital platform is put into practise. Implementation of end-to-end e-Procurement platform could enable Kuwait, on an average, to save 233 days or 29.3% of the time it takes currently to award contracts. Digital procurement could also be expected to shorten Kuwait's payment cycles from the current 60 days to 28 days by 2030. Based on the cost savings and fiscal multipliers, the GDP could increase by over KD 100million in 2025 and by KD 150million in 2030. The savings on procurement also has the potential to create 1,747 new jobs for Kuwaiti nationals in the private sector by 2030.

To realize the benefits of improved public procurement, stakeholder perspectives on the current gaps and challenges should be considered while taking into account the wide variations in procurement practise by different Ministries and government departments. In consultation with various stakeholders, some of the prominent operational challenges identified in the current system include non-digitalization of the entire procurement process, repeated document submission and registration due to lack of back-end linkages, significant amount of time taken in different phases of public procurement, tenders less than KD 75,000 – a prime source of business for SMEs – being outside the purview of CAPT etc.

Drawn from international best practices and stakeholder consultations, the solutions proposed seek to holistically enhance Kuwait's public procurement. The suggestions include end-to-end digitalization of procurement, launch of an e-market place, usage of smart contracts for bid evaluation and payment, holding stakeholder sensitization sessions and training programs, easing of bureaucratic hurdles, standardization of RFPs etc.

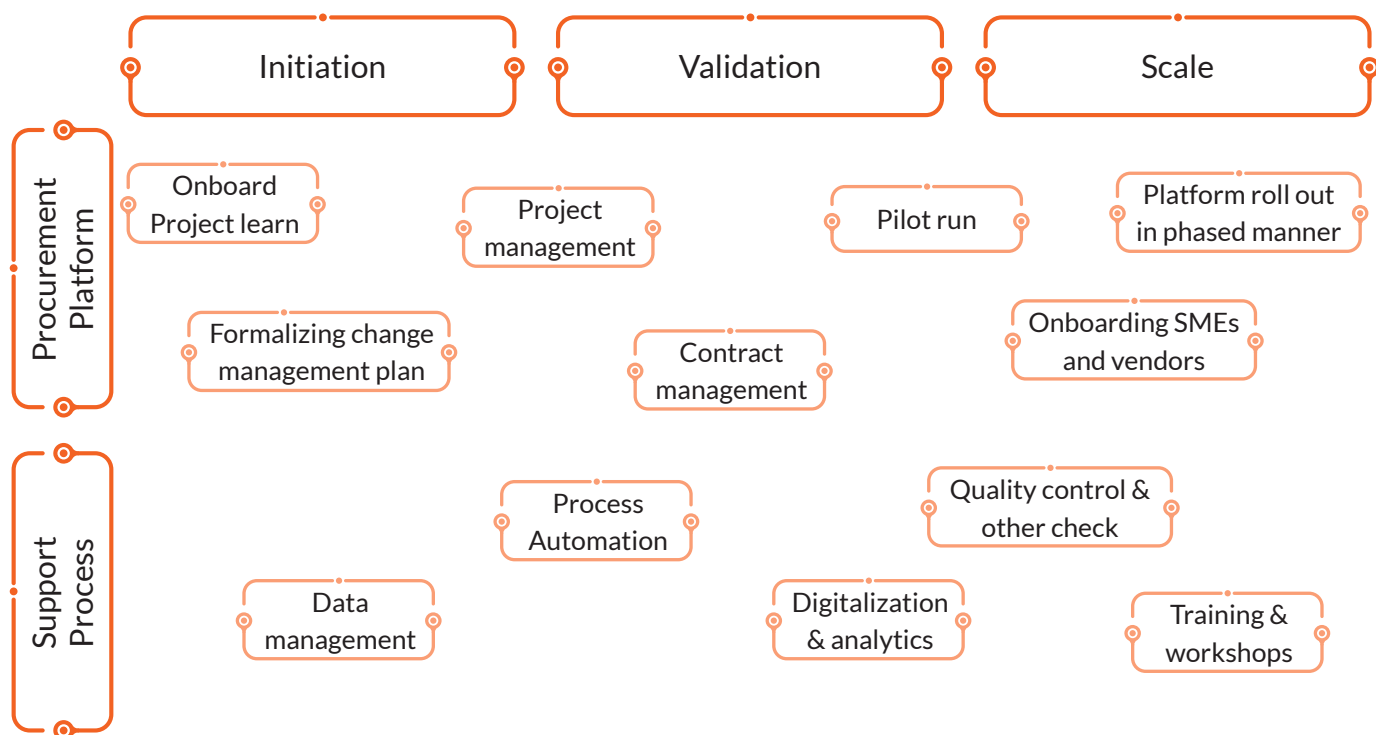
Table 2.1: Indicative KPIs to monitor progress of the proposed solutions

Proposed Solutions	Challenges tackled	Relevant KPIs to monitor progress
e-Procurement platform	Elongated bidding procedure & frequent time delays Lack of active participation from SMEs Limited scope for inter-department purchase synergies Lack of transparency in bid awards	Average time taken for award of contract Number of SMEs empanelled as verified vendors Proportion of contracts (by value) concluded through e-Procurement platform
Smart contracts/Blockchain technology	Tweaking of tenders to suit particular party Lack of objectivity in bid award phase Time lag between contract award and signing Delayed release of payments	Proportion of tenders involving Smart contracts (by number & value) Number of tenders that invite encrypted bids Average time taken for contract awards

Proposed Solutions	Challenges tackled	Relevant KPIs to monitor progress
Training program & capacity building	Limited availability of skilled procurement practitioners Lack of upskill measures and adequate training	Number of people trained per annum Number of workshops held Number of short-term courses held for existing employees

The proposed solutions vary in terms of complexity - while some entail process changes, others would require technology additions - and time required for implementation. Low hanging solutions that could be implemented on an immediate, on-going basis include training programs and capacity building measures. The benefits that Kuwait would stand to gain from digitalization of entire procurement cycle would outweigh the costs/efforts involved. Given the wide array of digital tools available, appropriate ones should be selected by the procuring authority for improving operational performance with the view to meet the state's long-term strategic goals.

Figure 2.1: Road map for end-to-end digitalization of procurement cycle



Transformation of the public procurement system, though a long-drawn-out process that involves considerable time, cost and effort, has far-reaching benefits. Increasing the efficiency requires comprehensive action by various stakeholders at all levels of procurement process. Ownership of process and assuming accountability to deliver change could lead to positive results.

Section 3

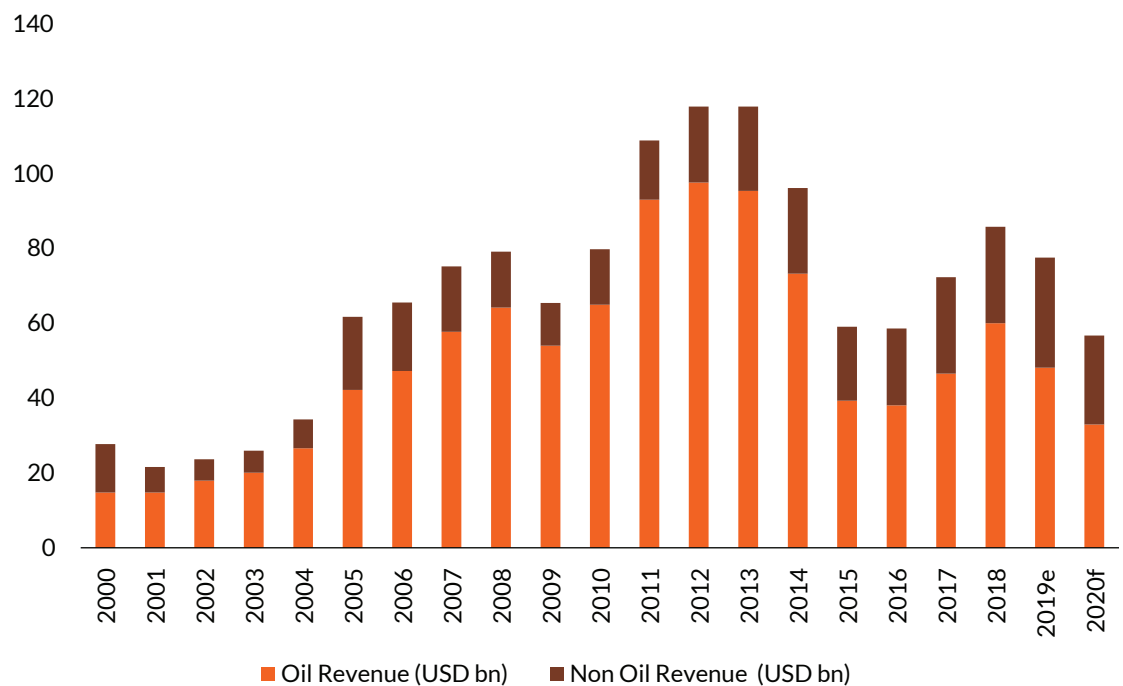
Kuwait Projects and Procurement Landscape



Overview of Kuwait's Economy

Kuwait's economy has been predominantly reliant on oil, constituting 45% of GDP and 83% of revenue¹. Given its volatile nature, the shortfall in oil revenues would translate to a large budget deficit. Under the impact of COVID-19 and low oil price environment, budget deficit for 2020/21 is estimated at KD 14billion. Budget Deficit for FY 2021/22 is projected to be KD 12.1billion, on the back of expected improvement in revenue.

Figure 3.1: Reliance on Oil Revenue

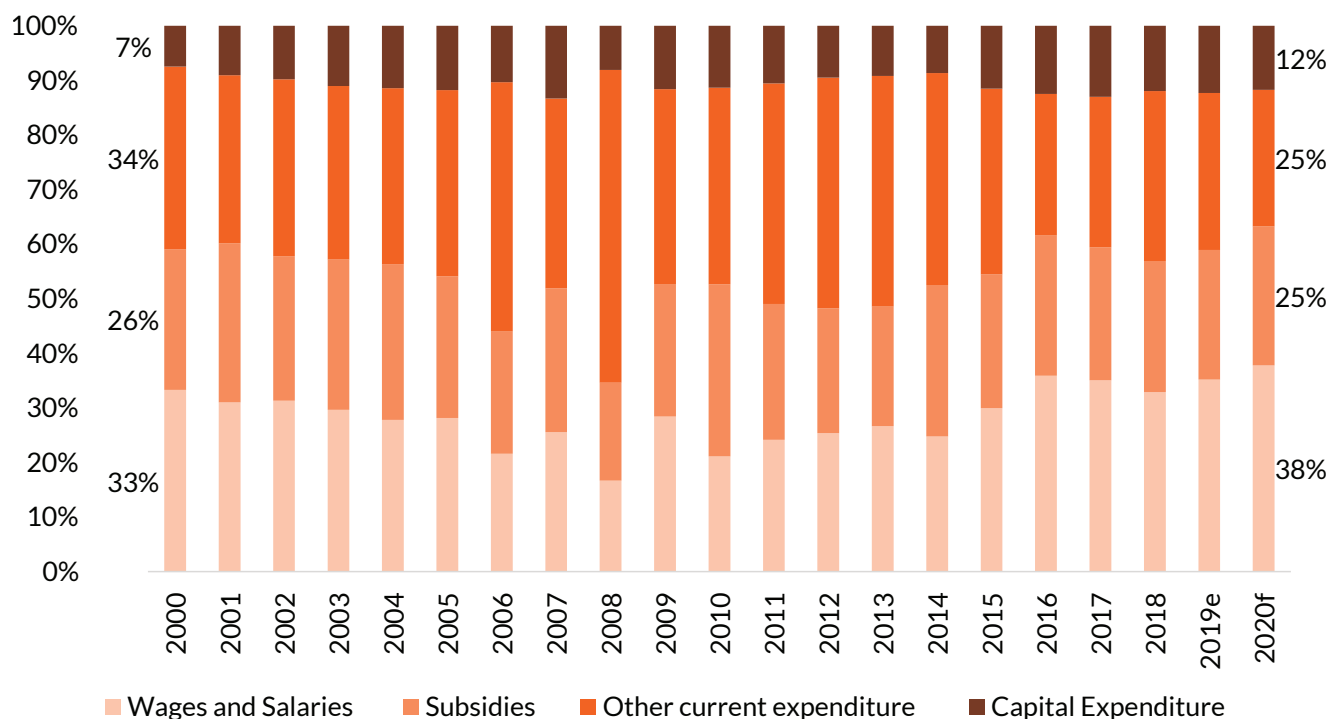


Source: IIF, June 2020

Government spending is more tilted towards current expenditure. In terms of expenditure split by ministries, electricity and water and health seem to have higher spend.

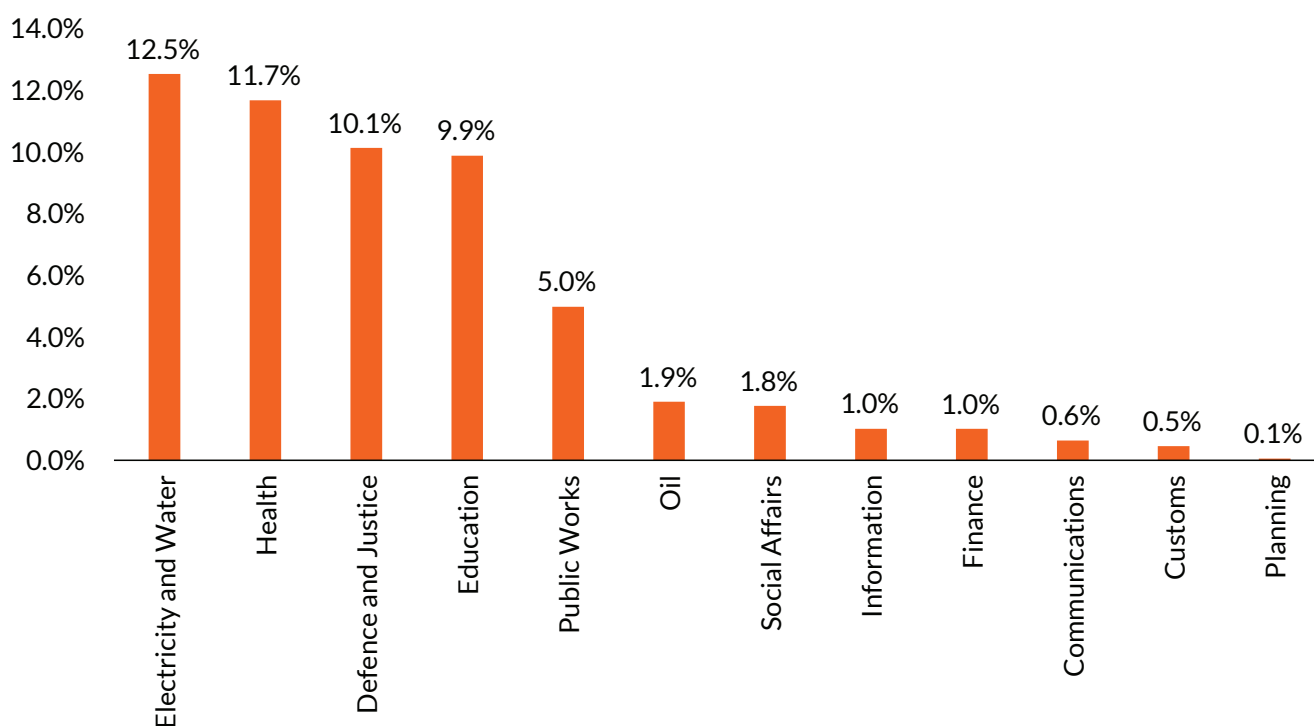
¹ CSB, 2019; Budget 2021/22

Figure 3.2: Distribution of Government Expenditure by Expense Heads

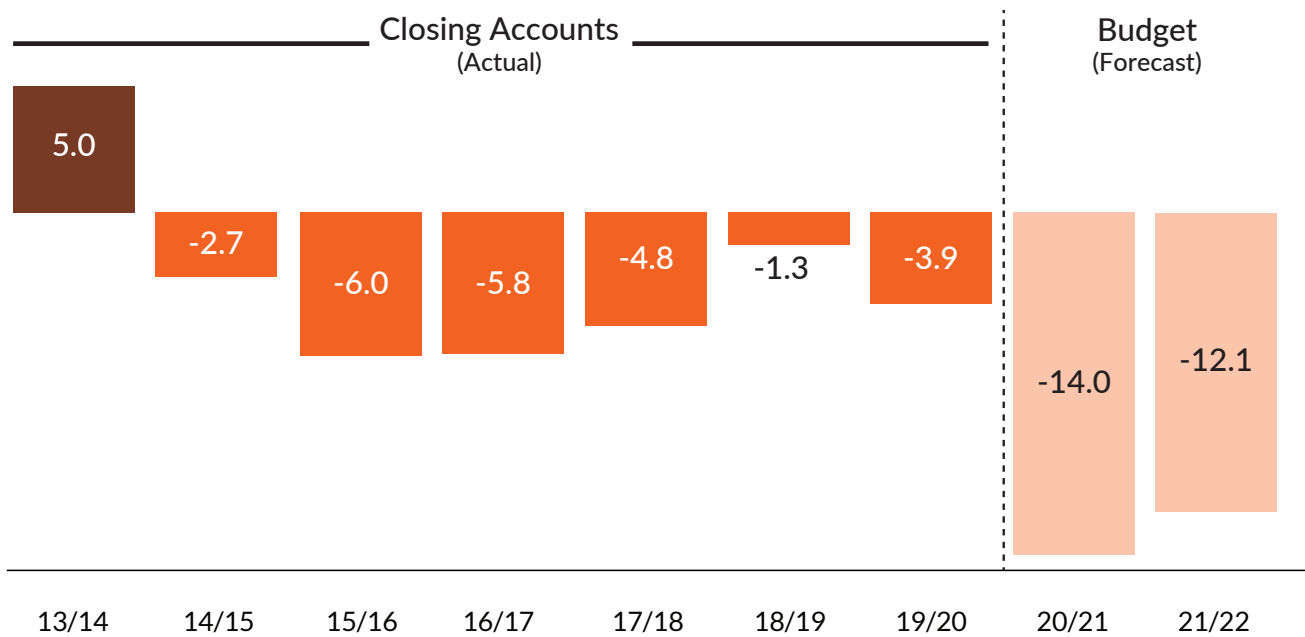


Source: IIF, June 2020

Figure 3.3: Expenditure for some Ministries for FY 2019/20 (% of Total Expenditure)



Source: Ministry of Finance

Figure 3.4: Fiscal Deficit (KD Billion)


Source: Ministry of Finance, Budget FY 2021/22

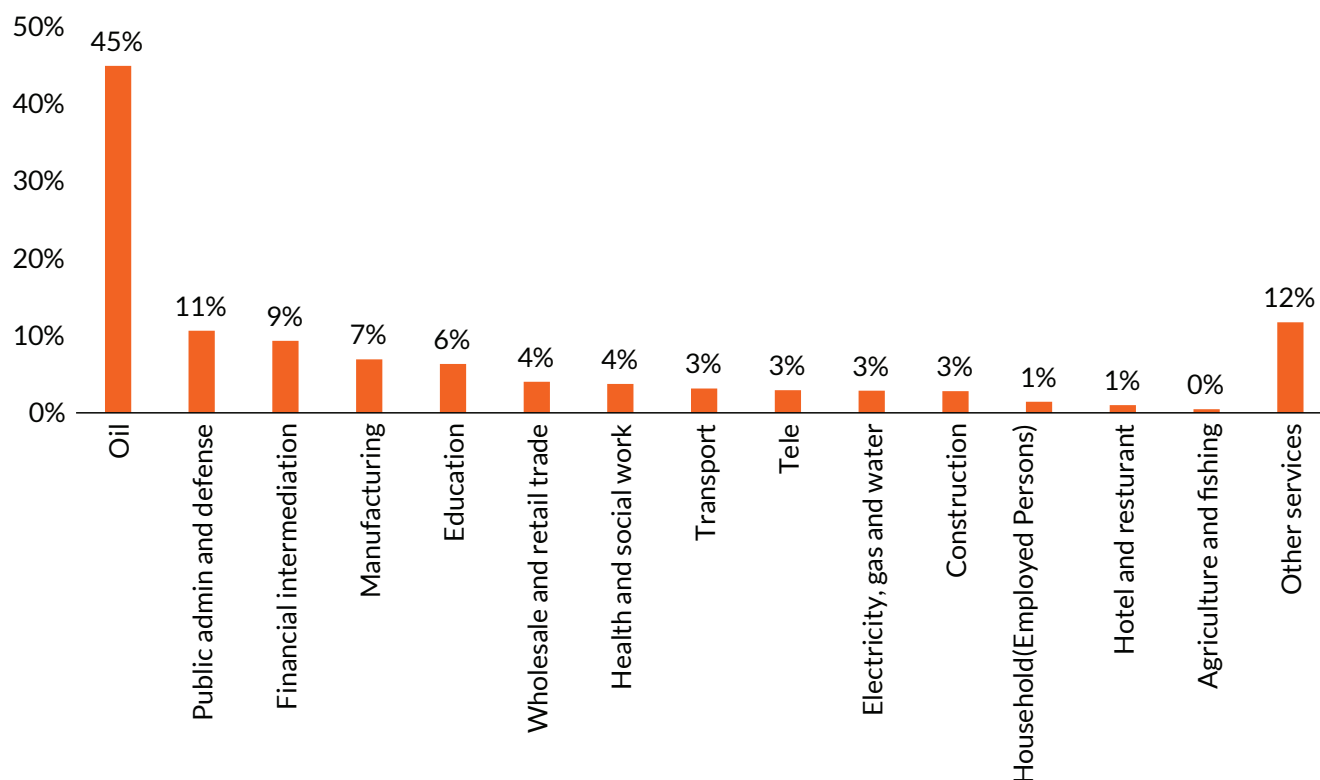
Even as revenue levels have dropped since 2014, expenditure levels have remained high and have increased as a percentage of GDP. Government expenditure is expected to increase by 7% in FY 2021/22. Maintaining sustainable spending levels has assumed importance, particularly in the emerging possibility of prolonged period of low oil prices.

Dissection of Kuwait's GDP

Kuwait's Vision 2035 lays emphasis on increasing local productivity and development of non-oil economic sectors, as part of its strategic developmental goals. This would involve a vibrant private sector with particular focus on the development of SMEs.

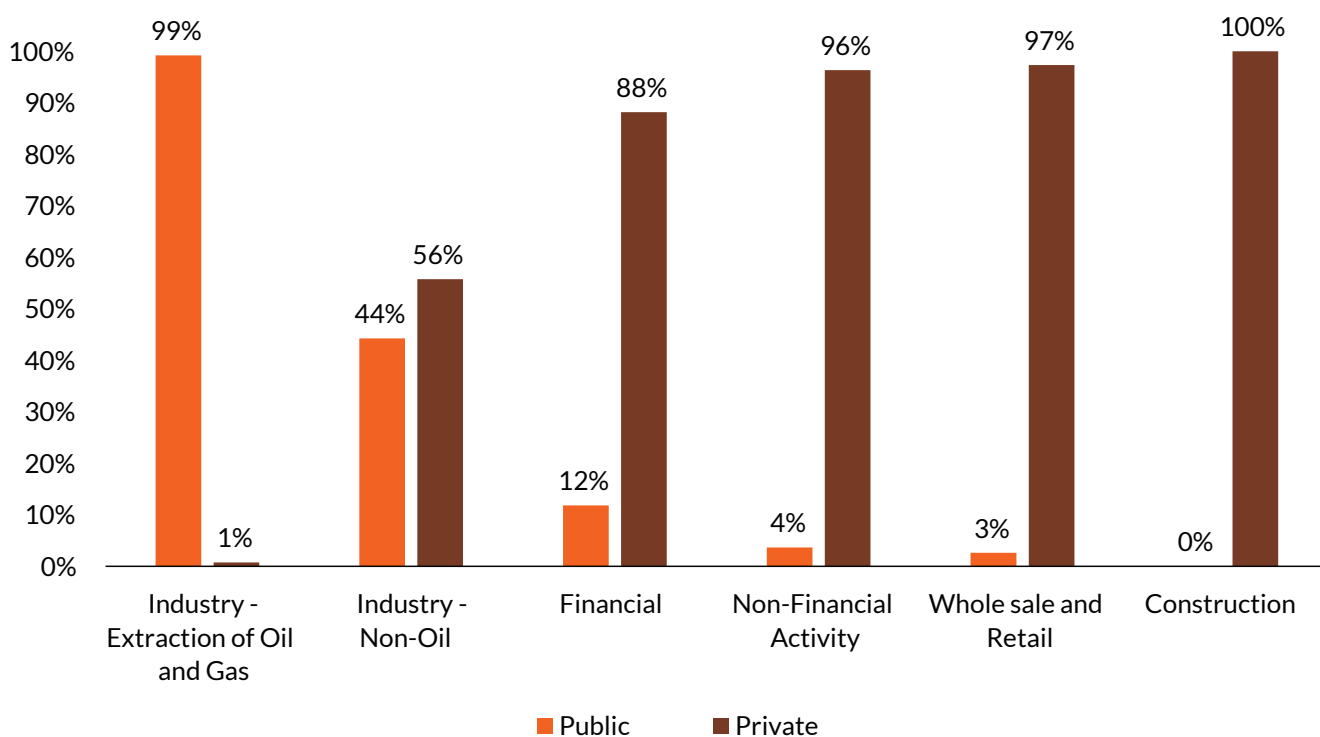
Currently, oil sector contributes the major part of economic activity (GDP) and public sector forms about 99% of the gross value added (GVA). Manufacturing, which according to Central Statistical Bureau (CSB) includes coke industry and some recurrent petroleum products, contributes 7% to GDP. Contribution of non-oil sectors, comprising of sectors such as financial intermediation, to overall economic activity is comparatively less. Private Sector constitutes major portion of the GVA in the non-oil sectors.

Figure 3.5: GDP Break Up of Sectors (2019)



Source: Central Statistical Bureau

Figure 3.6: Public-Private Ownership among sectors (based on Gross Value Added), 2018



Source: Central Statistical Bureau

Role of SMEs in Kuwait

In Kuwait, SMEs are defined based on Law No. 98 of 2013 regarding the Establishment of the national Fund for Small and Medium Enterprise Development, amended by the Law No. 14 of 2018 and its Executive Bylaw and its amendments.

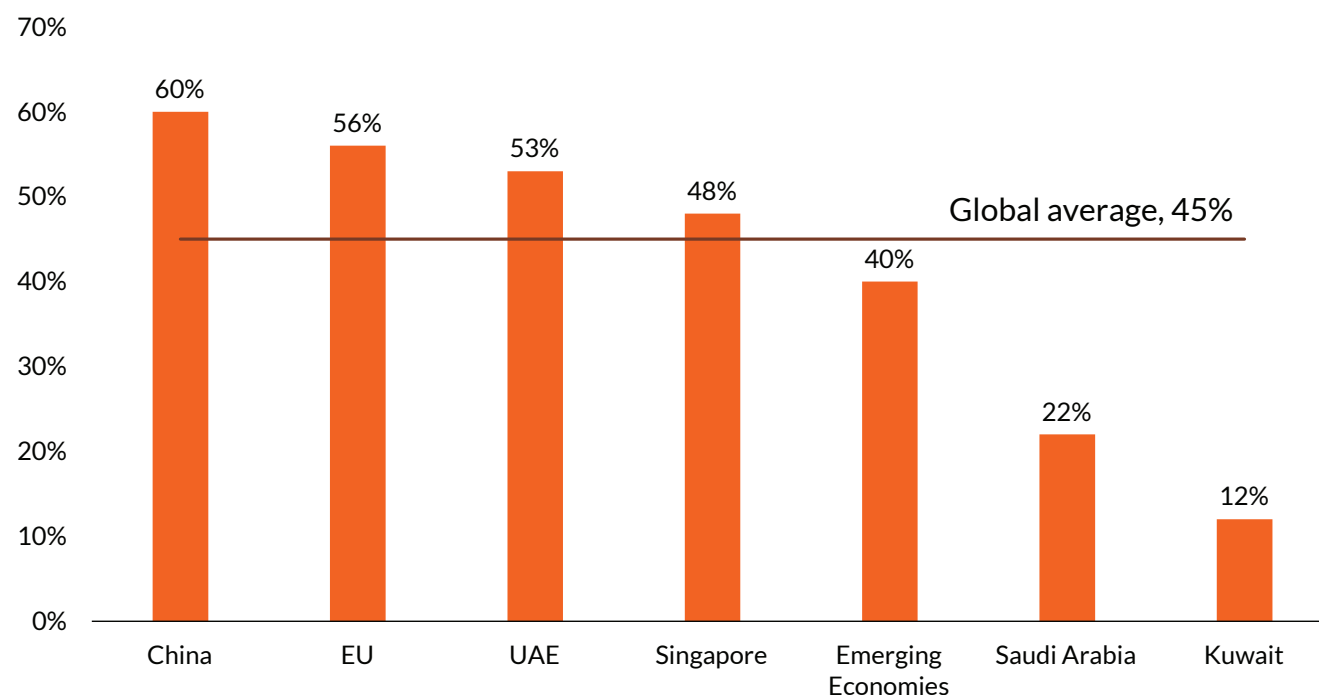
Table 3.1: Criteria for SMEs in Kuwait

Firm Size	Number of Employees	Assets	Turnover/Revenues
Small	Less than 50	< KD 250,000	Less than KD 750,000
Medium	51 to 150	< KD 500,000	Less than KD 1,500,000

Source: Kuwait National Fund

Globally, SMEs are a key part of the private sector and the wider economy with SMEs responsible for more than 45% of global GDP. In Kuwait, the SME contribution to GDP is lower at around 12% for 2018². This is likely because of the outsized role of the Kuwait public sector in the heavily hydrocarbon based economy. As Kuwait embarks on an ambitious plan to reduce the dependency on hydrocarbons over the next few decades, the government has been making efforts to build the non-hydrocarbon economy. Nurturing and supporting SMEs to enhance private sector role in the economy, and to create jobs for its burgeoning workforce is a key part of the strategy.

Figure 3.7: SMEs contribution to GDP



Source: Government authorities, World Bank, Statista, National Transformation Program (Saudi), Marmore Research

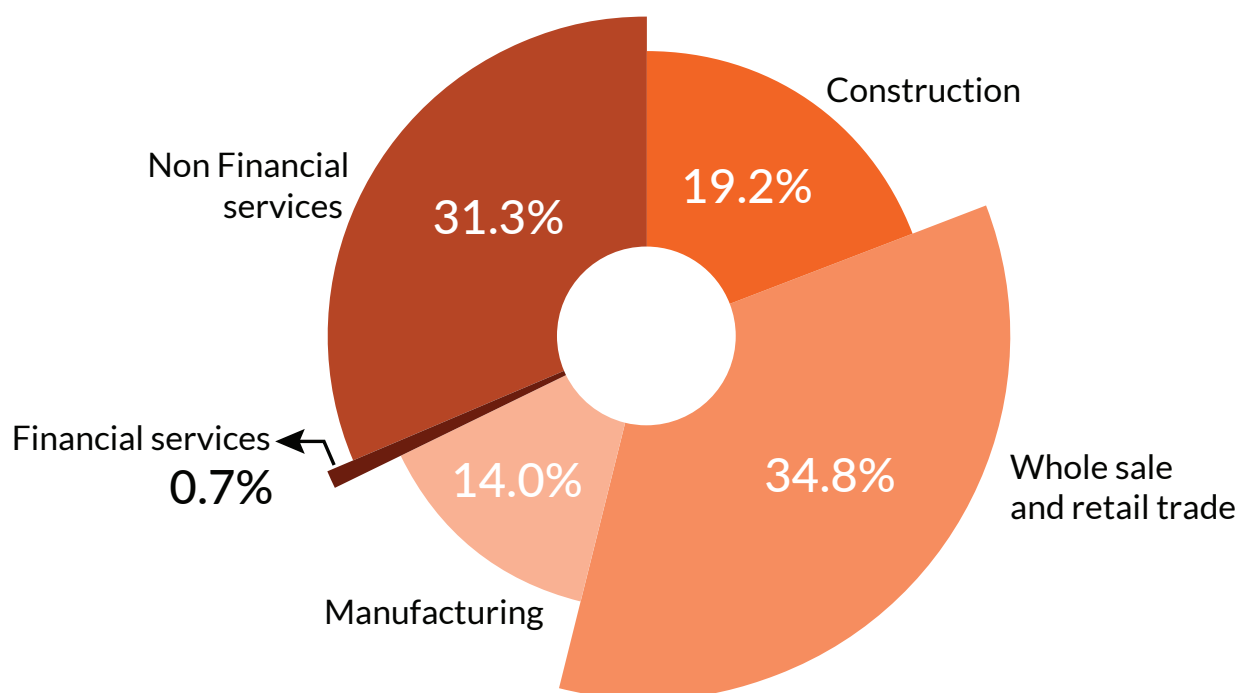
² Marmore Estimates based on Kuwait CSB's Annual Establishment Survey

In 2013, Kuwait National Fund (KNF) was instituted to address funding requirements of the SMEs. The fund finances up to 80% of the capital for feasible SME projects submitted by Kuwait nationals. From 2016 through approximately the end of 2019, KNF funded around 1,035 SMEs, at a cumulative cost of KD 177million, according to the Public Authority for Industry (PAI).

A range of challenges confronts SMEs in Kuwait. According to a survey of tech start-ups, 59% had stated securing funding to be a challenge³. Bank loans to SME stood at 4.7% of overall lending in 2019⁴. In comparison, construction sector enjoys better funding from banks in spite of only a 3% contribution to GDP. In OECD countries, SME lending constitutes about 30% of the overall lending. Navigating the regulatory framework, access to local talent and employee retention, additional support in terms of mentoring are a few other issues faced by them. Central Bank of Kuwait's financial stability report (2019) also states that operational and structural issues have continued to weigh on their potential growth.

According to data from the Central Statistical Bureau, a significant percentage of SME businesses are in low margin industries like wholesale and retail trading (35%), and construction (19.2%). SMEs in these sectors are vulnerable to economic shocks like recessions.

Figure 3.8: SME Activity split by Sector



Source: Central Statistical Bureau, Annual Establishment Survey, 2018; Latest Available Data

³ Arabnet, 2018

⁴ Financial Stability Report, Central Bank of Kuwait, 2019

Project Spending

Kuwait awarded KD 3.3billion of major project contracts in 2019 and KD 4.1billion in 2020⁵. The value of awards in 2020 is expected to be just be 47% of the level of awards seen in 2015. This translates to lower investment spending in Kuwait, making it difficult for businesses to operate in the projects market. There are currently 13 mega projects, valued at KD 23.63bn in different stages of execution in Kuwait. Major projects scheduled for FY 2021/22 have been allocated a budget KD 795mn for the financial year.

Table 3.2: Current Mega Projects⁶

Sector	Value (KD bn)	Status			
		Underway	Completed	Planning	On-hold
Housing	2.93	2	-	-	-
Oil and Gas	11.62	3	1	1	-
Power and Water	1.78	1	-	2	1
Transport	7.3	1	-	1	-

Source: NBK

Table 3.3: Scheduled CAPEX projects for FY 2021/22 (KD million)

Project	Entity	Budget (for FY22)
Airport Expansion: T2 Passenger Terminal	MPW	360.0
Salem Al-Ali Military Camp	Kuwait National Guard	86.6
New Maternity Hospital	MPW	74.0
New Justice Building	Amiri Diwan	54.4
Umm Al-Hayman Sewage Plant Project Expansion	MPW	50.0
The development of the eastern runway at Kuwait International Airport	Civil Aviation	40.0
New buildings in Farwaniya Hospital	MOH	40.0
New buildings at Al-Adan Hospital	MOH	30.0
Development of Al-Abdali Highway	MPW	30.0
Roads, bridges, rain drainage, sanitation, and other services for Cairo Street	MPW	30.0

Source: Ministry of Finance Budget 2021/22

⁵ RSM Global

⁶ Project details presented in Appendix

In Kuwait, from FY2011-2020, about KD 29.8billion (USD 98.6billion) was spent on projects related to Vision 2035⁷. Though measures such as asset swaps, halting of mandatory transfer to Future Generations Fund were undertaken to support Kuwait's liquidity position, the lower oil price environment and delay in passage of debt law might affect capital spending. Given its importance in diversification into non-oil sectors, the need for private investment in capital expenditure is essential.

Role of Public Procurement

Against the background of increasing expenditure and deficit, project landscape and role of SME's, the government's procurement process comprising of acquisition of goods, services and infrastructure works assumes importance. In the context of diversifying away from non-oil economy, public procurement would act as an effective tool to encourage growth of private sector and SMEs by triggering market demand for goods and services.

Public procurement as a policy tool to promote the development of Small and Medium scale Enterprises (SMEs) is well recognized in the developed markets. For instance, according to a study by the European Commission from 2011-17, the percentage of public procurement contracts won by SMEs in Europe grew from 58% in 2011 to 65% in 2017, on the back of measures taken to improve the public procurement process⁸. According to a study, in the case of developing markets, winning at least one contract in a given quarter increases firm growth by 2.2 percentage points over that quarter, with 93% of the new hires coming from either unemployment or the informal sector⁹.

Dubai's government entities are required to source 10% of purchase from SMEs while Saudi Arabia allows preference for SME in its government tenders. Kuwait offers conditional preference to SMEs. Additionally, Kuwait's public procurement policy mandates that a foreign contractor is obliged to purchase no less than 30% of its contractual requirements from the local market or from local suppliers. Public procurement would ensure sustained demand for their services, promote their development, increase national competitiveness and help achieve other policy objectives such as self-reliance, innovation and jobs growth.

Globally, public procurement (including goods, services and infrastructure works) represents 12% of GDP at about USD 11trillion spend¹⁰. This varies across countries, ranging as high as 25% in Switzerland and 20% in Netherlands¹¹. By improving efficiency of procurement spend, countries across the world have achieved cost savings and reduced deficit. Public procurement spend has been instrumental in realizing larger government objectives such as generating employment opportunities, improving domestic production, enhancing private sector participation and scaling up SMEs.

⁷ Supreme Council for Planning and Development

⁸ Analysis of the SMEs' participation in public procurement and the measures to support it, European Commission

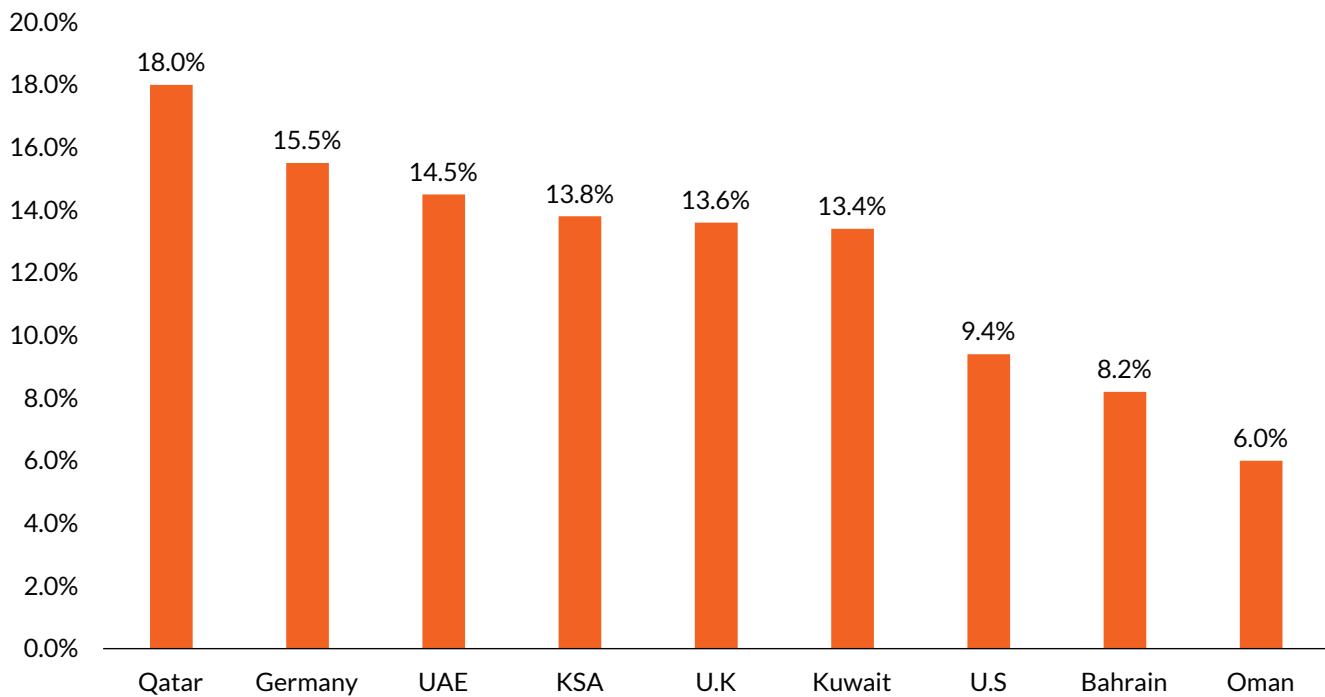
⁹ Procuring Firm Growth: The Effects of Government Purchases on Firm Dynamics, 2016

¹⁰ World Bank, 2018

¹¹ World Bank, 2018

Kuwait's public procurement spend (including goods and services and capital expenditure) constitutes about 26% of its total expenditure and equals 13.4% of its GDP¹². Given the large size of public procurement in Kuwait and the government's constrained spending ability because of volatile oil prices, increasing efficiency in procurement and leveraging avenues like Public-Private Partnership (PPP) programs could multiply economic benefits of public procurement in terms of faster growth of non-oil sectors and creation of jobs through improved private sector and SME participation¹³.

Figure 3.9: Public Procurement as % of GDP



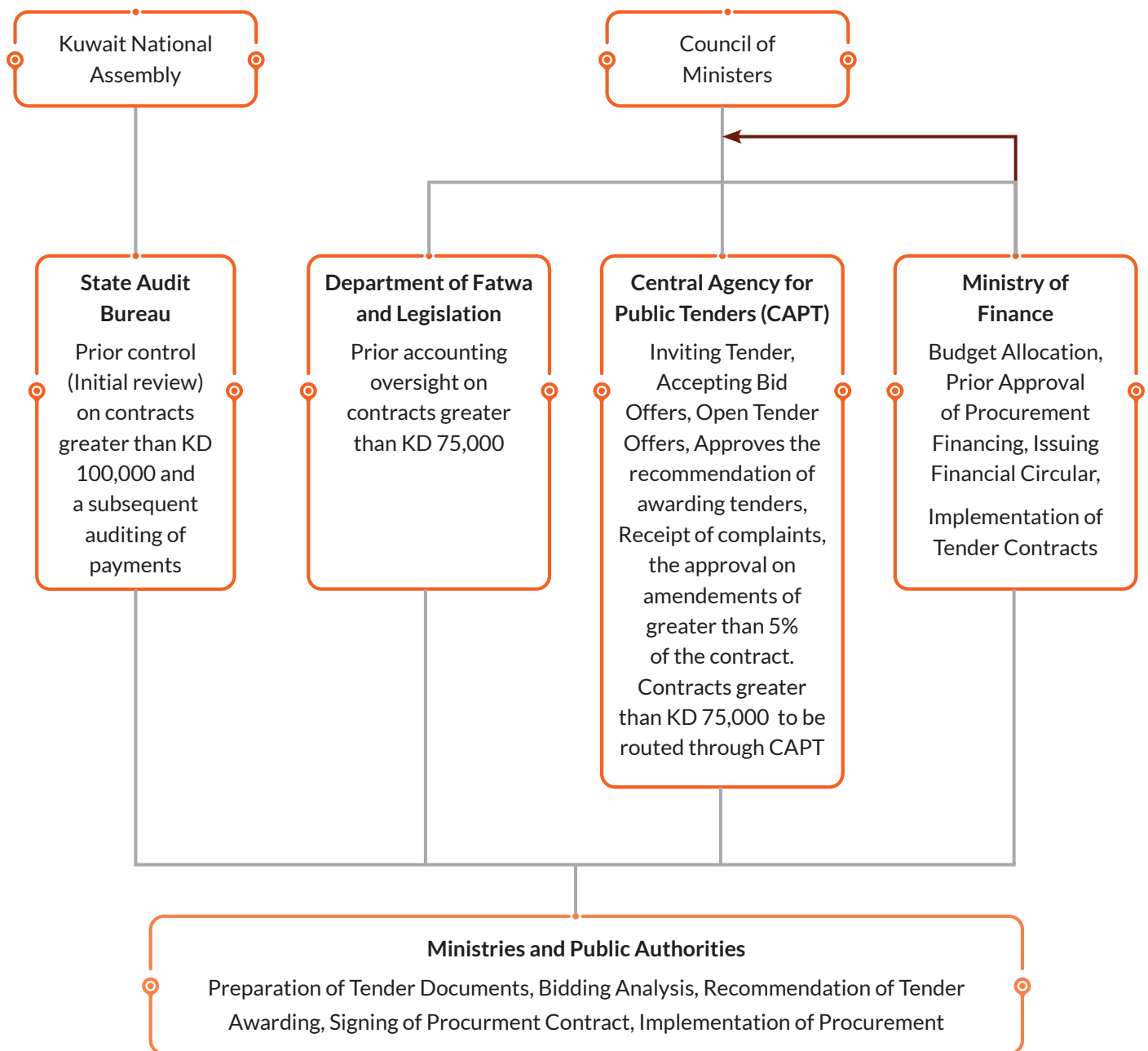
Source: Ministry of Finance, CSB, Open Contracting Partnership; Latest Available Data

¹² Ministry of Finance (MoF), Central Statistical Bureau; Data as of FY 2019/20; Non-current assets considered to be capital expenditure; Based on expenditure of ministries in MoF's final accounts

¹³ IMF

Procurement System in Kuwait

Figure 3.10: Public Procurement System in Kuwait



Source: Sustainable Public Procurement in Kuwait Public Sector, UAE University

The Public Tenders law is applied on the following entities:

Table 3.4: Entities that fall under purview of Public Tenders Law

Ministry	Ministry	Companies	Authority	Government Institutions	Government Departments
Ministry of Information	General Secretariat of the Supreme Council for Planning and Development	KPC and its subsidiaries	Public Authority for Minors Affairs	National Guard Club	Central Agency for Public Tenders
Ministry of Education			Kuwait Investment Authority	Public Authority for Housing Welfare	Kuwait Municipality
Ministry of Interior			Environment Public Authority	Kuwait Credit Bank	Expropriation for Public Welfare Department
Ministry of Health			The Public Authority for Applied Education and Training	Central Bank of Kuwait	
Ministry of Finance			Public Authority for Sport	Zakat House	
Ministry of Justice			Public Authority for Industry		
Ministry of Defense			PACI		
Ministry of Commerce & Industry			Capital Markets Authority		
Ministry of Public Works			KAPP		
Ministry of Awqaf and Islamic Affairs					

The private sector does not follow CAPTs' laws and can work directly with any entity. However, they can announce for tenders on their website and mention their way of evaluating.

Steps to increase SME Participation and Current Challenges

In 2019, a new law was introduced (74), where certain changes were made to encourage SME participation. The priority in evaluating proposals is provided to SMEs that are registered in the National Fund SMEs list. In addition, a representation from SME joins the CAPT committee members in evaluating the projects. The law also exempted SME from payments that they may incur to purchase the tender document. The aim of this change is to provide increased opportunities to SMEs in order to build their business and reputation.

SMEs constitute large proportion of enterprises but only a small portion of them acts as suppliers to government projects. There are several barriers for SME participation in public procurement due to their small scale of operations, low administrative capacity, and constrained financial and technical capabilities. Additionally, inadequate opportunities for buyer-seller interactions in the form of events and exhibitions; time, cost and effort required for tendering process hinders SMEs from actively participating in public procurement process.

Some measures that are currently in progress to improve SME participation are Kuwait Industries Union's platform to showcase local companies' products and Kuwait Economic Society's plans to coordinate with CAPT on introduction of platform for direct purchases (values less than KD75,000) that would encourage SME participation.

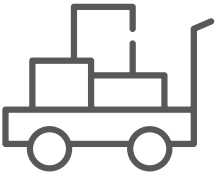
Table 3.5: Gap Analysis of Kuwait's Public Procurement

Areas	Status
Needs Assessment, Call for Tender, and Bid Preparation	» No consultation between procuring entity and private sector for needs assessment.
	» No internal market analysis guidelines during market research phase.
	» No time frame in place for procuring entity to address bidders' queries.
Bid Opening, Evaluation, and Award	» Unsuccessful bidders are not notified and debriefed.
Content and Management of Procurement Contract	» Purchasing entity does not have the obligation to inform the other bidders about any post-award contract variations.
Performance Guarantee	» There is no centralized institution that can consider cases of waivers for special cases in terms of payment of performance guarantees (like SMEs).
Payment of Suppliers	» No minimum timeframe for the purchasing entity to process payment.

Source: World Bank – Ease of Doing Business Report 2020

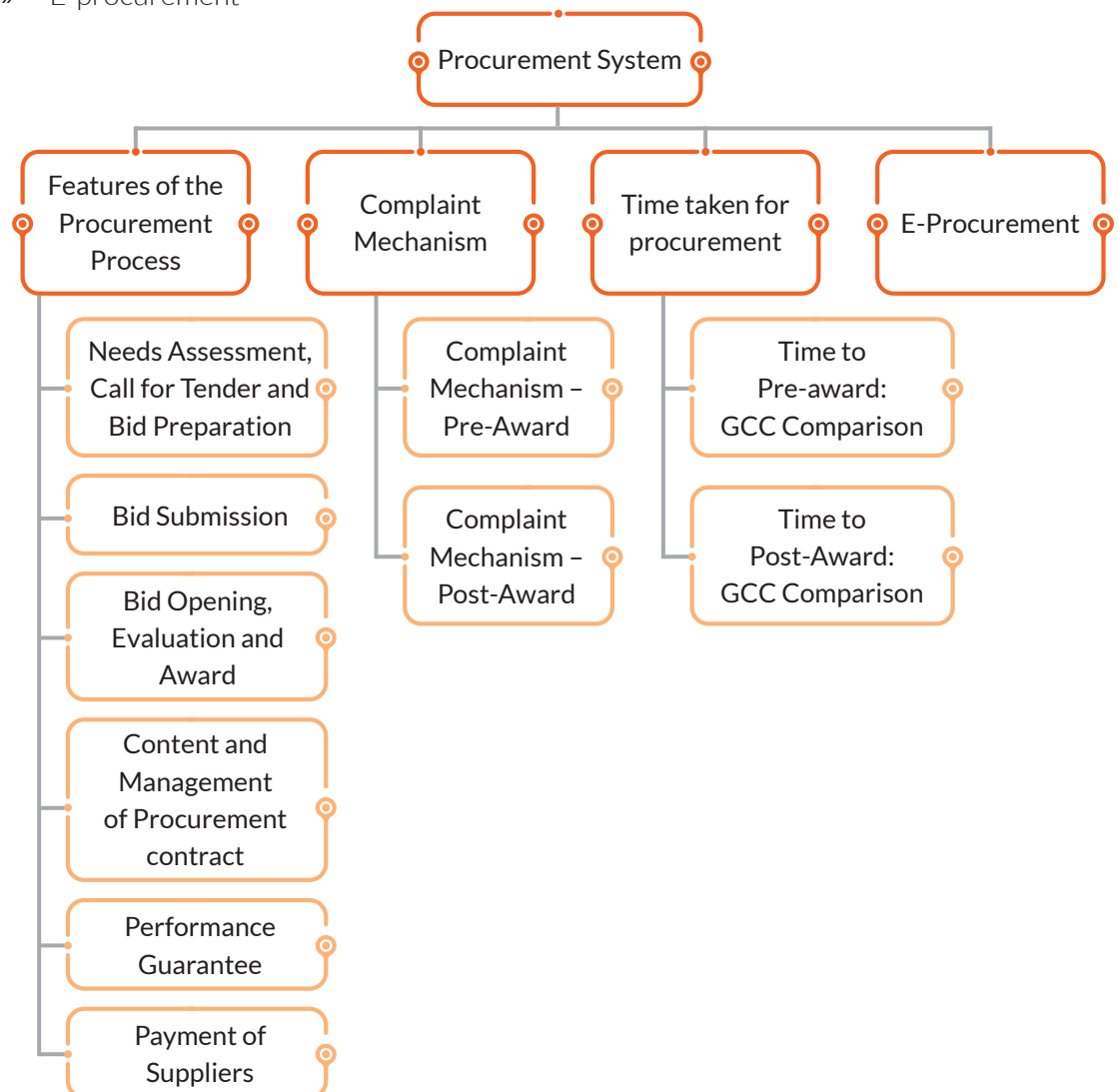
Section 4

GCC Country Comparison of Procurement Process



Countries around the world adopt different procurement systems and practices. These vary in terms of their efficiency, transparency and credibility. An analysis of the performance of Kuwait and its GCC peers across various aspects of procurement and how top performers have fared offers insight into the current status and the road ahead for Kuwait's public procurement system. The comparison is across four broad pillars:

- » Features of the procurement process,
- » Complaint mechanism,
- » Time taken for procurement and
- » E-procurement¹⁴



Source: World Bank, Marmore Research

¹⁴ Based on World Bank's Assessment - Benchmarking Public Procurement, 2017; Doing Business, 2020

A. Shortfalls in Kuwait Procurement Process- A GCC Comparison

This section provides data and analysis for Kuwait vis-à-vis other GCC countries regarding public procurement environment that affect the ability of private sector companies to do business with the governments in these countries. The report draws on comparable data across two thematic pillars: the procurement process, from the assessment of needs to the implementation of the procurement contract; and public procurement complaint review mechanisms. The data is taken from a World Bank Report Benchmarking Public Procurement by World Bank that builds on the World Bank Group Doing Business methodology.

The data reveal the magnitude of the challenge that Kuwait together with other GCC countries face in establishing legal and regulatory environments that enhance efficient and transparent public procurement markets.

The public procurement indicators that are provided here will generate measures that can help support national priorities and help the economy to strengthen its procurement systems and ultimately achieve sustainable development results. The data will also help the economy to promote private sector competition by taking cognizance of the constraints to competition in public procurement. These indicators measure aspects that are relevant to improving the ease with which companies can do business with governments: access to electronic procurement, bid security, payment delays, incentives for small and medium-size enterprises and complaint mechanisms.

i. Needs Assessment, Call for Tender and Preparation of Bid

Needs assessment through consultations between the procuring entity and the potential suppliers plays an important role for identifying, defining and specifying the procurements needs in a complete manner and hence this is the first major step in the procurement process. Internal market analysis guidelines during the market research phase by the government procurement agency will help hit the nail on the head for needs identification and is therefore the next import element in this step. Open tendering the next element becomes important for fostering wider participation in the bidding and fostering healthy competition that will ensure efficiencies in procurement.

Informing the bidders at the bid calling stage about aspects like technical and financial qualifications, grounds for exclusion of bidders, amount and form of bid security, criteria against which bids will be evaluated, methods that will be used to assess bids, main terms and conditions of the contract, payment schedule under the procurement contract all go long way in informing the suppliers fully about the bid and the transparency can boost wider bid participation, seriousness of the bids, completeness and accuracy of the bids and confidence in the fairness of the procurement entity. Possibility of bidders to ask questions, time frame within which questions will answered, and sharing answers to questions of other bidders to all the bidders will also make the bidders to better prepare the bids and understand the nuances of the contract by all the bidders. Accessibility of tenders free of cost is important for wider participation in bidding and better competition with the attendant price and efficiency benefits.

Unlike many other less developed countries Kuwait and other GCC countries have established on-line portal dedicated to public procurement that are not interactive but provide information access. This helps reduce disparities in information or information asymmetries that may give some parties an unfair advantage, though the amount of information published on these portals differs across the countries.

In this stage of Procurement process, Kuwait ranks second to Bahrain within the GCC but is well behind Russia and United States. Unlike Kuwait, U.S. & Russia provide for consultations between procuring entity and private sector for needs assessment (which no doubt requires a greater level of understanding and maturity with both the procurer and supplier in addressing the procurement needs). Russia and U.S. also provide internal market analysis guidelines during market research phase. Also, Kuwait unlike Russia, U.S. and Bahrain does not provide a time frame for procuring entity to address bidders' questions. On all aspects Kuwait's procurement systems in this category are better compared to those of Saudi Arabia, UAE, Qatar and Oman.

ii. Bid Submission

The first indicator relevant in this step is the requirement of the suppliers to register with the government. This is recommended as some basic requirements or compliances by the suppliers about participation in government procurement can be verified at this stage making the subsequent bid processing easier and faster. The next factor is allowing foreign firms to participate in the bidding as it can enhance competition in the bidding process both about scope and price and also facilitate state of the art technologies and practices into the country from firms originating from developed countries. Benefits to local firms can be ensured by stipulating foreign firms to engage local firms in subcontracting wherever feasible. Next is the stipulation of a minimum time for bid submission that will ensure greater efficiency and due diligence.

Method of submission is a very important element next in the Bid Submission process. Allowing submission of bids in electronic form will result in lower transaction costs for bidders. Permission to submit offers via e-mail or through an electronic platform also prevents bids from not getting lost in transit, which may occur when they are sent by say courier. The electronic means will also help save in transportation and shipping costs for bidders since the bidder does not need to be personally travelling to present their offers at the procuring entity's office or send them by regular mail. However, the submission of bids through electronic means may vary depending on what is being procured. For example, in Chile, the electronic submission of bids is the norm for the procurement of goods but not for the procurement of projects. In 13 economies, including Canada, Iceland, Togo, and Uruguay, the only electronic channel available for bidders to submit their bids is via e-mail. In Brazil, Estonia, Indonesia, Kyrgyz Republic, and 52 other economies, the electronic bid submission can be carried only via an electronic platform and not by email.

Next is the matter of Bid Security. A bidding entity is often required to provide bid security, either in the form of cash deposit or a bank or insurance guarantee. The purpose behind bid security deposits is to see that genuineness or seriousness of the offer. They penalize and hence ensure that bidders do not withdraw their bids from the

procurement process in an untimely manner. The government procuring entity holds the security deposit until the procurement contract is signed, after which all deposits are returned to the bidders. Bid security thus helps avoid the unnecessary use of resources by the government procuring entity. The indicators in this category of regulatory norms assess the legal framework for bid security, the amount and the time for the procuring entity to return the deposit. However, for bid security to fulfil its purpose and not act as a deterrent to companies it should be regulated and should be of a reasonable amount. A bid security that is too high can prohibit companies with limited resources from participating in the public procurement tenders bidding. To prevent this from occurring the maximum amount that procuring entities can request as bid security should not be left to their discretion. It should be regulated by law to prevent excessive amounts being stipulated and guarantee equal treatment. The timeframe for purchasing entities to return a deposit, as well as the decision to cash it, should also be regulated. Most economies have bid security and performance guarantee requirements, but they do not always regulate them.

Kuwait scores well in this process and is better than all the GCC countries except for UAE, which is on equal footing. Kuwait provides registration of suppliers with government like in the case of UAE. It also permits foreign firms to bid which is the case across entire GCC. However, unlike UAE, Kuwait does not have a minimum time for bid submission. While Kuwait offers the flexibility to provide a Bank Guarantee or Insurance guarantee, it has the draw back that it does not have electronic or email submission of the Bids by the suppliers unlike UAE, which allows Email/ electronic submission. Further, in Kuwait there is no standard as to the size of Bid Security and is left to the discretion of the government procuring entity.

Further Kuwait though among the best among the GCC countries, falls short of economies like Singapore that have no requirement of Bid Security. Doing away with bid security could aid SMEs to actively bid for various procurement projects.

Bid Opening, Evaluation and Reward

Transparency and integrity of the Procurement process is a key pillar of the modern national procurement systems and hence publicly disclosed bid opening sessions are a step in this direction. In addition, transparency of the evaluation criteria namely price and other qualitative elements for bid awards is essential for a recommended procurement process to be perfect. Such procedures instil the required confidence in the fairness of the bid calling and evaluating process. Another important aspect of the process is the feedback to the unsuccessful bidders that will reinforce the fairness of the process as well as provide a mechanism for the future bidding to be on improved levels of competitiveness given that the unsuccessful bidders become aware of their weaknesses and drawbacks that will guide them provide better bids in the future procurement opportunities. Model contracts with standard clauses when adopted in the bidding process again go a long way in providing equal opportunity to the smaller bidders like the SMEs who are relatively less experienced in the public procurement process and who cannot deploy exhaustive and expensive human and soft resources in the preparation and submission of the bids.

Kuwaiti Public Procurement process can introduce more improvements in this part of the procurement process as its practices are behind UAE and Oman and comparable to that of Qatar. CAPT in Kuwait allows electronic opening of bids at least in some instances as is the case with UAE and Oman. It allows bidders or their representatives to be present at the time of bid opening to provide for greater level of transparency in the procurement process. Like UAE, it should also introduce the practice of sending minutes of the opening session at least electronically to all the bidders that will give a boost to the fairness and transparency of the procurement process. Similarly, like UAE and Oman it should have a practice of communicating the tender results to the unsuccessful bidders, as feedback is an important element for enhancing the overall competitiveness of the bidding process at least in the future. Kuwait scores over UAE in providing a model contract with standard clauses. It also scores over Oman in providing unsuccessful bidders an opportunity to obtain feedback on reasons for not winning, though automatic feedback without a request would be more recommendable.

iii. Content and management of procurement contract

First in this stage is whether the winning bidders can sign the procurement contract through an online platform, which is possible only in case the country adopts an advanced e procurement system. If permitted this will ease the process of contract execution considerably and save expenses required for this purpose. Next is the matter of renegotiation of contract terms whether it is the price, timeframe for delivery or financial aspects once the procurement contract is awarded and before it is signed. Renegotiation is not a desirable phenomenon and reflects a deficiency in procurement specification before the bids are called for. Renegotiation either due to design changes or other valid reasons generally result in an increase in price which is not desirable from a public good view point as well as from the perspective of competitors who were unsuccessful in the first stage. Third are the procedures to follow for contract variations once the contract is signed. It is equitable and fair if the purchasing entity has the obligation to inform post contract variations to other bidders and that too publish such variations, both of which if done will enhance the transparency of the process and credibility of the government procurer and will provide an opportunity for the unsuccessful bidders to contest the implications of the variations. Such a practice will also enforce discipline on the government procurer to keep the variations to the bare minimum considered essential and necessary.

The fourth factor is whether the procuring entity can unilaterally modify the contract during the implementation phase. This is of paramount importance for the trust of the suppliers in the government procurement process, prevention of government high handedness in procurement process and for a fair and just treatment of the suppliers by the sovereign. Next is the matter of spelling out the procedures clearly for the acceptance of completion of works that also is important for a fair and just administration of the procurement process. Last factor in this step is specific procedures for termination of the contract to be established, again a very important factor for instilling confidence of the suppliers or contractors that they will be provided a fair and just treatment in their contractual relationship with the all-powerful sovereign government procurement entity.

In the GCC, Kuwait ranks third in this process behind UAE and Oman and equal to that of Saudi Arabia. Kuwait has a positive feature of not allowing any renegotiation of the contract terms and features once it is awarded. It also specifies the specific procedures to follow for contract variations once the contract is signed. It also has specific procedures for acceptance of the completion of works. An area for improvement for Kuwait is to revisit its unilateral commitment to modify a contract during its implementation. This right does not exist in the case of UAE and will go a long way in boosting the confidence of the bidding entities that a fair and just treatment will be followed in the contract implementation. In addition, like Oman, Kuwait can also provide the basis for termination of the contract to be based exclusively on the procurement contract without the additional need to refer to its legal framework for enabling a simple, fair and easily understood dispute resolution mechanism. Kazakhstan scores high on this factor the highest for any economy and its strength lies in addition to what UAE is doing but also allowing winning bidder to sign the procurement contract through an online platform. In addition, it follows the practice of publishing all the contract variations that automatically takes care of informing all the bidders of post contract variations in addition to the various other stakeholders in the process.

iv. Performance Guarantee

The first factor for this is the requirement of the supplier to provide performance guarantee deposit that will be forfeited by the supplier in case they fail to complete the supply to the requirements and terms of the procurement contract. This is almost universal as it may be a means to protect the interests of the purchasing entity from failures due to supplier incapacity and incompetence. The next indicator is the amount of performance guarantee deposit that is required to be provided which is provided as a percentage of the contract value. The size of the guarantee must be fixed judiciously as a large amount will make several smaller and newer suppliers from participating in the bid while too small an amount will open the door to inefficient and incompetent suppliers to bid for the contract.

Next factor is whether the suppliers have a choice to exercise on the form of performance guarantee or if they are required to provide the performance strictly in the form specified by the government procurement entity. The forms of performance guarantee can therefore be in one or more forms based on the rule in this regard. Only one form of guarantee could close the doors to some of the potential suppliers who cannot meet the stipulated form of guarantee while flexibility will encourage a greater number of suppliers to participate in the bid making the bidding more competitive.

Thirdly, once the contract is successfully completed to the terms and conditions specified in the contract, the performance guarantee is required to be returned to the supplier. Countries differ in whether they have a specified time frame for returning the performance guarantee and the performance deposit and the actual time in which they return the deposit. Greater transparency in this regard will instil confidence among the suppliers of the fairness of the procurement process.

Lastly, countries differ in specifying the circumstances under which the government procurer collects the performance guarantee and retain the performance guarantee deposit. This again will speak of the transparency of the procurement process and instil confidence in the fairness of the process and bring in wider participation and enhanced competition. Lastly, some countries have a separate entity to oversee the decision to withhold the performance guarantee and this is seen as a measure to ensure just and fair implementation of the procurement contract.

A cross comparison with the GCC countries shows that Kuwait can improve its procurements process in seeking performance guarantee and it scores lower than Saudi Arabia and Qatar in this regard. Kuwait and all GCC countries require a performance guarantee to be furnished by the suppliers. All of them require the performance guarantee as a percentage of contract value. None of them provides any choice to the suppliers in the form of the performance guarantee, which is considered a restrictive practice that deprives some suppliers of the ability to participate. Kuwait though it does not provide any choice, it gives the flexibility to provide the guarantee in one of the three stipulated forms which is better than its other GCC partners. Kuwait also specifies a time frame for returning the guarantee like Saudi and Qatar. Kuwait also specifies the circumstances under which the guarantee will be withheld. However, Kuwait has no separate entity to oversee decision for guarantee withholding unlike Saudi Arabia and Qatar and can therefore work towards overcoming this deficiency. Bulgaria that scores very high on this step provides flexibility to the suppliers to decide on the form of the performance guarantee and it accepts Insurance guarantee which is far less burdensome compared to a cash deposit or performance bond. Kuwait can explore adopting some of these practices to ease the burden of performance guarantee in its procurement process.

Introducing measures that widens choice of performance guarantee instruments such as certified cheque, certificate of deposit, performance bonds, letter of credit and acceptance of insurance guarantee could thus provide flexibility to suppliers.

v. Payment of Suppliers

Receiving payments within the stipulated time is essential for efficient performance of businesses. Research has shown that delays in government payments have a direct impact, especially on SMEs, as they would be forced to increase borrowings to cover the shortage of cash and deal with stretched working capital cycle. Additionally, payment delays are found to be correlated with Transparency International's Corruption Perceptions Index (CPI)¹⁵. The average CPI is higher (indicating less corruption) in economies with shorter payment periods.

Under this aspect, Kuwait lags significantly when compared to its GCC peers. Facilitating payment through an online platform (UAE), providing a legal timeframe for payment and ensuring quicker payment (KSA) are some of the best practices implemented by its GCC peers. Provision of an easy, low cost, less bureaucratic and fair payment process is imperative for greater participation from private sector especially the SMEs.

¹⁵ World Bank

Table 4.1: Payment of Suppliers

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Supplier can request a payment online through an online platform	No	No	Yes	No	No	Yes
Legal timeframe for the purchasing entity to process payment	No timeframe	30	No time frame	No time frame	No time frame	No time frame
Time for supplier to actually receive payment (calendar days)	Between 31 and 90	Between 0 and 30	Between 0 and 30	Between 91 and 180	Between 91 and 181	Between 31 and 90
Interests and/or penalties payable in case of payment delays	No	N/A	No	No	Yes	Yes

B. Complaint Mechanism

A well-functioning complaint mechanism involves provision to register complaints and an impartial and timely redressal. A good complaint mechanism instils confidence in the suppliers while ensuring proper conduct by the procuring entity. Legal prescription on time taken to resolve complaints, assignment of the procuring entity as the first-tier review body and an independent review authority for second-tier review are some ways to ensure timely redressal.

Pre-Award Phase

Kuwait has a legal framework to address bidders' complaints. Complaints could be raised before the award stage. Table below gives the structure of the Complaints Mechanism across GCC.

Table 4.2: Structure of the Complaints Mechanisms

Structure of the Complaints Mechanism	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Existence of Legal framework on complaints mechanism	Yes	Yes	Yes	Yes	Yes	Yes
Description of complaints mechanism	Independent review body and court	Other	No second tier for pre-award	No pre-award	Other	Other
Choice of the authority before which filing a complaint	No	Yes	No	No	No	Yes

Source: Benchmarking Public Procurement Report 2017 by World Bank

First Tier Review

In Kuwait, no-cost complaint filing and absence of requirement to prove damage are positive aspects for its first-tier review. A comparison of First Tier Review across GCC is shown in Table below.

Table 4.3: First Tier Review

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
During pre-award stage, only actual bidders have standing to complaint	Yes	No	Yes	No pre-award	Yes	No
Process to complain same for actual and prospective bidders	N/A	No Data	N/A	No pre-award	N/A	Yes

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Complaining party has to prove damage in order to file a complaint	No	Yes	No	No pre-award	No	Yes
Cost to file a complaint before the first-tier review body (USD)*	No Cost	No Cost	No Cost	No pre-award	13	No Cost
Notification to the procuring entity if complaint filed before a court or an independent review body	No	N/A	Yes	No pre-award	Yes	No
If yes, timeframe (calendar days)	N/A	N/A	Simultaneously	No pre-award	Simultaneously	N/A
Filing of complaint leads to suspension	No	No	No	No pre-award	Upon request	No
Procuring entity required need to inform first-tier review body	No	N/A	Response to the Client and Relevant Documents	No pre-award	Response to the Client and Relevant Documents	No
Time for first-tier review body to render a decision (calendar days)	60	180	No data	No pre-award	53	30

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Legal time limit for first-tier review body to render decision	Yes	Yes	No	No pre-award	Yes	Yes
Remedies legally granted by the first-tier review body:	-	Overturn	-	No pre-award	Modification, damages, overturn	Modification, damages, overturn
First-tier review body decisions are published:	No	No	No	No pre-award	No	PE's bulletin board

Source: Benchmarking Public Procurement Report 2017 by World Bank

Second Tier Review

In Kuwait, low-cost complaint filing is positive aspect for its second-tier review. Kuwait has higher time limit to appeal the decision.

Table 4.4: Second Tier Review Process

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Legal framework stipulates conditions to appeal first-tier review body's decisions	Yes	Yes	No Second Tier	No pre-award	Yes	Yes
Time limit to appeal (calendar days)	60	60	No Second Tier	No pre-award	30	30

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Cost to appeal the decision before the second-tier review body (USD)*	35	No Cost	No Second Tier	No pre-award	130	No cost
Filing of complaint leads to suspension	Upon Request	No	No Second Tier	No pre-award	No	No
Time for the second-tier review body to render a decision (calendar days)	No Data	149	No Second Tier	No pre-award	60	548
Legal time limit for second-tier review body to render decision	No	No	No Second Tier	No pre-award	No	No
Remedies legally granted by the second-tier review body:	Damages; compensation; fees	-	No Second Tier	No pre-award	Modification, damages, overturn	Modification, damages, overturn
Second-tier review body decisions are published:	No	No	No Second Tier	No pre-award	No	No

Source: Benchmarking Public Procurement Report 2017 by World Bank

Post Award

The post award complaint process in Kuwait is similar to that in Saudi Arabia, Oman and Bahrain. UAE fares better than its peers by allowing a standstill period of 10 days after decision on bid award. This allows unsuccessful bidders an opportunity to contest an intended contract award decision before the actual notification of award.

Table 4.5: Post Award Complaint Mechanism

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Process to complain same than for pre-award complaints	Yes	Yes	Yes	No	Yes	Yes
Standstill period after contract award to allow filing of complaints	No	No	Yes	No	No	No
Standstill time period (calendar days)	N/A	N/A	10	N/A	N/A	N/A
Standstill period mandated in the legal framework	N/A	N/A	Yes	N/A	N/A	N/A

Source: *Benchmarking Public Procurement Report 2017 by World Bank*

C. Time Taken for Procurement

The time taken for each step in the procurement process is a good indicator of its efficiency. Kuwait takes shorter time than most of its GCC peers for contract award, next only to UAE. However, developed countries like Korea are reported to take as less as 161 days to award a contract¹⁶. Most time-consuming phase in Kuwait's process is the award phase, which spans from bid opening to notification of award.

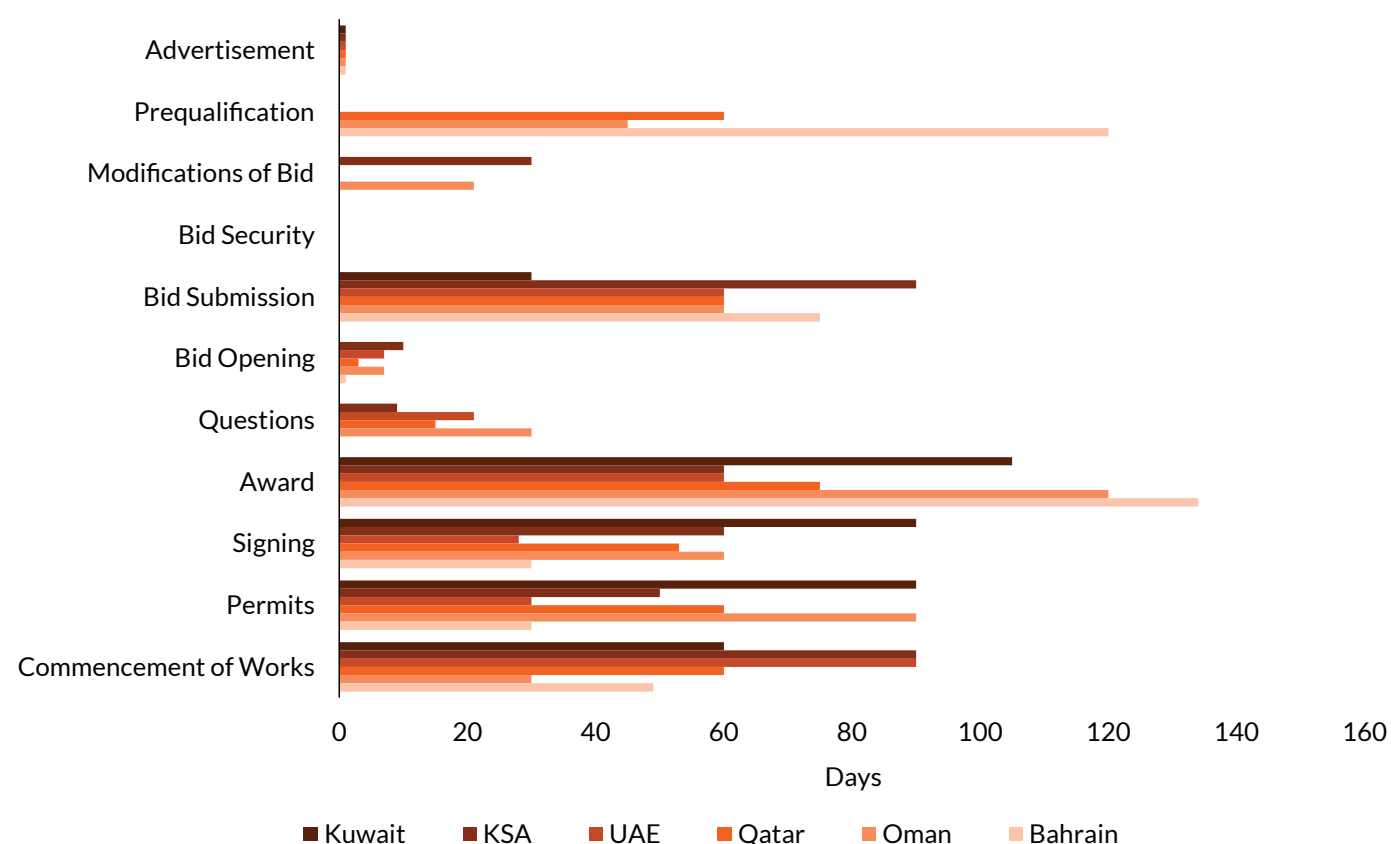
¹⁶ World Bank, *Doing Business 2020*

Table 4.6: Total Time Taken to complete a Procurement Process

(in days)	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
Time to Award a Contract	376	400	297	387	464	440
Post Bidding Contract Management time	420	425	315	435	510	255
Total	796	825	612	822	974	695

Source: World Bank's Doing Business 2020 Database

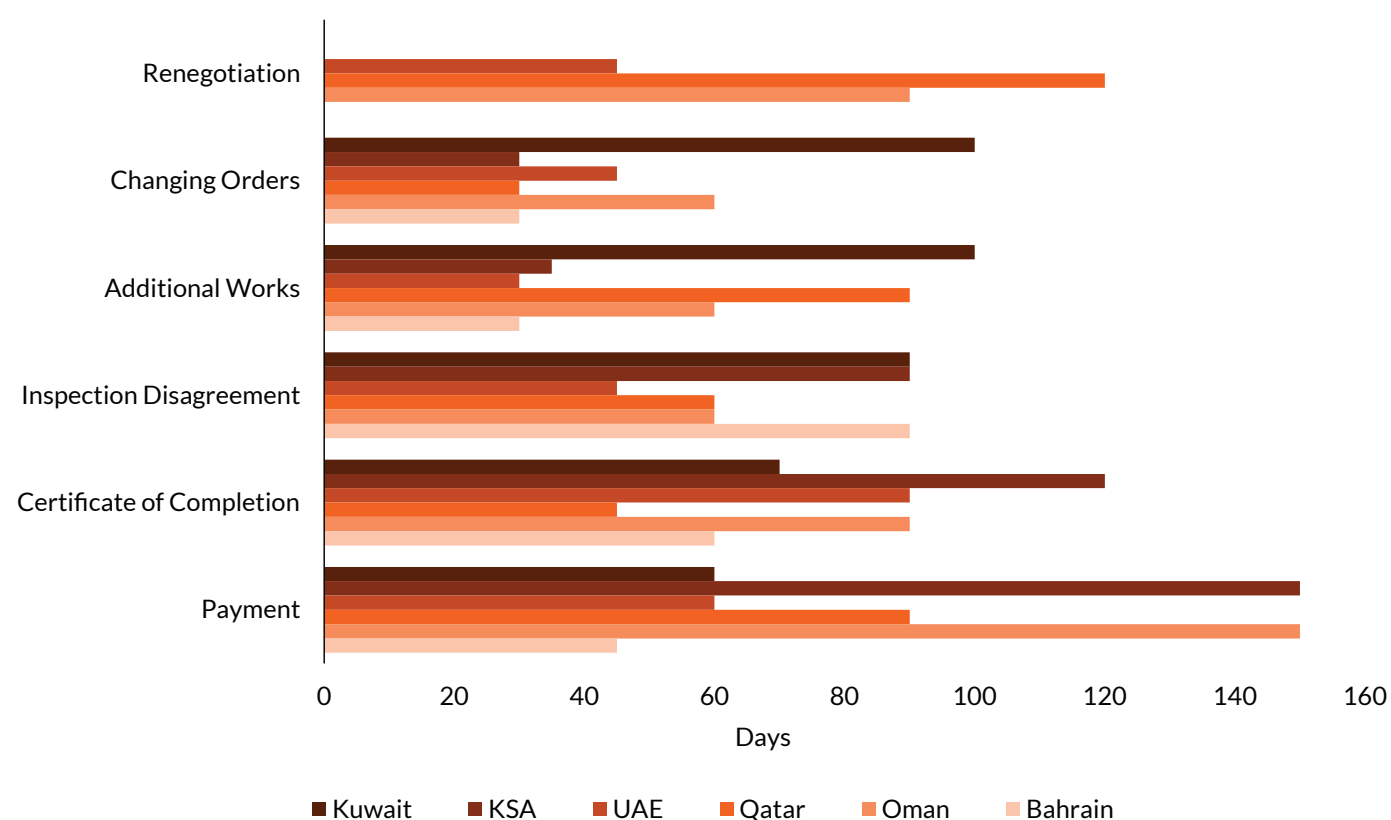
The Time to Award a contract by main activities is given in the Figure below. Kuwait is found to be behind UAE in the total time to award a contract. Kuwait lags UAE in award step (105 days versus 60 days in the case of UAE), Signing step (90 days versus 28 days), Permits step (90 days versus 30 days). However, Kuwait scores over UAE in the Bid Submission step (30 days versus 60 days) and commencement of works (60 days versus 90 days).

Figure 4.2: Time taken to award a contract in GCC countries


Source: World Bank's Doing Business 2020 Database

In post bidding contract management, considerable time is taken to approve additional works and changing orders due to specific procedure that need to be followed for contract variations in Kuwait. Additionally, time taken to resolve disagreements arising out of inspection is also in the higher range in Kuwait. Kuwait falls behind UAE and Bahrain in the post Bidding Contract Management Time. Kuwait is behind in time taken due to changes in orders (100 days versus 45 days for UAE and 30 days for Bahrain). Time for additional works is also high (100 days versus 30 days for UAE and Bahrain), Inspection disagreements (90 days versus 45 days for UAE), Certificate of Completion (70 days versus 60 days for Bahrain) and Payment (60 days versus 45 days for Bahrain)

Figure 4.3: Post Bidding Contract Management Time (Days)



Source: World Bank's Doing Business 2020 Database

D. e-Procurement

Adoption of e-procurement leads to substantial time savings of the order of 30% in the total procurement process time and consequent cost savings and makes the entire procurement process more efficient and competitive. A well-functioning e-procurement portal also facilitates participation of SMEs. There is increasing adoption of e-procurement with about 97% of the 180 economies analysed as a part of the World Bank's public procurement study have one or more online portals dedicated to public procurement¹⁷. Within GCC, though all countries host an e-procurement platform, the services offered are still rudimentary and are yet to encompass many essential parts of the procurement process.

¹⁷ Benchmarking Public Procurement, 2017

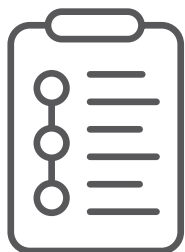
Table 4.7: Current Features of e-Procurement Platforms in GCC

	Kuwait	KSA	UAE	Qatar	Oman	Bahrain
E-procurement platform	https://capt.gov.kw	https://monafasat.etimad.sa/	https://www.rta.ae	http://www.ashgal.gov.qa/en/Tenders/Pages/default.aspx	https://etendering.tenderboard.gov.om/	https://etendering.tenderboard.gov.bh/
Usage of e-procurement platform	50%-75%	50%-75%	25%-50%	25%-50%	25%-50%	More than 75%
Usage: Accessing notices	Yes	Yes	No	No	Yes	Yes
Usage: Notifying decisions	Yes	No	No	No	No	No
Usage: Accessing award decisions	Yes	Yes	No	No	No	Yes

Source: World Bank's Doing Business 2020 Database

Section 5

Operational Strategy



The main goal of a public procurement system is to procure high quality goods and services while ensuring value for money and facilitating private sector growth. Operational strategies are implementable systems and processes designed to achieve the overall procurement goals while adhering to the key principles of transparency, integrity, equality, and competition. These include both technological/digital measures and non-technological measures. Kuwait's high level of digital adoption, with a 99.5% internet penetration and 99% social media penetration, is a favourable factor for implementing digital initiatives in procurement¹⁸. These strategies are aimed at maximizing efficiency of procurement and increasing participation of the private sector, particularly SMEs.

A. Enhancing e-procurement platform

The total time taken for bidding phase (from advertisement to commencement of works) is 375 days in Kuwait¹⁹. In comparison, of the 205 economies studied by World Bank on 'Contracting with the Government', Republic of Korea takes the least time to complete its bidding phase at 161 days²⁰. A quicker process would ensure better value for money, encourage higher private participation and improve bank lending for suppliers undertaking government projects. In general, it is estimated that digitalization of public procurement could yield benefits and savings up to 20 percent in cost and 80 percent in time²¹. A key enabler of Republic of Korea's quicker procurement cycle is its integrated e-procurement system KONEPS.

Kuwait's current e-procurement system is hosted by Central Agency for Public Tenders (CAPT). The system features consist of accessing notices and tender documentation, notifying decisions and accessing award decisions²². Of these, except the feature to access tender documentation, other e-procurement features are being used in more than 50% of the contracts²³.

¹⁸ World Bank, DataReportal

¹⁹ World Bank

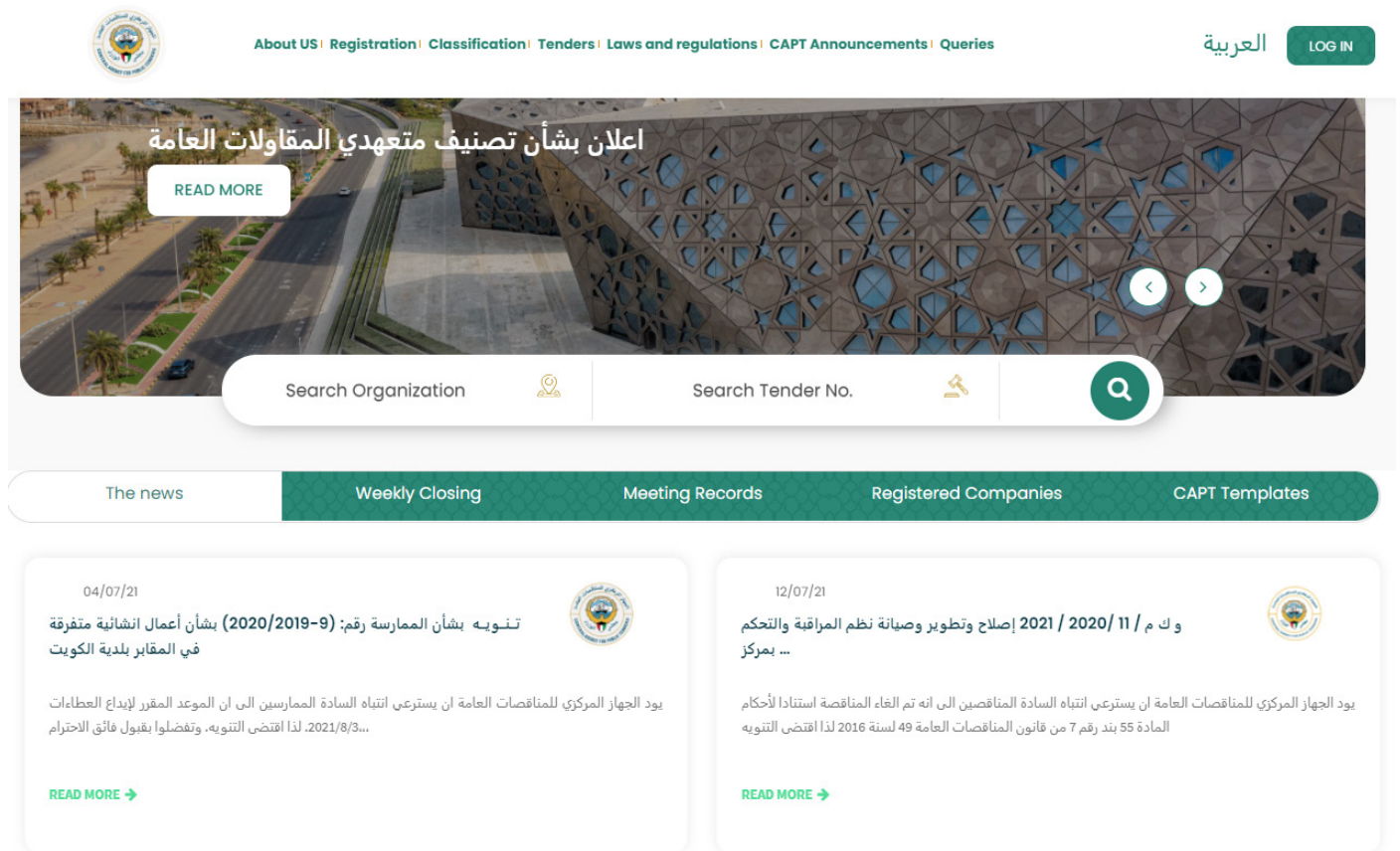
²⁰ Doing Business 2020, World Bank

²¹ World Bank

²² Doing Business 2020, World Bank

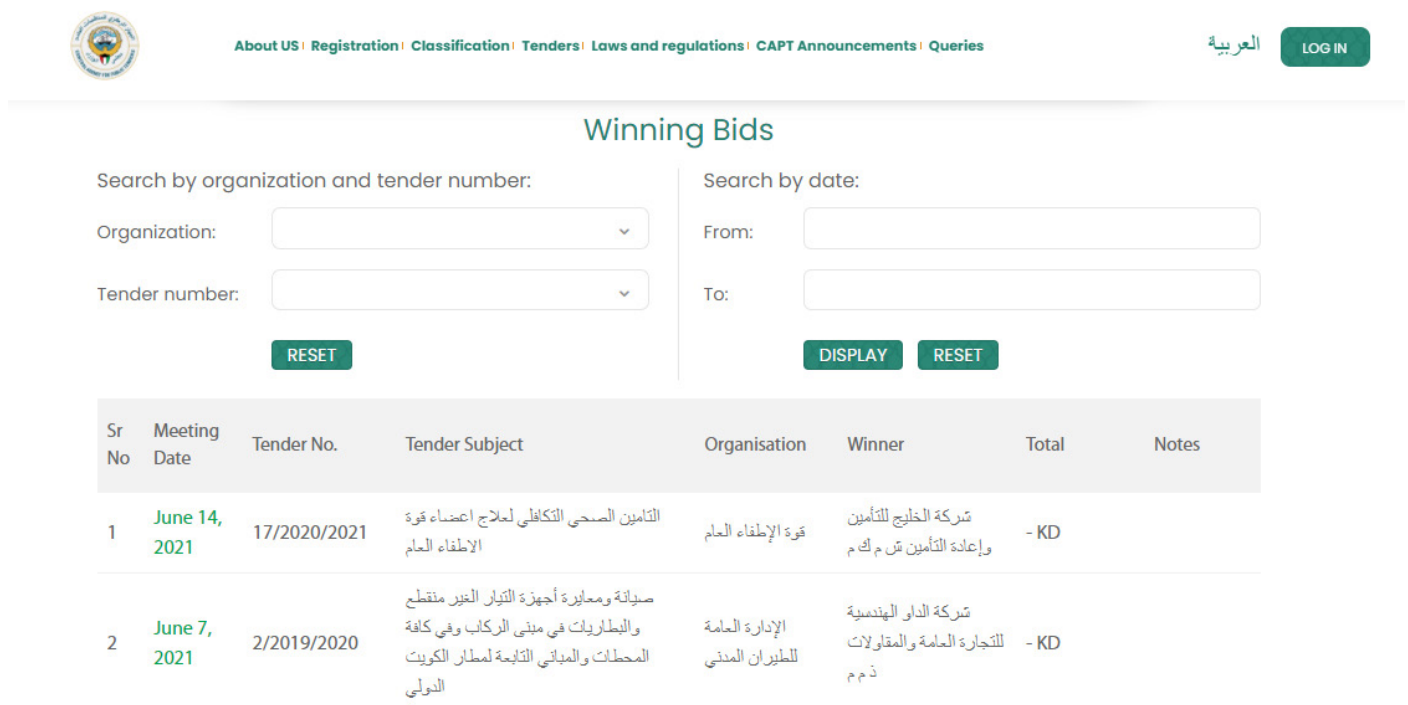
²³ World Bank

Figure 5.1: Kuwait's e-procurement system



Source: CAPT

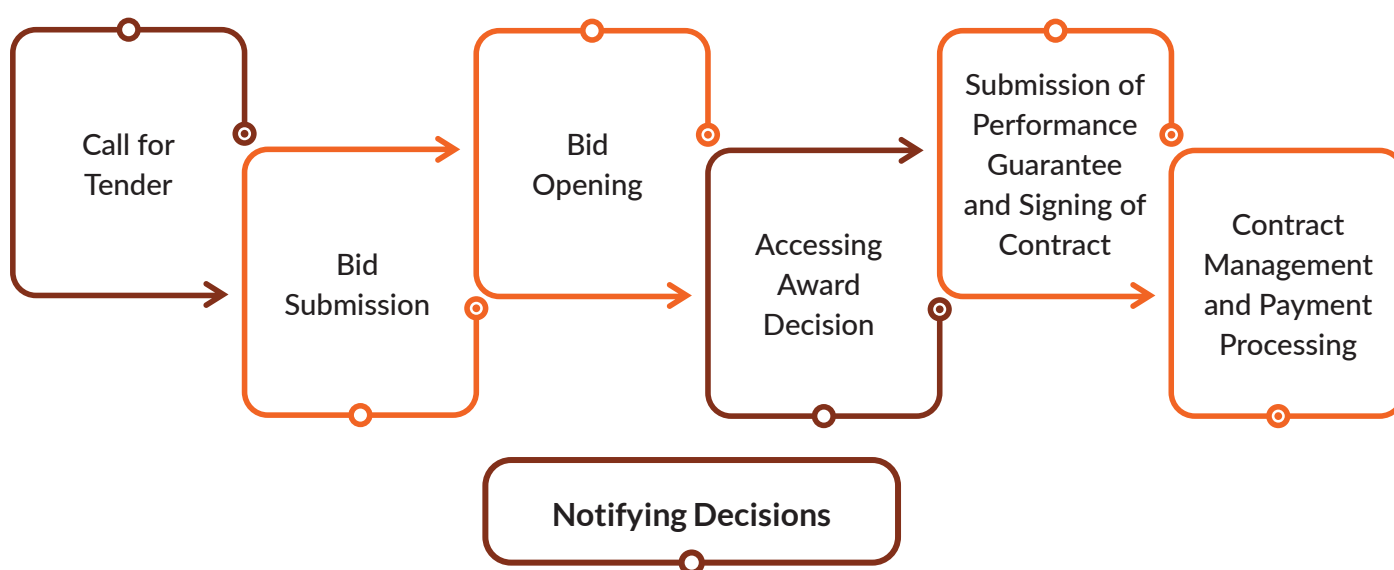
Figure 5.2: Details on Bid Awards in Kuwait's e-Procurement



Source: CAPT

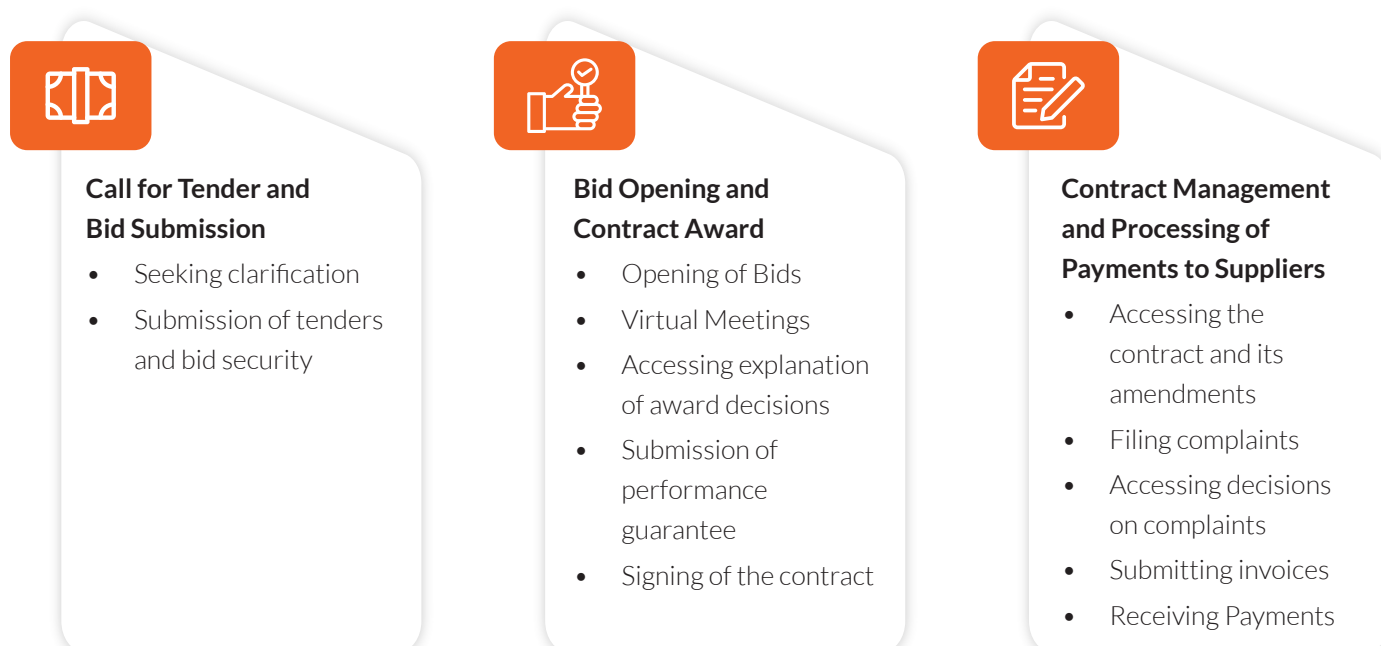
The complete benefit of an e-procurement platform could be attained through digitalization of the entire process chain. With some parts already digitized in Kuwait's procurement system, digitization of other steps would result in an e-procurement system that covers the full procurement cycle. This would make way for a transaction-oriented system from the current information-oriented system. e-procurement systems of Kuwait Oil Company and Kuwait National Petroleum Corporation provide additional features such as bid submission and could also be used as reference. Tenders less than KD 75,000 that need not be routed through CAPT could also be encouraged to make use of the available features of e-procurement system, to facilitate a single-point of reference.

Figure 5.3: Key Stages in Kuwait Public Procurement



Source: World Bank; Process steps in dark outlined box (maroon color) are currently available in e-procurement system

Figure 5.4: Features that are yet to be offered by Kuwait's e-procurement platform



Source: World Bank's Doing Business 2020 Database

Case Study: Korea ONline E-Procurement System (KONEPS), An integrated e-procurement system

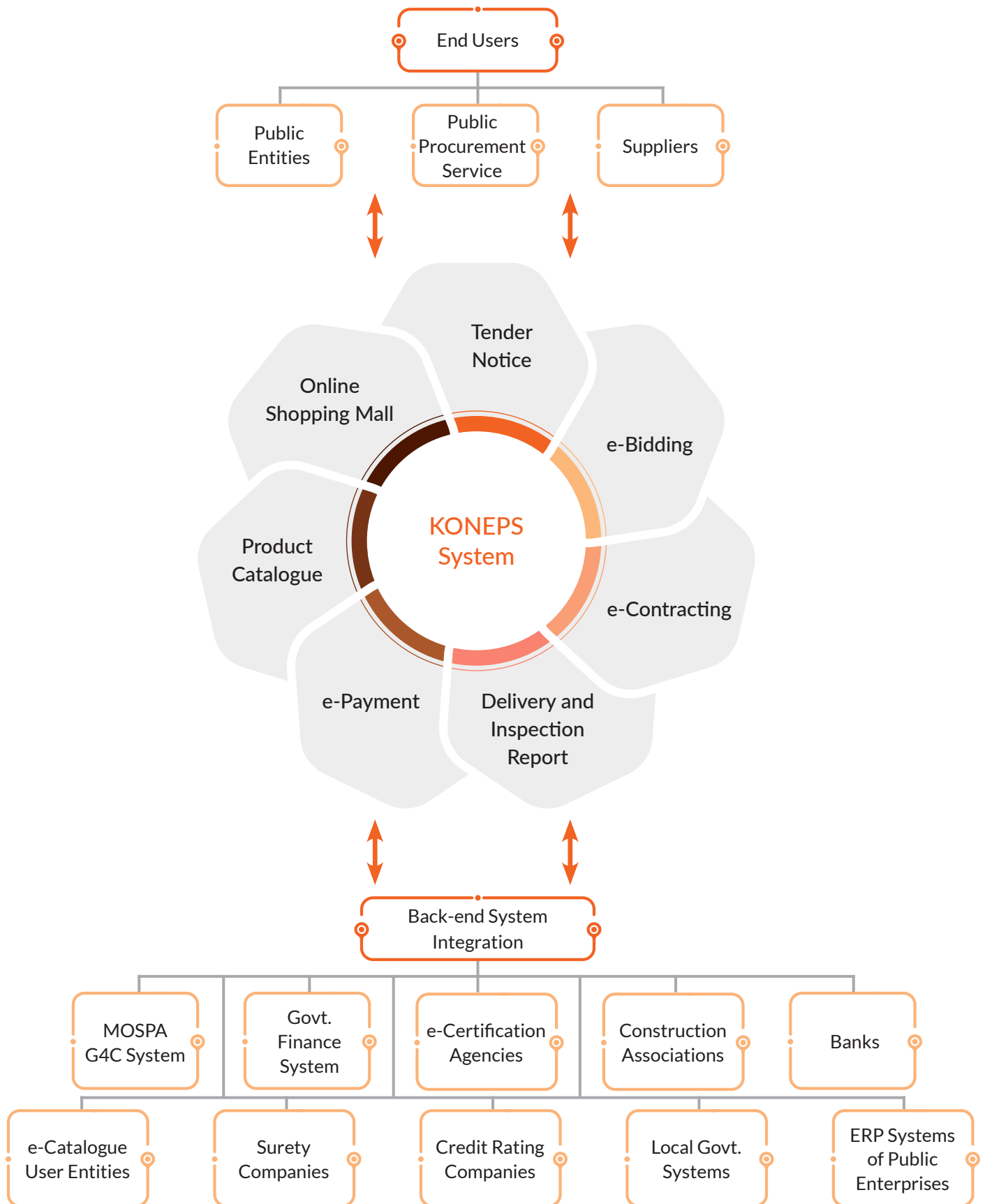
Korea ONline E-Procurement System (KONEPS) has enabled electronic processing of the entire procurement cycle. The system has reduced processing time, resulted in transaction cost savings of USD 8 billion annually and has facilitated award of 75.6% of total procurement volume to SMEs²⁴. KONEPS also aids in minimizing environmental impact through lesser in-person visits and paperless transactions.

Being a single window system, it had required coordination among multiple entities and a few changes to law such as compulsory posting of tender notice in KONEPS portal. However, while it had been implemented in 2002, smaller systems like e-bidding, electronic exchange of procurement documents had preceded the final integrated system. The system has also been continuously improved post its implementation. A similar phased, incremental approach to e-procurement system development could be followed in Kuwait, with each implementation improving public procurement. Korea has also been aiding other countries build e-procurement systems based on KONEPS.

A salient feature of the integrated system is its back-end linkage. For example, when a supplier registers with KONEPS, the supporting documents are automatically sourced from entities such as e-certification agencies, credit rating agencies etc. This saves supplier's time and effort. Such a linkage would do away with redundancies in Kuwait's system such as registration of companies in the importers list of each procuring entity for buying their tender documents for tenders between KD 3,000-5,000 and resolve issues such as bidders losing out on an opportunity because of not being registered in the importers list of a particular entity.

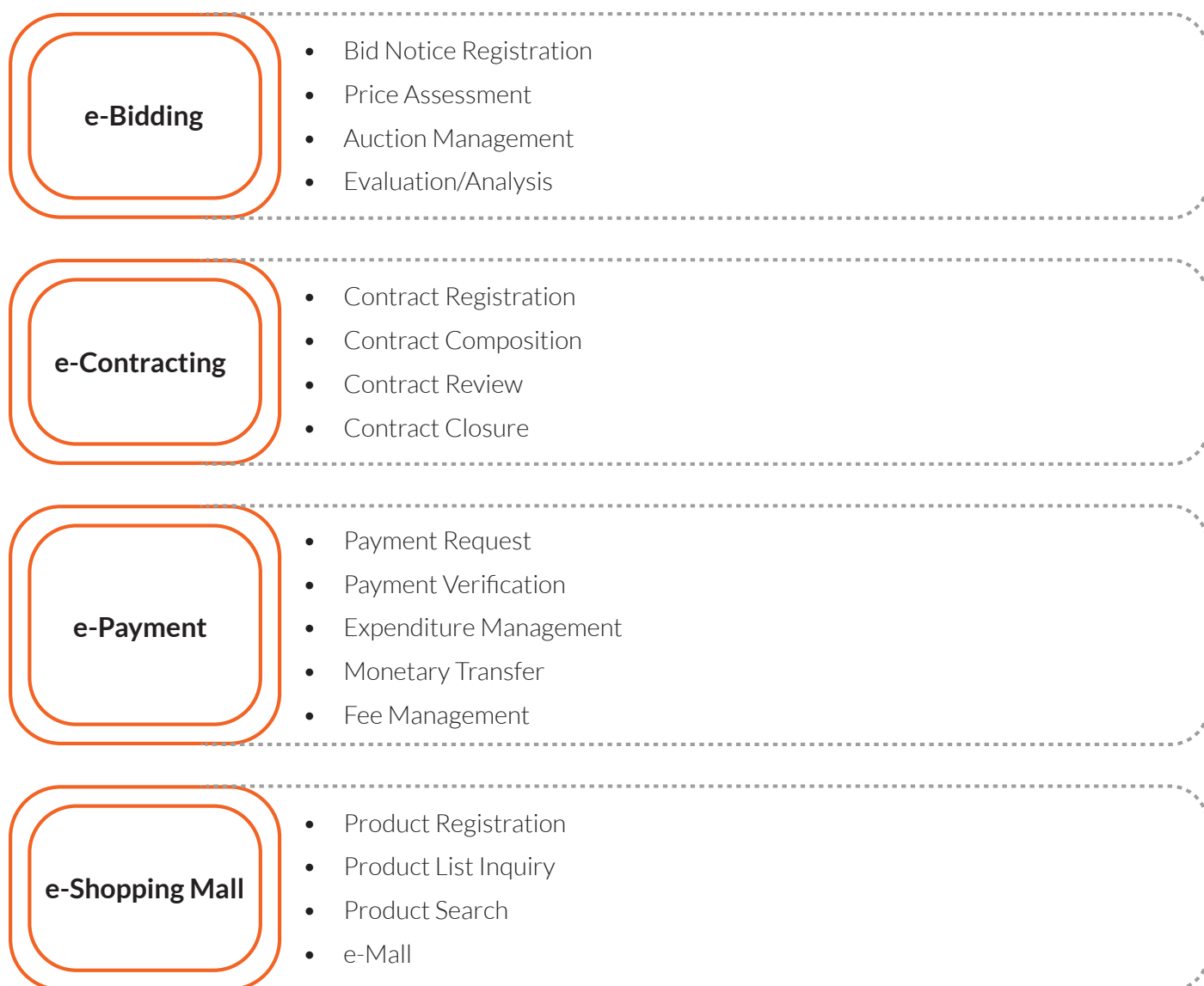
²⁴ UNCTAD

Figure 5.5: Organizations linked with KONEPS



Source: Korea.net, Republic of Korea

Figure 5.6: Features supported by some e-procurement functions



Source: Public Procurement Service, Republic of Korea

Table 5.1: Services for Different Stakeholders

KONEPS System	KONEPS System	KONEPS System	KONEPS System
Portal System	<ul style="list-style-type: none"> • Provide integrated information 	<ul style="list-style-type: none"> • Provide integrated information 	<ul style="list-style-type: none"> • Counselling service management
	<ul style="list-style-type: none"> • User community 	<ul style="list-style-type: none"> • User community 	<ul style="list-style-type: none"> • Survey management
	<ul style="list-style-type: none"> • Online education 	<ul style="list-style-type: none"> • Online education 	
	<ul style="list-style-type: none"> • Notifications for operator and public agencies 		
Integrated Notice	<ul style="list-style-type: none"> • Bidding notice registration management 	<ul style="list-style-type: none"> • Search integrated notices 	<ul style="list-style-type: none"> • Integrated notice classification management
	<ul style="list-style-type: none"> • Search integrated notices 	<ul style="list-style-type: none"> • Check bid opening result 	
	<ul style="list-style-type: none"> • Bid opening management 	<ul style="list-style-type: none"> • Check integrated contract information 	
User Registration management	<ul style="list-style-type: none"> • Request for public agency, user registration • Search suppliers • Agency user authority management • Ineligible supplier registration 	<ul style="list-style-type: none"> • Request for bidding participant registration and alteration • User, bidding agent registration 	<ul style="list-style-type: none"> • Public agency, supplier's registration management • User authority management
e-Procurement Processing	<ul style="list-style-type: none"> • Procurement request • e-Bidding and negotiated contract • Contract management 	<ul style="list-style-type: none"> • Goods demand management → ordering management • Conclusion of joint supply agreement, bidding, Request for evaluation 	<ul style="list-style-type: none"> • Unit price contract management • Procurement statistics • Service status management
e-Guarantee	<ul style="list-style-type: none"> • Request for e-Guarantee (bidding, contract, payment, defect) 	<ul style="list-style-type: none"> • Submit e-Guarantee 	<ul style="list-style-type: none"> • Guarantee agency management

KONEPS System	KONEPS System	KONEPS System	KONEPS System
Goods list	<ul style="list-style-type: none"> Cataloguing process 	<ul style="list-style-type: none"> Request for cataloguing 	<ul style="list-style-type: none"> Classification system management
	<ul style="list-style-type: none"> Assignment of classification and identification number 	<ul style="list-style-type: none"> Search list 	<ul style="list-style-type: none"> Request and processing status management
Catalogue	<ul style="list-style-type: none"> Search catalogued products 	<ul style="list-style-type: none"> Product detailed information registration 	<ul style="list-style-type: none"> Catalogued products registration
	<ul style="list-style-type: none"> Shopping basket, order 		
e-Payment	<ul style="list-style-type: none"> Inspection 	<ul style="list-style-type: none"> Request for inspection 	<ul style="list-style-type: none"> Determine commission
	<ul style="list-style-type: none"> Receive request for payment 	<ul style="list-style-type: none"> Request for payment 	<ul style="list-style-type: none"> Issue notice
e-Procurement Processing	<ul style="list-style-type: none"> Check suppliers' performance 	<ul style="list-style-type: none"> Check registered Information 	<ul style="list-style-type: none"> Suppliers' performance information management
	<ul style="list-style-type: none"> Check information of technical experts 	<ul style="list-style-type: none"> Request for update of registered Information 	<ul style="list-style-type: none"> Information update processing

Source: Public Procurement Service, Korea

The platform was designed to be used by individual government entities to conduct their own procurement in addition to those transactions that were required to be routed through Public Procurement Service. The salient features of the system include,

- One-time registration to participate in bids of government entities
- e-Bidding, e-Contracting and e-Payment
- Certificates obtained directly from relevant authorities without supplier's intervention
- Fingerprint Recognition feature in e-Bidding system which ensures that a bidder can bid for only for one company and prevents unlawful bidding
- Bidding process through smart phones
- Government goods management is digitally undertaken using RFID technology

In GCC, Saudi Arabia's digital portal Etimad offers e-procurement services. It provides features such as,

- Online purchase and submission of tenders
- Registration of financial claims by private sector players
- Direct procurement
- Budget services between government entities and the Ministry of Finance

Other features that could be included to improve Kuwait's e-procurement system are,

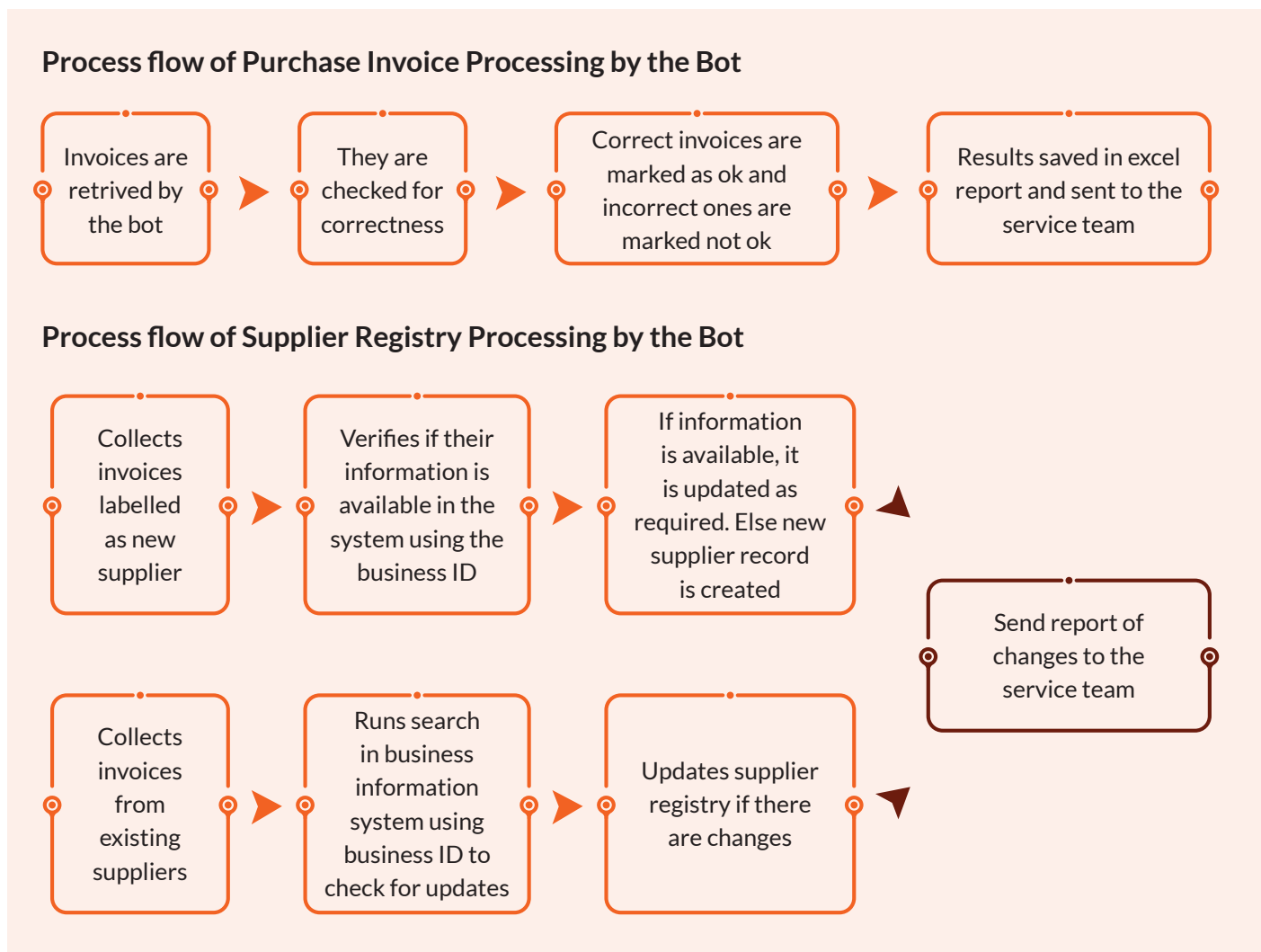
- Currently, bidders could ask questions only during the pre-meeting period. A helpdesk to address queries of bidders over the course of the procurement process would enhance participation. Kuwait's oil companies provide a contact person who addresses bidders' queries.

In Bahrain, pre-meeting is mandatory and a contact person is appointed to answer queries on reasons for losing out on a bid. A digital version in this context is being adopted by Digipolis, Belgium wherein when the procurer records the result of the award in the CRM platform, it automatically sends award and non-award letters to all participating vendors.

- There could be an option to post messages online in public domain/ reach out privately to clarify queries. If some of them are common, they could subsequently be added to the FAQ section pertaining to the project. Chat bots or virtual assistants could also be used to automate the process.
- Option to check status of a tender, such as tender to be opened, financial evaluation, cancelled etc., would keep the bidder informed and provide transparency.
- Live web-cast of bid-opening process.
- Information board to display direct orders and reasoning for the same to improve transparency.

Case Study: Process Automation in Public Procurement - Finland

Palkeet, the financial and human resources shared services centre for the various departments in the Finnish Government, processes 1.4 million purchase invoices in addition to multiple other documents. As many of the supporting manual processes were time-consuming and tedious, the agency decided to implement robotic process automation. In all, it has automated 70 different processes using 26 bots over a span of 5 years. This had included automation of procurement process by using a bot to processes purchase invoices and another bot to maintain the supplier register. In the processing of over 1 million invoices, the bot had saved 3374 working hours and had increased efficiency by 35%. It was able to resolve 72% of the invoices, while others were flagged to the service team. In supplier registry maintenance, 260 work hours had been saved in adding and maintaining 14678 vendors at a resolution rate of 78%.



B. e-Marketplace for purchase of goods and services

In Kuwait, purchase of goods and services account for 15% of total expenditure and 63% of total expenditure excluding salaries and subsidies for FY2019-20²⁵. These are purchased across government departments. But purchases in smaller quantities lose the benefits of economies of scale and thousands of small transactions make them vulnerable to malpractices as they are difficult to monitor.

Kuwait SME's gross value added is at 71% in wholesale and retail trade and 2.1% in manufacturing sector²⁶. Given the sizeable portion of government expenditure on purchase of goods and service and presence of SMEs in sectors such as wholesale and retail trade and manufacturing, an e-market place to buy and sell goods and services would be beneficial to both the government and the SMEs.

An e-market place would provide the government access to multiple sellers and would aid in making an informed decision in direct orders, instead of communicating with only one entity. A log of such purchases could also be made available for public view, increasing transparency in the process. By registering in the portal and uploading

²⁵ Final Accounts, Ministry of Finance

²⁶ Establishment Survey 2018, Kuwait CSB

their product catalogue, SMEs ensure their participation in direct orders and this would address the concern of them not being aware of such direct orders. The purchases log would also help the SMEs in understanding why their product/ service was availed from an alternate seller, making a self-assessment of their product, pricing etc. and implement improvements.

To improve the system's benefits, due diligence of SMEs at the time of registration and frequent quality check of goods and services offered could instil greater confidence for increased procurement and participation via the government portal. The portal registration could be kept simple and along with frequent quality checks could be used as a proxy for national registration, which is perceived to be difficult for SMEs due to its many requirements. Further, various departments of the government and public sector could be mandated to procure a set value of their requirements from the proposed online marketplace to encourage its adoption and usage.

Case Study: India's Government e-Market (GeM)

India's Government e-Market (GeM) is an example of this facility. The e-market place facilitates government's purchase of IT systems, automobiles, appliance etc. directly from the sellers. Through the portal, government entities could purchase directly up to a threshold limit and could call for bids if trade value is above the threshold. Sellers are verified following registration. They are exempt from verification if they satisfy certain criteria such as holding a valid license. Once verified, they can upload their product catalogue and would also be eligible to participate in bids.

The portal's features include,

- Demand Aggregation that allows buyers (primary user) to aggregate demand across buying teams.
- Bunching/bundling of multiple orders
- Online bid submission and payment
- Proof of non-availability of sufficient competition or unsupported good/service could be generated for the buyer to purchase the particular product outside GeM
- Auto-generation of contract based on specified technical parameters and the details chosen by the buyer such as delivery period and delivery terms.
- Decision support for buyers through system driven evaluation of bids, tools to ascertain price reasonability, audit trail etc.

Facility to raise incidents in case of deviation, viewing of seller details, rating buyers and sellers detailed FAQs and handbook are other user-friendly features of this portal.

In GeM, participation of SMEs is encouraged through measures such as relaxation of the requirement on experience in selling to the government. Of the total order value transacted through this portal, transactions with SMEs constitute 58.06%.

In Kuwait, K-companies require SMEs to have completed at least three purchase requests or three service orders as required previous experience. As is evident from GeM, relaxations of such requirements could aid in better SME participation.

GeM is reported to have brought down the delivery time from 30-60 days earlier to 10-15 days. The average prices on GeM are claimed to be lower by at least 15-20% and by providing demand aggregation for most of the common use goods and services, expected annual savings is at USD 5.5mn per annum.

Figure 5.7: Product Listing

The screenshot shows the GeM portal interface. At the top, there's a header with the GeM logo and navigation links for Bids, Login, and Signup. Below the header, a search bar contains the text 'Desktop Computers'. The main section is titled 'Desktop Computers (Specifications)' and shows a list of products. The products are displayed in a grid format, each with a product image, specifications, seller information, ratings, and price details.

Product Name	Brand	Specifications	Seller	Rating	Min. Qty. Per Consignee	Original Price	Current Price	Discount
HPC AMD Ryzen 3 2200G 4 GB/ 500 GB HDD/ ...	HPC	AMD Ryzen 3 2200G 4 GB/ 500 GB HDD/ ...	OEM	4.01	1	₹ 55,000.00	₹ 47,500.00	14% OFF
SPECTRA Intel Core i5 9400 8 GB/ 1000 GB ...	SPECTRA	Intel Core i5 9400 8 GB/ 1000 GB ...	Resellers	4.31	5	₹ 86,000.00	₹ 76,000.00	12% OFF
acxxel Intel Core i3 9100 4 GB/ 1000 GB HDD/ ...	acxxel	Intel Core i3 9100 4 GB/ 1000 GB HDD/ ...	OEM	3.68	5	₹ 55,000.00	₹ 44,000.00	20% OFF
acxxel Intel Core i5 10400 8 GB/ 1000 GB ...	acxxel	Intel Core i5 10400 8 GB/ 1000 GB ...	OEM	3.68	5	₹ 65,000.00	₹ 54,000.00	17% OFF

Source: GeM Portal

Figure 5.8: Bidding List

The screenshot displays the 'Bidding List' on the GeM portal. The header includes the GeM logo, navigation links (PRODUCTS, SERVICES, CONTENT), a search bar, and user options (Bids, Login, Sign Up). Below the header, there are tabs for 'Bids / RAs', 'Service Bids/RAs', 'Bunch Bids/RAs', 'Service Bunch Bids/RAs', 'Bid to RAs', and 'Custom Item Bids/RAs'. A 'FILTER BY' dropdown and a search bar are also present.

RA NO: GEM/2021/RA/72436	Item(s): Almirah Steel-45.3312	Quantity Required: 6	Department Name And Address: Ministry Of Coal Materials Management General Manager Materials Management Mcl Hqr Mahanadi...	Start Date: 03-04-2021 10:54 AM End Date: 05-04-2021 11:59 AM
BID NO: GEM/2021/B/1138607	Item(s): PRS Ticket Printer (Dot Matrix)	Quantity Required: 25	Department Name And Address: Ministry Of Railways Na West Central Railway N/A	Start Date: 23-03-2021 08:46 PM End Date: 05-04-2021 12:00 PM
BID NO: GEM/2021/B/1142485	Item(s): Platform Trolley	Quantity Required: 3	Department Name And Address: Ministry Of Railways Na Central Railway Hq Stores Deptt. N/A	Start Date: 25-03-2021 11:54 AM End Date: 05-04-2021 12:00 PM

Source: GeM Portal

Figure 5.9: Support Desk

The screenshot shows the 'Support Desk' on the GeM portal. The header is identical to the previous figure. Below the header, there's a 'Welcome to GeM Support Desk' message and two buttons: 'Check Ticket Status' and 'Raise a Ticket'. The 'Create a New Ticket' section includes a form with the following fields:

- Email Address *
- Full Name *
- Mobile Number *
- Issue Type (Dropdown menu: — Select an Issue Type —)
- Subject *
- Issue Description *
- Enter text* (with a character count: 2472w9)

A 'Create Ticket' button is located at the bottom right of the form.

Source: GeM Portal

C. Blockchain Technology

Popular for its use in cryptocurrency, blockchain technology's application in different areas is being widely studied. Features such as immutability, smart contract, usage of cryptographic techniques in data storage etc. provide a form of digital trust, rendering it to public procurement.

In Kuwait, this technology could be useful in reducing time gap between contract award and signing, enabling quicker payments to suppliers and improving overall reliability and transparency of the procurement process.

Blockchain is a distributed database system wherein each database/node in the network stores a complete record of the transactions. In each node, the information is stored in blocks with each block linked to both its predecessor and successor blocks. Security of the information is ensured through hashing technique and digital signature²⁷.

The key features of blockchain are,

- Verification of new transactions through consensus building among nodes, hashing of transactions and digital signature ensure an authentic and trust worthy system.
- If a transaction record is changed in one node, it generates a new signature and a hash, making it easy to identify the source of tampering. This makes data in a blockchain immutable as changing data in all the database systems in a network at the same time would require enormous computing power.
- As all users of the blockchain would be able to view all the transactions, it promotes transparency.
- Smart contract, which is a set of code that executes on its own when the specified conditions are fulfilled can be also stored and executed in a blockchain.

However, its implementation in public procurement is relatively nascent. Some use-cases for blockchain in public procurement based on proof of concept and pilot studies conducted by various organizations are listed below,²⁸

- Once a tender notice is stored as part of the blockchain, it cannot be modified to favour a bidder. Similarly, encrypted bid offers once submitted cannot be tampered by a third party. By using an encrypted version of a vendor's ID, anonymity could be maintained in bid submission and evaluation.
- Once a supplier is verified, a common record of supporting documents is available in the blockchain, which could then be accessed by different public sector entities. This does away with the need for each procuring entity to verify supplier information.
- Bid evaluation could be modelled as a smart contract and the code can be used to automatically evaluate bids against the pre-coded tender requirements. This enables objectivity and uniformity in the bid evaluation step. This would also reduce the conflicts post contract award and reduce the time gap between contract award and signing, which is currently at 90 days in Kuwait.

²⁷ Hashing generates a unique output of alphanumeric text for a given input list of transactions

²⁸ WEF Transparency Project, University of London, US General Services Administration

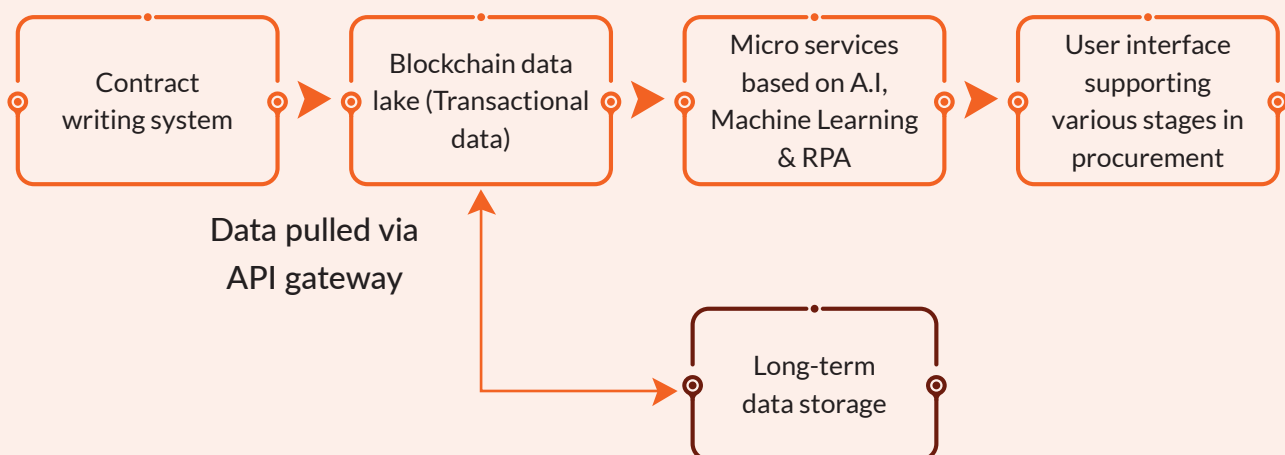
- Time taken for pay outs is at about 60 days in Kuwait. While it is in the lower range compared to its GCC peers, countries such as Republic of Korea and Finland take about 7 days and 21 days respectively. Smart contracts could be used to release payments automatically once certain conditions are met. This would reduce transaction costs and quick payment processing, without involvement on intermediaries. This could be particularly useful for SMEs as prompt payments would help them maintain healthy liquidity levels. Limitation of smart contract in this use case is that they would not be of much value if criteria to be met are complex and subjective.
- Smart Contracts could also be used in assessment of financial health of supplier by comparing their financial information to industry standards.

Case Study: Linking Blockchain to legacy systems and automated procurement functions - Department of Health and Human Services (HHS), U.S.

Human and Health Services (HHS) has multiple legacy contract writing systems. This siloed storage hinders information sharing and analysis. To facilitate a single record of all transactions, a data lake running on blockchain was envisioned. Additionally, as the procurement process was pre-dominantly paper based, micro-services were proposed to be implemented on top of the blockchain to automate the procurement functions.

The system, HHS Accelerate, supports features such as analysis of historical prices for goods, viewing profile and past transactions with a vendor, evaluation of vendor performance, recommendation of contract clauses based on requirements provided etc. Data stored on the blockchain serves as a reliable backbone for these functions. As the system was built on top of legacy systems, it was developed incrementally in order to reduce risk and cost of solution. Inputs and feedback were sought from the HHS workforce periodically during system design and development.

The total cost of HHS Accelerate is estimated at USD 34.7million over 5 years and is expected to save USD 256million dollars over 5 years. In its initial run, Accelerate had performed cluster analysis on last 10 years data. Insights drawn from this analysis had shed light on price discrepancies across its portfolio. Based on this, HHS was able to save USD 30million over 5 years on a single deal.



Source: Deloitte, MeriTalk

Blockchain could also be implemented for a particular part of an e-procurement system. Yeongdeungpo-gu District Office in Republic of Korea has deployed blockchain as part of its bid evaluation system to make them tamper proof and transparent. The evaluation scores awarded by the members of the bid evaluation committee are encrypted and stored along with timestamp in a private blockchain. Other stakeholders such as vendors and auditors would be able to view the scores.

Since blockchain's adoption in public procurement is in early stages and its implementation would involve considerable effort and cost, fitment test, development of use case, prototyping and evaluation of results should be done before deciding on its full-scale implementation.

D. Training Programs and Capacity Building

Professionalizing public procurement process is a key step towards improving its efficiency. This would involve creation of skilled procurement practitioners and informed stakeholders. This could be achieved through training programs and stakeholder sensitization sessions.

The skill level of managers in procuring entities in Kuwait could be augmented through upskilling. Introducing public procurement practitioner as a formal role through professional training would promote it as a career opportunity while also professionalizing it. Designing a skill development program would require careful assessment of questions such as procurement goals, areas that would require trained professionals, existing skill gaps, cost consideration, availability of funding etc. Given its importance, organizations such as the World Bank, UNDP etc. also offer certification courses in public procurement.

Training and capacity building activities with special focus on SMEs are also undertaken by countries. For example, inclusion of SMEs in public procurement is covered as topic in the accreditation test for procurement professionals in Chile.

Case Study: Strengthening the professionalism of workforce in Norway

Assessment of Norway's public procurement systems revealed that contracting authorities generally suffer from a lack of human resources and capacity. While the public sector, in general, struggled with recruitment and retention of staff, procurement function, in particular, was affected by lack of attractiveness and low competence of personnel leading to inefficient procurement and high transaction costs.

To overcome these challenges and professionalize public procurement, Agency for Public Management and eGovernment (Difi) – the central professional body for modernisation and restructuring of the public sector came up a variety of solutions.

To address the need for a higher level of professionalization among contracting authorities, Difi teamed up with domestic universities, contracting authorities, and trade organisations to establish the 'Public Procurement Academy'. The academy offers comprehensive training and education programme (Bachelors, Masters, and PhD degrees) in public procurement covering various subjects such as economy, law, project

management, market analysis, negotiation skills, stakeholder dialogue, innovation, corporate and social responsibility. The academy operates with the objective of creating future procurement professionals and it aims to act as a knowledge bridge between academia and industry. A certification scheme that allows for formal recognition of procurement knowledge and skills acquired by professionals through practice and experience was also subsequently launched.

Source: European Commission

Tackling the professionalization of public procurement is a comprehensive process. Contracting authorities face different challenges and would need customized solutions. Development of knowledge networks, encouraging exchange of ideas and best practices among practitioners could pave for professionalization of the industry. Recognition of skills and expertise acquired either through experience or education could enable widening the professionalization of the profession.

E. Assessment and Building of SME capabilities

A research on SMEs in Ireland has divided the capability that influences their prospects in public procurement into two aspects - relational capability and procedural capability.²⁹ Relational capability is a firm's ability to communicate and engage with public buyers. Procedural capability refers to firm's ability to handle the technical and administrative elements of tendering.

Training programs and information events to keep suppliers informed of opportunities and procedures in public procurement aid in building procedural capability. This could be used to address issues such as difficulties faced by Kuwait SMEs in dealing with documents such as TOR (Terms of Reference) and RFQ (Request for Quotation). Informational videos and online forums could also be used to improve procedural capability.

Relational capability could be improved by facilitating meetings between public sector buyers and SMEs. These meetings could provide an opportunity for SMEs to showcase their capability or to seek feedback on an unsuccessful bid participation. Other measures to improve SME capability include partnering with non-public bodies that focus on business development, trade shows and supplier events.

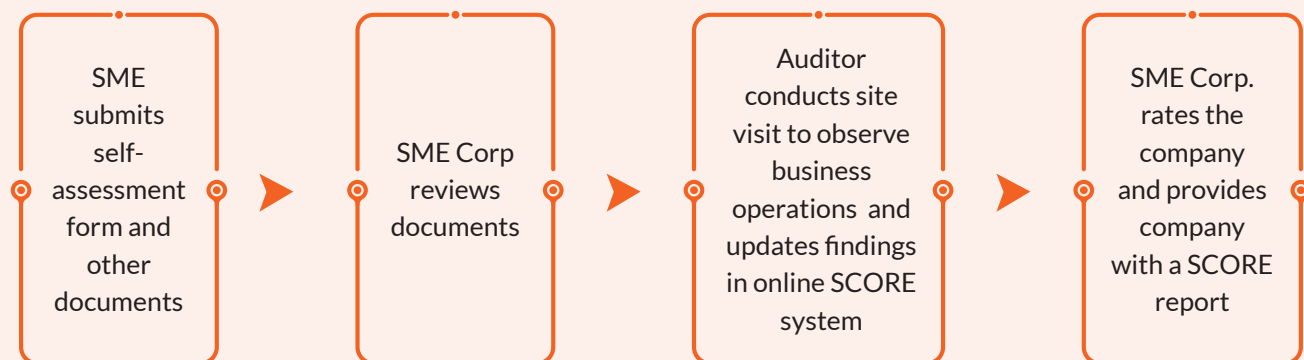
A SME's success in public procurement depends on its organizational capability. An assessment of this aspect would help in understanding their current capability and the gap to be scaled to win public sector bids. This could be done through standard assessment surveys. A rating system based on periodic assessments would showcase current level of capability while providing impetus for the SMEs to improve their capability. This assessment could then be followed up with targeted training programs or policy measures. Tender announcements could also be made by specifying the star-rating required for a particular task. Such ratings also provide credibility and could be used as proxy for requirements such as Watani registration or years of experience required to participate in public procurement.

²⁹ Anthony Flynn and Paul Davis, *Investigating the effect of tendering capabilities on SME activity and performance in public contract competitions*

Case Study: SME Competitiveness Rating for Enhancement (SCORE), Malaysia

SCORE is a diagnostic tool developed by the SME Corporation of Malaysia (SME Corp). It assesses SMEs based on seven criteria - financial strength, business performance, human resource, technology acquisition and adoption, certification and market presence. It also uses industry-specific models for evaluation.

SCORE Rating Process



Source: European Commission

Assistance and training programmes are tailored based on the SCORE rating. For example, a company with 3-star rating is provided access to development programmes while those with 5-star rating are provided access to government-linked companies, large companies, export development corporation etc.

F. Standardizing Procurement Documentation and Process

In Kuwait, tender documents are prepared by the relevant authority. Instances of lack of clarity or inadequate information coverage could deter private sector participation or lead to submission of inaccurate quotes by bidders. Standardized tender documents and templates with required fields could serve as a prompt to the procuring entity to provide clear and comprehensive information. This would enable both novices and experienced professional to handle procurement efficiently. Additionally, standardized versions of common clauses would aid in quicker and easier document preparation. Such standardization would also reduce the time and effort spent by the supplier on understanding the document. An improved approach would be the implementation of an IT solution that gathers information from the user through questions and prepares the tender document.

Setting procurment standards also aid in improving public procurement. They serve as a uniform benchmark of best practices for all entities, encouraging them to achieve higher procurement efficiency. Setting procurement standards provides clarity on the expected quality in the procurement process.

Case Study: National Health Service (NHS) Procurement and Commercial Standards, Department of Health, U.K

The NHS Procurement & Commercial Standards cover six domains - Strategy & Organization, People & Skills, Strategic Procurement, Supply Chain, Data Systems and Performance Management, and Policies & Procedures.

Under each domain, specific criteria are to be met by the organizations under NHS. Each criterion has three levels that reflect the capability level of the organization. The evaluation involves both evidence-based self-assessment and peer reviews.

	Level 1 Procurement and Supplies Focus Level	Level 2 Procurement & Commercial Activity (Organisation-wide)	KONEPS System
Contract and Supplier Management	<ul style="list-style-type: none"> Database of contracts managed by procurement team, flagged for renewals with action plan. Identifying opportunities to pursue through contract management. Basic contract management processes implemented with key suppliers. 	<ul style="list-style-type: none"> Well-maintained contract database system across the organisation. Effective activity and demand management for key contracts. Strategy for contract and supplier management across the organisation. 	<ul style="list-style-type: none"> Benchmarking of supplier performance with other organisations. Value delivery in terms of innovation, quality, costs. Mechanism to incentivise suppliers to continuously improve and develop.

G. Process Audits

Audit of the public procurement process is a general good practice which plays a pivotal role in streamlining the process and improving its efficiency, in addition to finding out deviations. In Kuwait, tenders above KD 75,000 are routed through CAPT and it audits certain aspects of those tenders. This involves audit of prequalification and tender documents, procedural review and audit of prequalification results, awards reports and variation orders³⁰. State Audit Bureau performs an initial review of contracts over KD 100,000 and subsequent auditing³¹.

Periodic process audits could be conducted with a broader scope to include lower value contracts (value below KD 75,000) and procurement stages such as contract management. In general, the three major phases where

³⁰ Kuwait Times

³¹ Sustainable Public Procurement in Kuwait Public Sector

audit plays a key role – definition of needs, contract award procedure and contract management³². A checklist of pertinent questions to audit each step could be drafted for a comprehensive review.

- **Definition of needs/requirement**

This involves assessing the soundness of the process followed for needs assessment and justification for a purchase. For instance, a department could have purchased a machinery for one of its offices even though it is available in another office and has plenty of downtime. An audit process could identify such instances and thereby improve procurement efficiency.

- **Procedure to award the contract**

This involves examining different steps in contract award such as the determination of award criteria, calculation of contract value, assessment of tenders etc. For example, for tender evaluation, the tenderer could have provided weightage for experience and financial standing in addition to aspects such as pricing. However, as a rule, experience and financial standing are more of an eligibility criteria than an evaluation criteria³³.

- **Management of the contract until its completion**

The audit process in this stage would cover aspects such as on-time processing of payments, handling contractual shortcomings, managing change requests etc.

Case Study: Process Audit of Procurement – City of Edmonton, Canada

A tender was issued for the supply and delivery of products with identified product specifications for a value of \$300,000. The tender specified that equivalent products would be considered however the meaning of equivalent was not well defined.

The procuring department received two bids on this tender. The first bid would supply the products as specified in the tender document. The second bid proposed custom manufacturing the products to the specification listed, but using a different material.

Key concerns that were identified through the process audit were,

1. Tender evaluation plan had allocated 50% weightage each for price and evaluation. The evaluation for handled by a single individual, increasing the scope for a biased outcome.
2. The second bid was rejected for stating a lesser validity period than that mentioned in the tender document. The first bid had not mentioned a validity period, but this was inferred to be same as specified in the document by the procuring entity
3. The successful bidder had later stated mistake in the bid due to misreading of prices from their supplier. The bidder requested a price increase of 32% which was accepted without negotiation.

Source: Office of City Auditor, City of Edmonton

^{32 33} Sigma

Section 6

Measures to increase SME participation in public procurement



In this section, we provide an overview of the various measures that could result in increased participation of SMEs in the public procurement market.

A. Split contracts into smaller parts (lots)

The division of contracts into smaller parts (or lots) is an issue of particular relevance for SMEs, as it opens competition to more potential tenderers. The narrower scope of the call means that the content of each lot may correspond more closely to smaller, specialized companies. The division of contracts into lots is more likely to happen when a procurement contract includes diversified products or services, as a single firm (no matter how large in size) may not be able to deliver each one of them.

However, it is not always the case, as the main goal is to encourage participation from a higher number of companies, irrespective of the fact that one company would not be able to deliver the entire contract.

The division of contracts into lots is widely prevalent in European Economic Area (EEA) countries. Best practice includes introduction of a divide-or-explain principle within their public procurement legislation that requires contracting authorities to assess whether it is convenient to divide a contract into lots and if not, to explain the reasons for not doing so.

The division of contracts into lots is often combined with e-procurement systems, and simplified processes and documentation requirements. This is expected to promote participation of SMEs and new entrants to the market, foster competition in the market, avoid single supplier dependency, and spread out risk.

Division into lots does not entail any additional cost for SMEs, but it might create additional burdens for contracting authorities that have to manage several procedures simultaneously. However, this cost is manageable as most of the information that needs to be processed is the same regardless of whether the contract is tendered in several lots.

To increase SME participation in public procurement, the federal government in Germany developed an online tool able to calculate the number and volume of lots into which the purchasing authority should divide the contract. The calculator is available for contracting authorities from all levels, including for tenders below the EU-threshold.

B. Allow joint bidding rules

Joint bidding is the practice of two or more enterprises creating a temporary consortium and submitting a single bid³⁴. As a matter of fact, joint bidding is another channel through which governments can address the financial and technical capacities of small and medium enterprises to perform large and complex contracts³⁵.

Joint bidding rules help boost SME participation in public procurement. Gains from such measures could be observed at both firm and economic level. Firms benefit from cost reductions due to internal division of tasks between companies. On the other side, positive outcome of synergies boosts the economy. In fact, firms might specialize in different aspects of production and while they are able to participate individually, they may offer a better-quality joint bid.

C. Encourage subcontracting arrangements and/or prime contractors to subcontract with SMEs

Economic operators have various reasons to use subcontracting. For example, an economic operator (contractor) may find that it is less expensive to use a specialist subcontractor for a specific element of a contract rather than entire contract itself. At the same time, SMEs may not be able to perform an entire contract due to limited resources, but they may be able to perform some of the services included in it. Therefore, subcontracting often provides indirect access for SMEs to public procurement. Encouraging subcontracting arrangements does not lead to costs for public authorities, but it fosters the inclusion of SMEs and the provision of services by qualified economic operators.

d. Relaxation of financial requirements

Disproportionate level of financial requirements to participate in public procurement opportunities precludes a large number of SMEs. This is particularly the case since SMEs face difficulties in obtaining financial guarantees, accessing financial markets, and obtaining instruments under favourable financial conditions³⁶. In defining selection criteria, the technical and professional capacity requirements should ensure that the tenderer has the capacity required for the contract in question, rather than the general capacity of tenderers³⁷.

The measure only entails the cost of setting up a new legislation. Benefits instead cover both SMEs and public authorities. The former would witness an increase in competition, thus an opening of the market. The latter would have the chance to maximize their value for money by choosing the best combination of quality and price for contracts where quality can vary. In Germany, the Act Against Restraints in Competition contains several provisions and mechanisms to support SMEs in public procurement. Among them, financial requirements were lowered to allow more SMEs to participate procurement procedures.

³⁴ Albano (2017)

³⁵ OECD, 2018

³⁶ OECD

³⁷ Bovis (2016)

E. Financial support for SMEs/contracting authorities

Direct financial support for SMEs or contracting authorities to facilitate SME participation in public procurement is less prevalent. Such initiatives consist of grant schemes for SMEs or contracting authorities to improve their public procurement skills. For instance, a publicly financed scheme aimed at helping SMEs to acquire a quality certification in line with European standards was implemented in EU countries.

F. Timely and efficient payment terms/arrangements for SMEs

Promptness and certainty of payment are crucial in supporting the financial capacity of companies, especially SMEs, and hence their participation in tendering processes. Delayed payments have a particularly adverse effect on smaller firms, as they affect their limited liquidity. Countries that face above-average payment periods witness lower participation rate of SMEs in public procurement.

Facilitating speedy payment alleviates the negative impact on economic operators' liquidity and financial management, thereby encouraging greater participation in procurement, in particular for SMEs. In addition, by improving their payment practices, contracting authorities benefit from more collaborative relationships with suppliers and a better reputation as a business partner.

As shown in the case of France, certainty and timeliness of payments can be boosted through specialized regulatory measures. In France, the central purchasing body Union des Groupements d'Achats Publics (UGAP) has set up a payment solution to facilitate prompt payment by public buyers to their suppliers. Companies participating in this initiative are paid within five days on average. Following the initiative, SMEs participation in France increased manifold in public procurement process.

G. Simplified processes and documentation requirements

Presenting a bid requires companies to follow certain financial and administrative standards. It follows that the public procurement system disproportionately affects SMEs³⁸. One way countries could address the complexity of public procurement is by standardizing processes and reducing the number of documents and procedures that are required.

In this respect, the regional government of The Hague (Netherlands), for instance, introduced the so-called 'Public Procurement Passport', a special document that summarizes all the necessary information that firms are required to present before placing a bid.

The measure itself has a standard cost for public authorities (set-up of standardized documents, creation of ad-hoc IT tools). At the same time, it supports SME participation in public procurement by reducing administrative burdens and encouraging greater legal compliance.

³⁸ OECD, 2015

H. Provision of information/guidance to SMEs

A diverse set of measures, from provision of guidance materials (e.g. guidelines), setting up of helpdesks, conducting trainings and hosting conferences, or participation in fairs and events could be provided for SMEs. These measures aim to provide practical information on procurement-related themes, measures or processes, for example changes introduced by the new legislation, e-procurement systems, how to develop a proposal, etc. could be dealt with. Presently, various Kuwait banks hold workshops for entrepreneurs to aid in their business development. Similar strategies by the Kuwait procuring authority to handhold SMEs in advancing their participation could be done.

Guidance materials can cover aspects of procurement considered optional or sector-specific. Such support material can include guidance for IT procurements, health-sector related procurements, and guidance on how to integrate strategic procurement or green public procurement criteria. Information and guidance to SMEs is provided in majority of European Economic Area (EEA) countries.

The main benefits of targeted thematic guidance materials include time savings when preparing tender documents, more tailored and fit-for-purpose tender specifications, increased legal certainty when conducting procurement procedures, and reduction of irregularities and errors. Ultimately, achieving such results contributes to better quality procurement and more knowledgeable and professionalized procurers.

These measures are relatively easy to introduce and do not entail high maintenance costs. While, the establishment and maintenance of helpdesks for SMEs entails higher costs. On the SMEs' side, these measures generally do not entail any cost, except the extra time to produce a tender answering to all the requirements for the first time.

I. Introduce SME-friendly selection criteria

Given the numerous barriers faced by SMEs in the access to public procurement, it is essential that national and public authorities design contracts according to SMEs friendly selection criteria such as using Most Economically Advantageous Tender (MEAT) or Best Price Quality Ratio (BPQR), as default criteria instead of the lowest price. This has a positive effect on SMEs' participation as they can further emphasize quality instead of being constrained to offer a cheap price to stay competitive.

A good practice is represented by the case of Iceland and its central Procurement Agency Ríkiskaup. Among the measures undertaken by it includes conducting market research on the market relevant for the tender to determine the competitive situation; carrying out a preliminary market consultation with selected stakeholders to communicate needs and requirements; adapting eligibility/selection criteria to make the tender accessible for as many companies as possible (e.g. setting a rather low threshold for a company's financial standing); and holding communication events with industry associations (such as the Federation of Icelandic Industries).

J. Training of public procurement staff

The delivery of high-quality training to the public procurement workforce is a key aspect in improving the performance of the service delivered. To foster the inclusion of SMEs within the procurement system and to implement the range of measures to support SMEs, some countries organize training sessions with public procurement officials. The public procurement authority could hold an annual conference covering all of the latest policy developments that are relevant to suppliers.

While training sessions are not necessarily costly, they require funding sources and a pool of relevant experts, training facilities, and a good understanding of training needs. The benefits of training initiatives are related to the fact that public buyers become better aware of the specificities of SMEs and they can design their calls for tender accordingly.

In this regard, Croatia represents an interesting case study. In 2012, the national government developed a certification-scheme for procurement practitioners. The scheme aimed to create a critical mass of people who are knowledgeable about procurement laws, by-laws, and rules for the implementation of EU funds. The role of the certified procurer is to be involved in all the steps of the procedure, keep track of other people involved in the procurement, and make sure that the procedure is conducted correctly.

Training public procurement staff can also be done through networks of public authorities or platforms. In the Netherlands, the PIANO Initiative started as a knowledge base network for government procurement officers and contracting authorities. Apart from training, support to contracting authorities can be given through materials or tools to guide them in developing a SME-friendly policy.

K. Encourage monitoring/set procurement targets

When public procurement frameworks are designed at central level, they may lack details about the specific application of individual measures to facilitate the involvement of small and medium-sized enterprises. The encouragement of monitoring is expected to favour good implementation of measures by public authorities according to SMEs needs. Monitoring is often accompanied by setting targets for SME participation in public procurement, such as in France or the United Kingdom.

The cost of such measure is relatively low and entails the identification of a set of indicators to evaluate and monitor the implementation of public procurement regulations, the collection and the analysis of data.

L. Improve transparency of procurement processes

Standardization of processes, simplified access to information that is easy to understand, and availability of information are all necessary ingredients to strengthen the inclusivity of the public procurement system. Therefore, public authorities should improve the level of transparency to make the system more appealing to SMEs. This can

be ensured, for instance, through the implementation of transparency platforms - an online tool that provides up-to-date visual information on public procurement expenditure to the wider public. This allows, in turn, the voluntary oversight of procurement procedures.

While costs are limited, benefits of implementing such are wide-ranging. It could result in increased accountability of the system, lower corruption rate, availability of information (accessibility), and spread of knowledge.

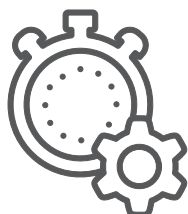
M. Adoption of e-Procurement

The term 'e-Procurement' refers to the integration of digital technologies in the tendering process to overcome the lengthy and time consuming paper-based procedures. e-Procurement is regarded as being convenient for all kind of enterprises, and particularly for SMEs as it contributes to the simplification of public procurement's processes and to the reduction of transaction costs.

Best practice in the field of e-Procurement involves creation of digital platforms that is interoperable, which means that some of the information published on one can be accessed from the other. Similarly, vendor verification could be a one-time process and that companies would not need to submit the same information several times on different portals.

Section 7

Assessing Potential Increase in Efficiency & Broader Impact on Macroeconomic Outcomes



Changes to procurement practices would affect the broader macroeconomic picture in a positive manner. In this section, we attempt to quantify the following:

- Potential cost savings
- Impact on SME sector
- Impact on payment efficiency
- Impact on economic activity (GDP)
- Impact on employment

a. Potential cost savings

Scope for cost savings primarily stems from adoption of technology and improvement in procurement process. Costs associated along the various steps of procurement process such as high costs to bid, opportunity costs due to time delays, instances of inflated quotes due to poor competition and unclear objectives are attributable to poor procurement practices. In addition, transaction costs are incurred by both the parties and throughout the procurement cycle. Those who call for bids - the procuring authority, incurs costs in preparation of tenders, advertisements and various expenses for availing the services of technical and legal experts. Similarly, those who bid for the contract, incur expenses in bid preparation and provision of guarantees.

Table 7.1: Public procurement transaction costs

	Pre-contract costs (ex-ante)	Post-contract costs (ex-post)
Procuring authority (Government)	<ul style="list-style-type: none"> Preparation of procurement documents Advertisements costs for the procurement Cost incurred for availing expert services (technical, legal, risk, insurance, etc.) 	<ul style="list-style-type: none"> Costs incurred in resolving complaints, if any Legal costs, if any
Contract bidder (Private sector, SMEs)	<ul style="list-style-type: none"> Bid preparation Provision of guarantees 	<ul style="list-style-type: none"> Costs incurred in resolving complaints, if any Legal costs, if any

Source: Marmore Research

Measuring transaction costs is tricky, as in most cases, it is not defined separately. As we can see from the above table, the costs are embedded across the contract cycle (ex-ante & ex-post) and it influences both the procuring authority and the bidder. Further, the transaction costs differ based on complexity of contracts, extent of external consultants' usage, and process/implementation delays that is highly uncertain to model. In this realm, a study focused on transaction costs in public procurement in European Union by the European Commission based on data analysis of over half a million purchase provides some pointers. The study estimated that ex-ante transaction costs are around 2% of contract value and costs associated with monitoring is estimated at 3-4% of the contract value³⁹. Stakeholders related to Kuwait public procurement during interviews echoed similar views. Based on that, we estimate transactions costs in public procurement to be at 6percent of the project/contract value.

Table 7.2: Transaction costs in public procurement

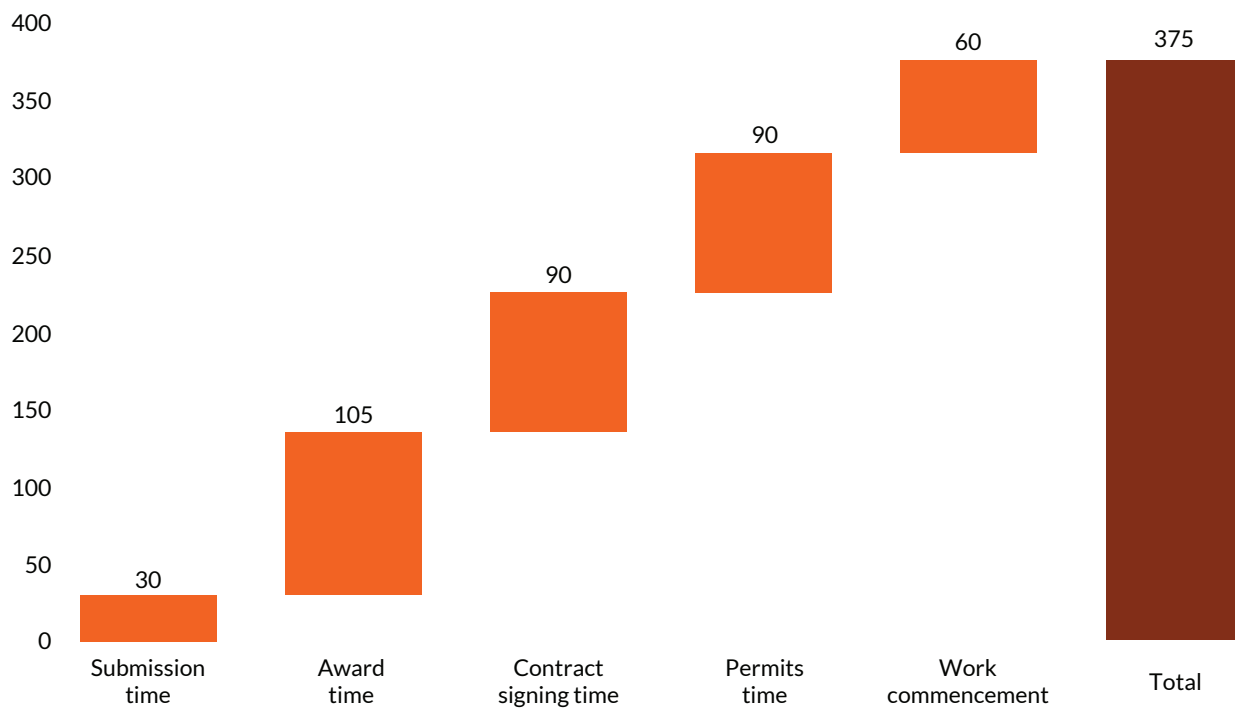
Values in KD million	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
A. Kuwait public procurement market	5,618	5,816	6,021	6,233	6,453	6,680	6,915	7,159	7,411	7,672
B. Ex-Ante Transaction Costs (2% of A)	112	116	120	125	129	134	138	143	148	153
C. Ex-Post Transaction Costs (4% of A)	225	233	241	249	258	267	277	286	296	307
D. Overall, Transaction costs (B +C)	337	349	361	374	387	401	415	430	445	460

Source: Marmore Research

On an average, Kuwait currently takes 795 days to complete a public procurement contract. Bidding phase that comprises of advertising, submission, contract award, signing, obtaining permits from relevant authorities and commencement of work entails 375 days.

³⁹ Transaction costs and transparency of public procurement, Radek Jurcik

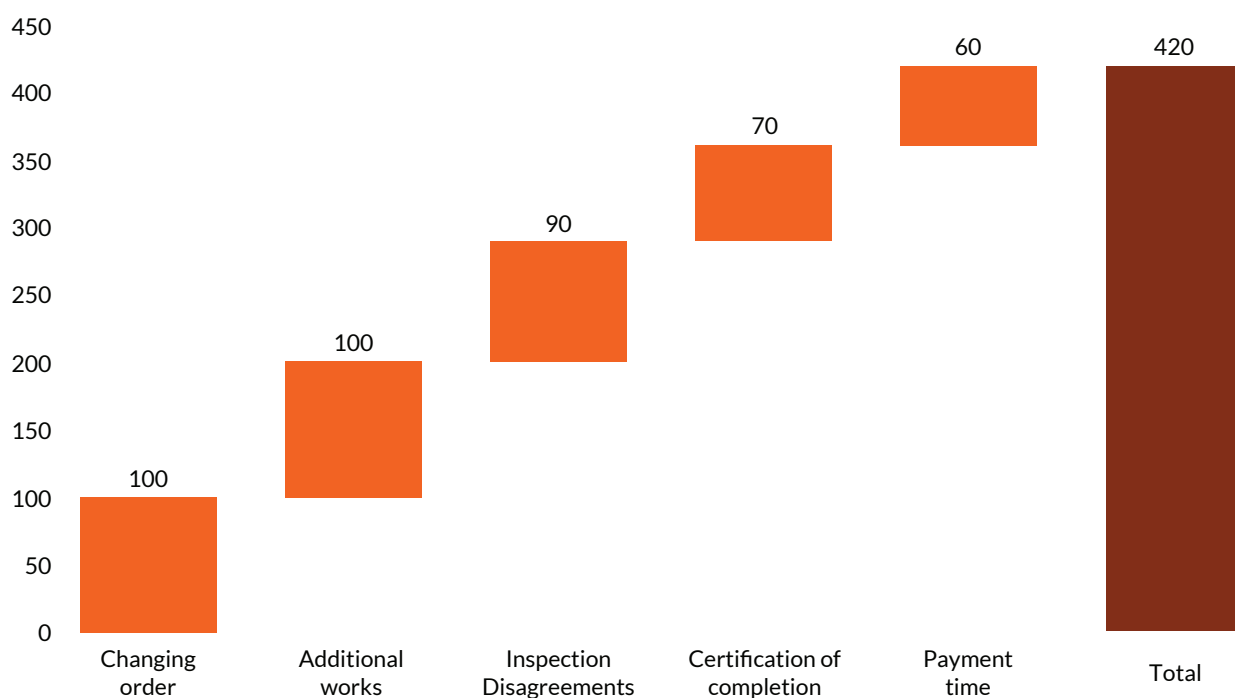
Figure 7.1: Average time taken (in days) during bidding phase for public procurement contract in Kuwait, 2020



Source: World Bank

Contract management phase that includes provision for order modifications, renegotiations, additional work, work inspection, ensuing disagreements, ascertaining completion of work and eventual payment upon successful completion of contract entails 420 days.

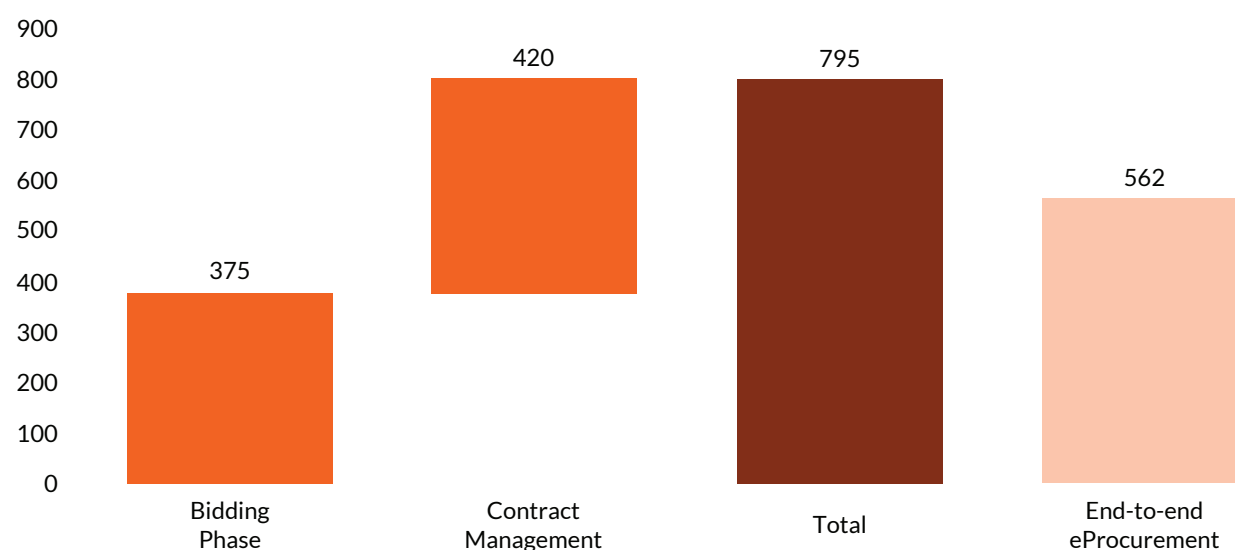
Figure 7.2: Average time taken (in days) during contract management phase for public procurement contract in Kuwait, 2020



Source: World Bank

Analysis of countries that have implemented e-Procurement platform reveals that the average time taken to award contract stands at 562 days⁴⁰. Kuwait currently takes 795 days to award contract. Thus, implementation of end-to-end e-Procurement platform could enable Kuwait, on an average, to save 233 days or 29.3%. Adoption of technology and digitally empowered process could tackle time delays and higher costs of bidding. World Bank studies on countries that have implemented e-Procurement platform sheds light on the savings that Kuwait could potentially achieve.

Figure 7.3: Proposed time savings in procurement cycle if eProcurement is adopted throughout contract cycle (in days)



Source: World Bank, Marmore Research

Achievement of costs savings through adoption of technology will accrue in a phased manner over the implementation phase. Over the long-term, the cost savings could be significant. Based on our calculations, of the 6% transaction costs, deploying e-Procurement platform for end-to-end usage of contract could potentially lead to approximately 30% savings in transactions cost. Thus, on an aggregate, Kuwait has the potential to save 1.8% of its procurement spending once the fully integrated digital platform is put into practise. Scope for additional savings is reliant on improving the efficiency of the procurement process.

Table 7.3: Effective cost savings following implementation of e-Procurement platform

Values in KD million	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
A. Kuwait public procurement market	5,618	5,816	6,021	6,233	6,453	6,680	6,915	7,159	7,411	7,672
B. Transaction costs	337	349	361	374	387	401	415	430	445	460

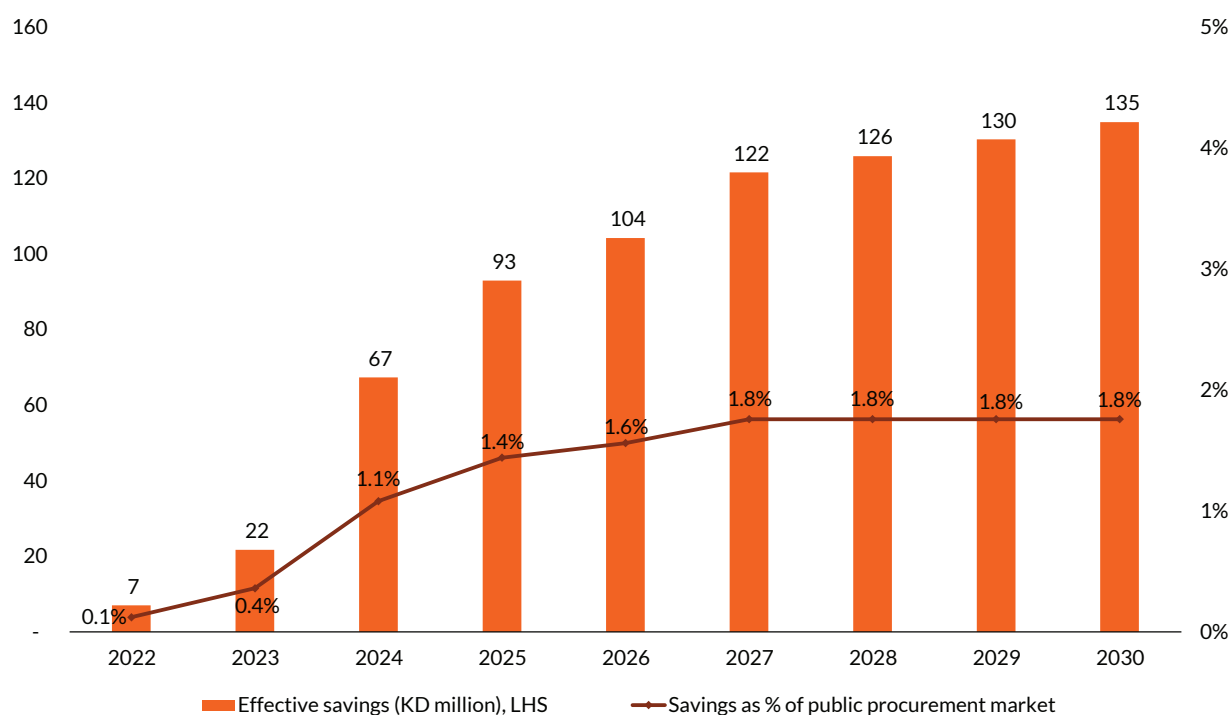
⁴⁰ Doing Business 2020, World Bank

Values in KD million	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
C. Cost savings that could be achieved through implementation of e-Procurement platform	0%	2%	6%	18%	24.0%	26.0%	29.3%	29.3%	29.3%	29.3%
D. Transaction costs saved (B*C)	-	7	22	67	93	104	122	126	130	135
E. Savings (as % of public procurement), (D/A)	-	0.1%	0.4%	1.1%	1.4%	1.6%	1.8%	1.8%	1.8%	1.8%

Source: Marmore Research;

Note: transaction costs considered at 6% of procurement market

Figure 7.4: Effective cost savings that could be achieved on procurement transactions



Source: Marmore Research;

b. Impact on SME sector

In Kuwait, SME sector presently accounts for 12% of GDP. Moreover, many of the SMEs operate in low value add sectors such as construction, wholesale retail and trading. To drive economic development and generate job opportunities, the SME sector needs to develop significantly and meaningfully. Similar to Saudi Arabia's Vision 2030 that aims to increase the contribution of SMEs to non-oil GDP to 35% by 2030, Kuwait should orient its reform initiatives towards development of SMEs. Public procurement could act as a handy tool kit in augmenting the growth and development of the SME sector.

Public authorities should consider SMEs as their 'first customer'. Initiatives such as improving access to finance, prompt payment of invoices, enhanced access to public contracts, incentives for technology adoption, and provision of training programs could enable SMEs growth. Setting up an e-market place exclusively for public purchase of goods and services from SMEs could lead increased visibility and transparency of operations, decreased transaction costs, and facilitate increased participation of SMEs in public procurement programs. Based on international experiences, we believe Kuwait could double the share of SME to 25% of its GDP in 10years time.

c. Impact on payment efficiency

As per the data from World Bank Doing Business 2020 report, on an average, the Kuwait government clears its invoice in 60 days. Countries that implemented digital procurement platforms, witnessed improvements in payment efficiency. Among those countries that implemented, days within which the invoices are cleared ranges from 7days to 28 days. For our assessment, we expect Kuwait payments to improve from its current value of 60days to 28days by 2030.

Table 7.4: Improvements in payments efficiency

Values in KD million	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Public Procurement market	5,618	5,816	6,021	6,233	6,453	6,680	6,915	7,159	7,411	7,672
Payment Efficiency (Working Capital Days)	60.0	56.4	52.9	49.3	45.8	42.2	38.7	35.1	31.6	28
Savings in Working Capital	-	56.7	58.7	60.7	62.9	65.1	67.4	69.7	72.2	74.7

Source: Marmore Research

d. Impact on economy

The increase in Gross Domestic Product (GDP) for each value of dollar spending is referred to as fiscal multiplier. When the savings incurred in transaction costs is redirected to capital expenditure programs and improvements in payment efficiency is routed for other current expenditure needs, the resultant effect would lead to increase in purchase of goods and services. Businesses could increase their production, hire more people, increase production and help the economy grow. For the Gulf countries, long-run fiscal multiplier estimates vary in the 0.3-0.7 range for current expenditure and 0.6-1.1 for capital spending⁴¹. Assuming a mid-point multiplier value of 0.5 for current expenditures (savings on working capital) and 0.85 for capital expenditures (savings on procurement transaction cost), we compute the incremental economic activity that Kuwait could stand to gain.

Table 7.4: Improvements in payments efficiency

Values in KD million	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
A. Effective costs saved	-	7	22	67	93	104	122	126	130	135
B. Savings in WC	-	56.7	58.7	60.7	62.9	65.1	67.4	69.7	72.2	74.7
<i>Incremental GDP</i>										
C. Capital Expenditures, (multiplier of 0.85) * A	-	5.9	18.4	57.2	79.0	88.6	103.3	107.0	110.7	114.6
D. Current Expenditures, (multiplier of 0.5) * B	-	28.3	29.3	30.4	31.4	32.5	33.7	34.9	36.1	37.4
E. Incremental GDP, (C+D)		34	48	88	110	121	137	142	147	152

Source: Marmore Research

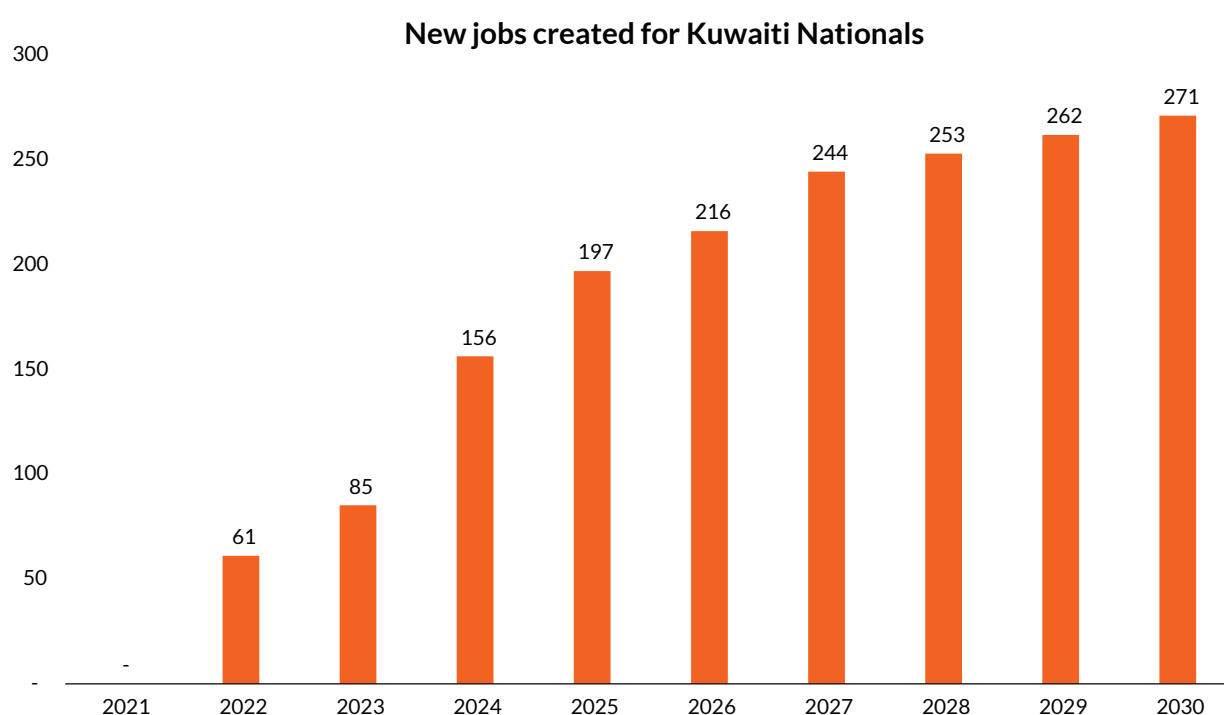
Capital expenditures are productive, as their impact on economy is multiplicative in the long-run, and thus command a higher fiscal multiplier than current expenditures. Based on the cost savings and fiscal multipliers, the GDP could increase by over KD 100million in 2025 and by KD 150million in 2030.

⁴¹ How strong are fiscal multipliers in the GCC? IMF Working Paper No. 11/61

e. Impact on employment

The purported measures and the associated cost savings is expected to have a positive impact on employment. To assess the impact, we assume the cost savings to be invested and the resultant economic activity is expected to generate employment. Further, in Kuwait, economic activity of KD 1million corresponds to approximately 1.8 jobs for its nationals in the private sector. We use the same to assess the scope for incremental job creation. Based on the same, our calculations suggest that 1,747 new jobs could be created for Kuwaiti nationals in private sector by the year 2030.

Figure 7.5: Incremental employment for Kuwaiti nationals in private sector



Source: Marmore Research;

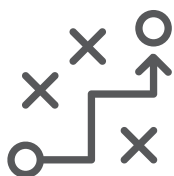
Table 7.6: Job creation for Kuwaiti nationals due to cost savings

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Incremental GDP (KD mn)	-	34	48	88	110	121	137	142	147	152
New jobs created for Kuwaiti nationals	-	61	85	156	197	216	244	253	262	271

Source: Marmore Research

Section 8

Strategy Roadmap for Effective Implementation of Proposed Solutions



Better procurement practices could deliver cost savings for the government and generate higher jobs and improve economic activity. To realize the results, stakeholder perspectives on the current gaps, challenges should be considered while taking into account the wide variations in procurement practise by different Ministries and government departments. Understanding the source of inefficiency based on consultation with various stakeholders would help outline the steps that are required to deliver gains for the overall economy. Some of the prominent operational challenges or gaps in the current public procurement process include:

1. Though Central Agency for Public Tenders (CAPT) has an eProcurement facility, the entire process is not digitalized. One may access notices and tender documentation and be notified of award decisions. However, critical features such as bidding, payments are yet to be digitalized. At best, in its present form it could serve as an 'information-oriented system' rather than a 'transaction-oriented system'.
2. Instances of lack of clarity or inadequate information coverage deters private sector participation or lead to submission of inaccurate quotes by bidders.
3. Significant amount of time is involved in bidding phase and contract management phase. Together, both the phases account for 795days.
4. Lack of back-end linkages in current eProcurement system necessitates the need for repeated submission of documents such as registration details, license copies, financials & technical capacities while bidding, resulting in duplication of efforts.
5. As per current practise, tenders less than KD 75,000 – a prime source of business for SMEs, need not be routed through CAPT. Excluding them from eProcurement system makes it hard for SMEs to follow up and bid.
6. Purchases in smaller quantities lose the benefits of economies of scale and thousands of small transactions make them vulnerable to malpractices, as they are difficult to monitor.

7. Many a times, SMEs lose out on an opportunity to bid because of not being registered in the importers list of a particular entity.
8. SMEs find it difficult to deal with documents such as TOR (Terms of Reference) and RFQ (Request for Quotation) while preparing a bid. Certain tenders request for financial guarantees, obtaining one from a bank for a SME is challenging.
9. Need for training and capacity building activities with special focus on SMEs to facilitate their participation in public procurement activities. To augment the skill level of managers in procuring entities in Kuwait through upskilling measures.
10. Significant time gap between contract award and signing needs to be reduced. Time taken for pay outs is at about 60 days in Kuwait.
11. Address lack of objectivity and uniformity in the bid evaluation step, and improving overall reliability and transparency of the procurement process.

Proposed solutions

1. Complete benefit of an e-procurement platform could be attained through digitalization of the entire process chain. With some parts already digitized in Kuwait's procurement system, digitization of other steps would result in a 'transaction-oriented' e-procurement system. Apart from time and cost savings, it would enhance the transparency of the procurement process.
2. In this regard, e-Procurement systems of Kuwait Oil Company and Kuwait National Petroleum Corporation provide additional features support digital bid submission and could be used as reference.
3. Incorporating back-end data linkages would do away with redundancies in the existing system such as the need for registration of companies in the importers list of each procuring entity.
4. Introduction of e-Market place would provide the state procuring authority access to multiple sellers and would aid in making an informed decision in direct orders, instead of communicating with only few entities. A log of such purchases could also be made available for public view, increasing transparency of the process.
5. By registering in the portal and uploading their product catalogue, SMEs could ensure their participation in direct orders and this would address the concern of them missing out on opportunities due to lack of information.
6. The portal would allow for demand aggregation wherein the government procuring authority (primary user) could aggregate similar purchase orders across various buying teams (Ministries & government departments) leading to substantial cost savings.

7. To encourage the adoption and usage of e-Market place various departments of the government and public sector could be mandated to procure a set value of their requirements from the proposed online marketplace.
8. Once a supplier is verified, a common record of supporting documents could be made available in blockchain (remains immutable), which could then be accessed by different public sector entities. This does away with the need for each procuring entity to individually verify supplier information.
9. Bid evaluation could be modelled as a smart contract and the code can be used to automatically evaluate bids against the pre-coded tender requirements. This shall provide objectivity and uniformity in the bid evaluation step. It would also reduce conflicts post contract award and reduce the time gap between contract award and signing, which is currently at 90 days in Kuwait.
10. Smart contracts could be used to release payments automatically once certain conditions are met. Apart from reducing transaction costs it could ensure swift processing of payments, without involvement of any intermediaries. SMEs would find them particularly helpful as prompt payments would help them maintain healthy liquidity levels.
11. Encourage greater participation of SMEs through provisions of grants, setting quotas, and frame appropriate incentives for players who collaborate with them. Splitting of contracts into smaller lots, joint bidding, and subcontracting to SMEs could be encouraged.
12. Relaxed financial requirements, simplified documentation requirements, and holding guidance section could boost the participation of SMEs.
13. Hold stakeholder sensitization sessions wherein the pain points of various groups, particularly SMEs, are identified and appropriate solutions are devised to further their participation/address their pain points to boost competition.
14. Introduce 'public procurement practitioner' as a formal role through professional training institutes/course to promote it as a career opportunity while also professionalizing it. Encourage and lay emphasis on completing certification courses in public procurement offered by international organizations such as the World Bank, UNDP etc.
15. Standardize tender documents and templates with required fields that could serve as a prompt to the procuring entity to provide clear and comprehensive information. Ensure standardized versions of common clauses are used to enable document preparation process could be fast tracked.

For the solutions that we had earlier proposed along with relevant case studies, we have formulated appropriate Key Performance Indicators (KPIs) to measure the progress of suggested solutions. We firmly believe that what gets measured, gets managed and what gets managed is improved. Though we have identified the KPIs, the underlying data needs to be gathered and analysed. The KPIs could serve as a useful metric in assessing the improvement in efficiency of the procurement process.

Table 8.1: KPIs to monitor progress of the proposed solutions

Proposed Solutions	Challenges tackled	Relevant KPIs to monitor progress
e-Procurement platform	Elongated bidding procedure & frequent time delays Lack of active participation from SMEs Limited scope for inter-department purchase synergies Limited use of analytics to analyse spending patterns Lack of transparency in bid awards	Average time taken for award of contract Number of SMEs empanelled as verified vendors Proportion of contracts (by value) concluded through e-Procurement platform Average prices paid for common goods (office supplies, computers, vehicles)
Smart contracts/ Blockchain technology	Tweaking of tenders to suit particular party Lack of objectivity in bid award phase Time lag between contract award and signing Delayed release of payments	Proportion of tenders involving Smart contracts (by number & value) Number of tenders that invite encrypted bids Average time taken for contract awards
Process audits	Inadequate spend control and monitoring Unfavourable procurement policies and biased criteria for contract awards Inefficiencies in contract management over the purchase cycle Limited ownership & accountability	Number of specialized audits carried out compared to total audits Increase in planned expenditures as part of overall spending Average number of bidders per project
Training program & capacity building	Limited availability of skilled procurement practitioners Lack of upskill measures and adequate training	Number of people trained per annum Number of workshops held Number of short-term courses held for existing employees
National procurement standards	Inadequate information in tender documents Limited use of standardized documents and legal clauses Adoption of best practices is limited Limited emphasis on total cost of ownership	Average costs for bid preparation Number of tenders that has been modified since initial publication Average increase in contract value.

Source: Marmore Research

During our conversations with various stakeholders, several ideas were discussed and the following solutions were put forth by the participants to improve the procurement process in Kuwait.

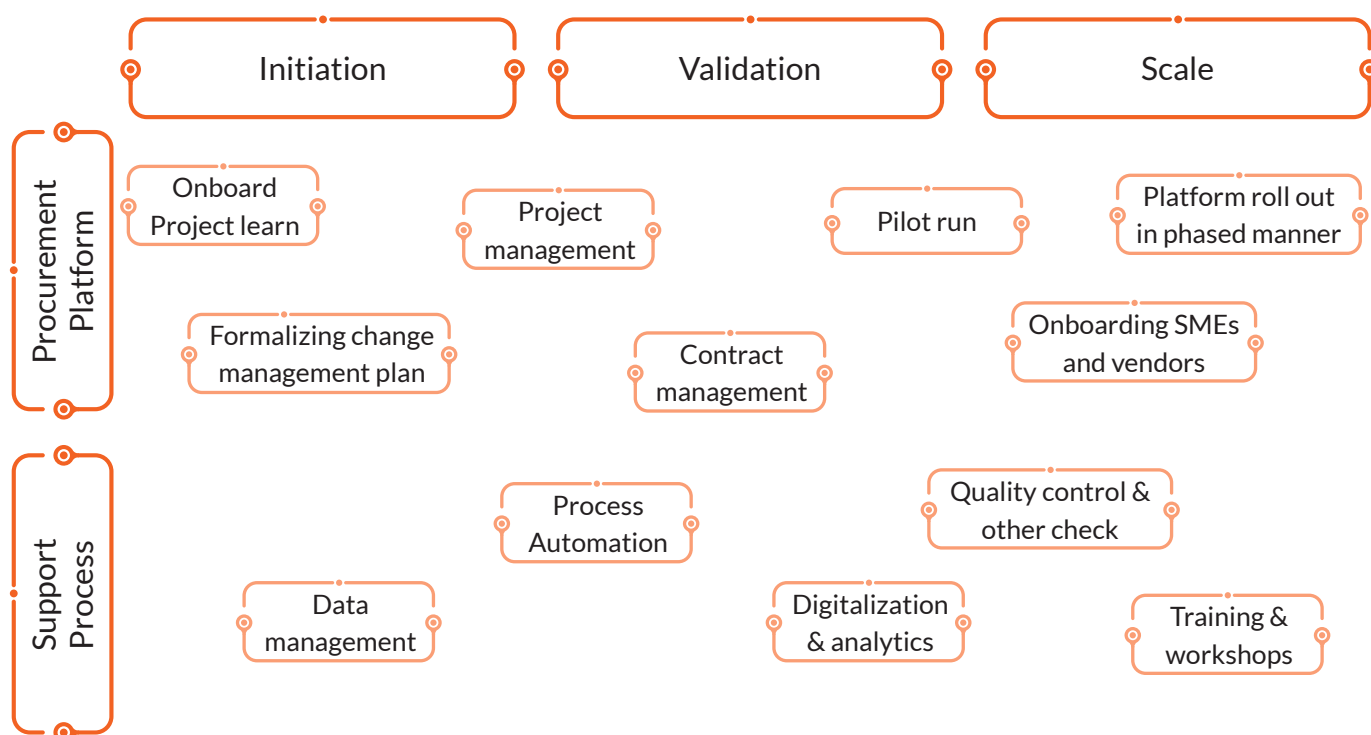
1. Procurement process in its current state is bureaucratic along with various administrative hurdles throughout the process. This apart from leading to time delays and cost overruns, puts off participants from actively partaking in the public procurement projects. The government needs to carry out reforms to remove the bureaucratic hurdles and aim for minimum government & maximum governance in the procurement process.
2. Tenders for large value projects are initiated without much pre-planning and assessment of its need. As a result, many of the tenders and contract awards do not materialize. Projects need to be planned extensively, its need should be well established before the tender is floated. Government is encouraged to actively seek the opinions of domestic firms during the needs assessment phase.
3. Spending measures are to be reviewed frequently and projects prioritized. Planned government expenditures need to be prioritized using economic rationale. Projects that have the maximum economic and social benefits could be implemented while non-essential spending or wasteful expenditures needs to be weeded out.
4. Projects of national importance and high-value infrastructural projects could be monitored by setting up a Special Projects Monitoring Group that shall oversee the contract execution across the project cycle and liaise with various government agencies/departments, as required, for swift project execution.
5. Reliance on international consultants for drafting RFP and RFQ could be avoided, as they largely apply what is successful elsewhere to Kuwait. The process may not work as the ground realities are different. Consultation with domestic firms and industry bodies needs to be encouraged to solicit their opinions on what is required for the industry and how best to go about it.
6. The capabilities of domestic firms needs to be acknowledged and sufficient efforts to improve the same could be directed through proper procurement planning. Participation of SMEs, in particular, needs to be encouraged. Government should ensure the playing field is competitive and support domestic firms adequately through appropriate support packages and subsidies, where required.
7. To enhance participation of domestic firms, quotas and procurement targets could be set for various departments in their procurement budgets. Additionally, prequalified vendors based on technical capabilities could be on boarded onto the procurement platform. To them the orders could be sent directly for minimal purchase values.
8. RFPs could be standardized along with legal clauses to ensure ease of bidding preparation documents. A specific task force could be constituted to imbibe the best practices and for greater alignment of Kuwait procurement process with global standards.

9. Develop specific training programs to improve upon the 'procurement skills'. As procurement covers the broad domain of purchase, finance, marketing, legal, and insurance, upskilling existing employees by offering short-term courses and organizing workshops could be considered. Instituting a procurement board that could offer professional courses and certification could be beneficial.
10. Finally, digitalize the procurement process across the process chain to improve upon reliability of the process. Usage of analytical tools to derive insights on spending and ways to optimise by batching similar purchase orders across various government departments, could result in savings. This could ensure transparency, assign accountability and improve efficiency.

Strategy Roadmap

The proposed solutions are of varying complexity; while some entails process changes, others would require technology additions. The implementation and benefits from them would also vary with time. Low hanging solutions that could be implemented on an immediate, on-going basis include training programs and capacity building measures. Strengthening process audits and setting up national procurement standards could be done at specified intervals, say once every 7 or 10 years. Kuwait should strive to digitalize the entire process of procurement. Though it could be time consuming, the benefits that Kuwait would stand to gain would outweigh the costs/efforts involved. Among the solutions proposed, implementation of block chain and smart contracts could be tried in a phased manner or for selective pilot projects, as the technology adoption is still nascent and could entail significant costs.

Figure 8.1: Road map for end-to-end digitalization of procurement cycle



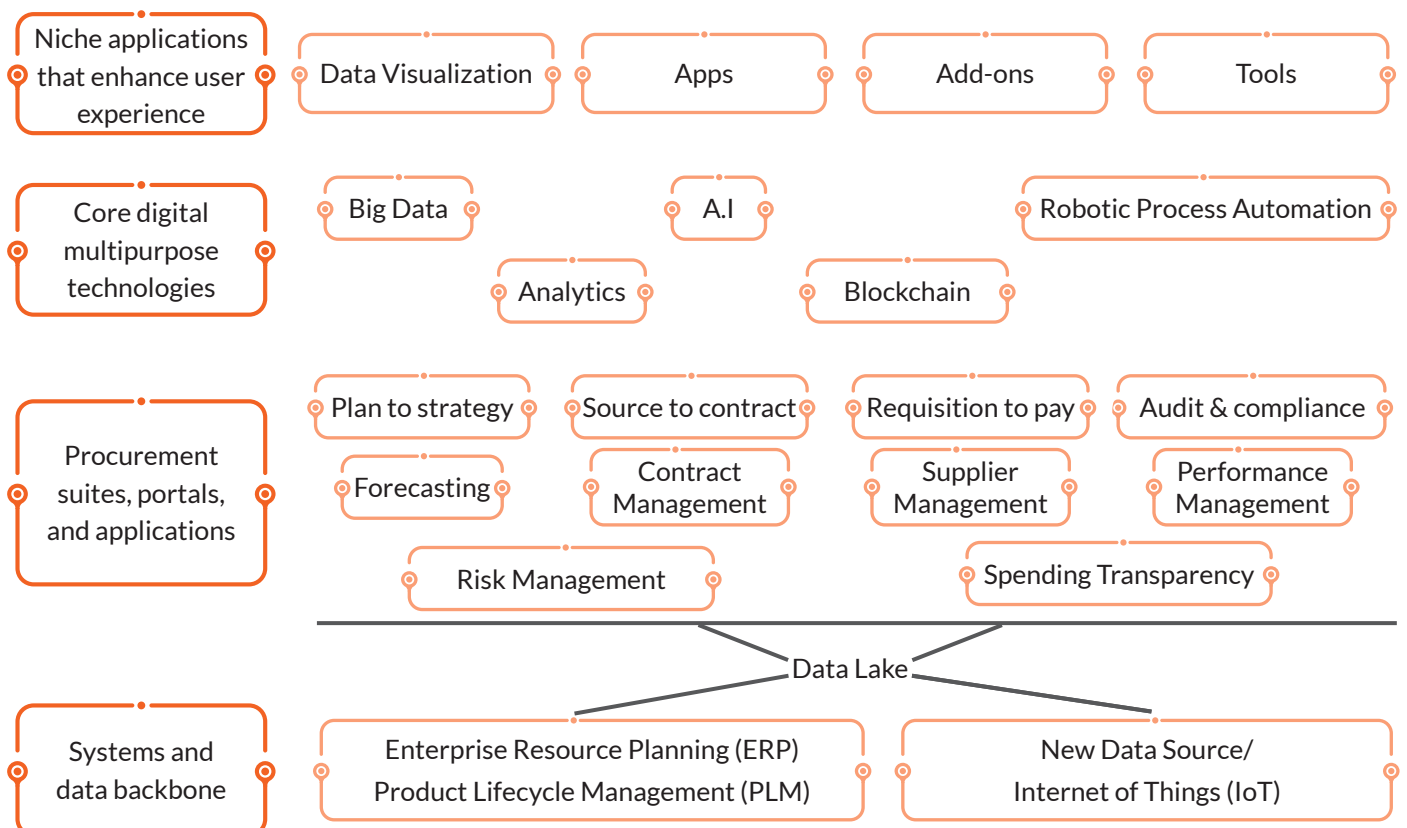
Source: Marmore Research

Digitalizing the procurement process is much more than automating the processes. It includes simple activities such as invoice processing and reconciliation to complex tasks such as expenditure analysis, demand aggregation, batching orders, optimizing order size, automated bid evaluation, release of payments upon completion of work etc. This has been made possible with the advancements in computing power and with the emergence of technologies such as machine learning, Artificial Intelligence (A.I), blockchain, and Robotic Process Automation (RPA). Leveraging on technology, the benefits for procurement function is immense; substantial cost savings, productivity increase, innovation, transparency of process and improved risk management.

Despite the increasing adoption of technology, it is important to emphasize on the crucial role played by procurement professionals in interacting with various organizations across sectors and sizes, their role in effectively communicating with various stakeholders, foresee and resolve pertinent issues. The cognitive skills that remain critical to identify and realize value-creating opportunities across procurement cycle would remain valuable and irreplaceable for the near future.

Digitalizing the procurement functions majorly involves four layers of technology; systems and data backbone, procurement suite, portals and applications, core digital multipurpose technologies, and niche applications that serve to enhance the user experience⁴². The systems backbone comprises of an Enterprise Resource Planning (ERP) and Product Lifecycle Management (PLM) the adaptability of which determines the effectiveness of other applications that could be integrated on top of it.

Figure 8.2: Technology layers of procurement platform



Source: BCG

⁴² Boston Consulting Group

Procurement suites such as Oracle, SAP are widely employed that helps in various procurement functions. On top of this, new age technologies such as A.I, blockchain, RPA, Big data and analytics could be integrated, which would provide greater insights into the spending patterns and add value across the procurement process. Further, niche applications such as tableau/Microsoft Power BI could be added that greatly enhances the visual appeal or an app could be created that enables people to check the key data on the go or from remote places.

Transformation and overhaul of the procurement system is long drawn out process that involves considerable time, cost and effort. Increasing the efficiency requires comprehensive action by various stakeholders at all levels of procurement process. Ownership of process and assuming accountability to deliver change could lead to positive results. While some of the suggested solutions could be implemented in the short-term, certain changes would require concerted effort from various stakeholders over the long-term to realise the results. In the short-term the benefits realised may be minimal however, sustained efforts to transform the procurement process would result in long-term flow of economic benefits. The benefits of digital transformation are clear, however, the appropriate digital tools that could improve the operational performance needs to be selected by the procuring authority with the view to meet the state's long-term strategic goals.

Appendix

Section 1: Kuwait Public Procurement Regulations

Kuwait Public Procurement Process Flow Chart



1.0 Public Procurement Process - Guiding Principles

In this and following sections of this Chapter, reference has been made to Kuwait Procurement Law and Kuwait Procurement Regulations, UN Model Regulations⁴³ (Model Law), a Handbook of Public Procurement Procedures⁴⁴.

The following are some of the underlying fundamental principles of the Public Procurement System:

- Maximizing economic value in spending and efficiency of procurement;
- Fostering and encouraging participation in procurement proceedings by suppliers and contractors regardless of nationality, thereby promoting international trade;
- Promoting competition among suppliers and contractors for the supply of the subject matter of the procurement;
- Providing for the fair, equal and equitable treatment of all suppliers and contractors;
- Promoting the integrity of, and fairness and public confidence in, the procurement process;
- Achieving transparency in the procedures relating to procurement.

Kuwait's Procurement Law and Regulations take cognizance of the need for the guiding principles of Public Procurement as mentioned above. The Regulations state that the tendering process will be subject to the principles of advertisement (transparency), equality and competition principles.

Thus, the first principle is that of 'Value for Money'. It implies maximizing the economic efficiency of the public procurement spending. i.e. obtaining the best economic value for the goods, services or works with maximum realization of the quality desired for such items. Here, the costs include total life cycle costs that include maintenance/servicing/delivery/transportation or storage costs. In addition, currently environmental and social costs are also being included. This principle also requires the staff of the procuring entity to be professionally of high caliber to discharge their duties efficiently and effectively.

Kuwait Procurement Laws do not explicitly embrace the concept of Value for Money. But their succinct acceptance of competition principle achieves the goal of value for money indirectly. The underlying tenets of competition are efficiency and economy guided by the survival principle of competing entities.

Next is fairness and equal treatment. Good procurement is impartial and consistent; it should offer all interested suppliers, purchasers and consultants an equal opportunity to compete. Procuring entities are prohibited from discrimination against any bidder regarding conditions of participation about financial, technical or commercial qualifications and capacity. For instance, National preferences for SMEs are treated out of the ambit of this principle if provided in the Law.

Equality is an important element of Kuwait Procurement Regulations and hence can be expected to provide the concomitant benefits therefrom.

⁴³ UNCITRAL Model Law on Public Procurement

⁴⁴ Public Procurement Procedures Handbook, Government of Belize

As mentioned competition becomes a prerequisite for obtaining value for money as well as ensuring fairness and equal treatment. Therefore, procuring entities must adopt practices that promote fair competition in all public procurements, discourage the use of false competition and use methods of aggregation where appropriate to take advantage of economies of scale. This is more than explicitly embodied in Kuwait's procurement regulations.

Promoting integrity and instilling public confidence, the procurement process and the implementation of procurement contracts must be transparent. The promotion of transparency in procurement also serves as an effective tool against corruption. It also ensures fair competitive conditions between the suppliers or contractors in the market.

The importance to transparency mentioned in Kuwait's procurement regulations can be understood from Kuwait's following procurement practices which demonstrate the application of this principle:

- Procurement notices shall be publicized in the Official Gazette and on the government (procurement) website. These notices contain the necessary information to enable the participation of pertinent bidders.
- Legislation, regulations, are made public, through the government (procurement) CAPT website, to enhance the knowledge of the business community and be acquainted with government procurement procedures.
- Notices of contracts awarded by Procuring Entities shall be published on the government (procurement) website, indicating the name of the winning bidder, the date, and contract value.
- Procuring Entities shall maintain appropriate recording of procurement procedures.

The following activities can further add to the transparency of the Procurement Process.

- Debriefing participating bidders on their bid outcomes and letting unsuccessful bidders on why they have not been successful is a generally accepted good practice for Procuring Entities.
- Procuring Entities being encouraged to invite Civil Society organizations to attend key procurement cycle activities, such as bid openings and contract signing proceedings.

Lastly, the administration of the process should be based on staff with high level of integrity. Therefore, public procurement practice must adopt a strong ethical standard. All public officials and other personnel connected with the procurement should carry out duties with due diligence. This is required whether it be planning, requisitioning, ordering, producing documents, making approvals, maintaining documents and records, or monitoring payments. Also, to supplement this it is the responsibility of all officers involved in government procurement to avoid situations which may lead to actual, potential or perceived conflict of interest. Kuwait's Procurement Law ensures appropriate governance system for senior officials entrusted with procurement who are from the government departments.

2.0 Procurement Process-Pre-Tendering or Preparatory Aspects

These comprise Procurement Plans, Internal Market Analysis, Estimating the Value of the Contract, Deciding Methods of Procurement, Formulation of Tender Documents, Setting Qualifications for Bidders, Setting Bid Evaluation Criteria.

2.1 Procurement Plan

The preparation for the procurement starts with the Procurement Plan on the following lines:

1. Procurement entities are expected to prepare their procurement plans well ahead for months or even years. They are also expected to inform the public about these by publishing them.
2. Procuring entities may also publish a notice of possible future procurement.
3. These plans are not expected to be legally binding but serve as a good procurement practice that prepares both the parties for effective planning.

Kuwait's Procurement Law recognizes the importance of procurement planning and entrusts this responsibility to the public authority (this includes Ministries, governmental departments, authorities, public incorporations and agencies that have supplemental or independent budgets, companies fully owned by Kuwait Petroleum Corporation) who will establish an organizational unit, and then to do the planning for procurement of such authority and the preparation of these processes and their implementation in accordance with the law.

Procurement planning starts with the developing of annual plans, budgets and time schedules to execute an operational or capital activity. These plans are required to address, in detail, all required resources including those to be affected by procurement or asset disposal. The Procuring Entity should be involved in the procurement planning function as the budget is being set, and to avoid delivery delays, the planning of procurement activities should be carried out in advance of budget approvals.

Procurement planning calculates the expected procurement costs likely to be incurred. The plan will include both recurring and non-recurring costs (revenue and capital expenditure). Procuring Entity will also gather information from Warehouse/Stores units (to reduce the risk of stock outs, overstocks and emergency procurements). Planning for procurement therefore eliminates the necessity of emergency orders, or waivers. Planned procurement results in lower purchase costs, as well as improved service delivery. Effective planning also allows requirements to be aggregated into larger purchases at lower unit costs, rather than frequent sourcing of quotations for identical items and issuing many individual Local Purchase Orders.

The level of effort expended on planning should be commensurate with the complexity of the procurement. We can classify the procurement objectives in four categories: Routine, Volume, Specialized and Critical. While the

process of planning for the four categories of procurement is similar, the amount of time, effort and documentation will vary amongst them.

Kuwaiti Procurement Regulations specify the following:

- i. Annual Procurement Plans will be prepared
- ii. They will be published in the Official Gazette and the Website
- iii. This will be done at least 90 days before the tender.

This step in the process will require the staff of the Procurement entities to possess the required skills to deliver a well laid out Procurement Plan that will meet the objectives. The Procurement entities can also plan their capacity building requirements using these plans.

2.2 Internal Market Analysis or Assessing Private Sector Capacity

After the budget approval, market analysis is required to determine the private sector's capability to meet the needs of the contract. Market analysis should address issues in the following order:

- i. Understanding requirements. This means reviewing requirements of the procurement contract in terms of scale and components, in identifying questions such as, "Can this contract be combined with other contracts to attract a high number of contractors?" or "Can the contract be broken into smaller components, to achieve a higher level of competition?"
- ii. Determining likely tenderers, their capabilities and willingness to tender, asking questions such as, "What is the range of likely contractors who may be interested in this contract" and "What can we do to attract more appropriate contractors to tender for this contract?"
- iii. Determining appropriate levels of competition. Once items 1 and 2 are determined, the appropriate scale and nature of the contract which will attract an appropriate and manageable level of competition.

Kuwaiti Procurement Law and Regulations do not directly address these requirements. However, it indirectly covers through a stipulation that before offering items they would be divided into homogeneous groups, to achieve equal opportunities. Also, it is not permitted that the minimum limit of the classified manufacturers or suppliers would be less than three manufacturers or suppliers.

2.3 Estimating Value of the Contract

The first important step of starting the procurement procedure is for the Procuring Entity to determine the subject of the contract, total value and duration of the contract. These characteristics will determine the type of bidding procedure (whether opening tendering is to be used or a framework agreement is to be applied or a direct order is to be placed) to be used, and the various legal obligations in terms of publicity of the tender. The firms that will be pre-qualified for the tender will be determined by the value of the contract, as the classification of firms eligible to bid are based on the size of contracts.

The estimated value of a contract should not be calculated in such a way as to be split for avoiding competitive tendering or circumventing threshold limits. The value of a contract must not be increased to exceed the threshold value of the specific procedure followed. The suppliers or purchasers' total price should include all applicable taxes, duties and other charges.

Kuwait's Procurement Laws and Regulations do not have a clause explicit about the rules for estimating the value of the contract, keeping the interpretation to the discretion of the procuring entity.

2.4 Method of Procurement to be followed

According to international practice, open tendering is the most preferred method of procurement and the choice of any other method should be used only if required by the provisions of the law but ensuring always to maximize competition to the extent possible. In case the procuring entity uses a method of procurement other than open tendering it will record the reasons and circumstances which made it use an alternative method.

Kuwaiti Procurement Law rules regarding the choice of tendering or contracting method is similar and stipulates that in general, tenders shall be contracted by way of public tender. All tenders shall subject to the principles of publicity, and equal opportunity and free competition in accordance with the procedures set out by the law and its implementing regulations.

Kuwaiti Law provides that an exception may be made, by a decision of the Board, based on a memorandum explaining the causes. The exception permits the following contracting methods.

- i. The limited tender, and to be called from several suppliers or contractors specialized in the technical and financial aspects and are registered with the CAPT.
- ii. The public of limited practice (competitive negotiation or solicitations) according to which the practice is to invite specialists for the required purpose in order that each one of them, after being notified of the requirements, specification, would submit one or more financial proposal.
- iii. The direct order, by which the procurement would be obtained from the market directly, by directly assigning works or order for supplying items to the contractor or supplier.
- iv. It is permissible to resort to tenders of collective procurement, electronic practices, and framework procurement agreements, according to the conditions and circumstances of the contract and in accordance with the provisions regulating those methods in this law.
- v. In no case, the public or limited tender would be transferred to a public or limited practice or a direct contract.

Further international practice specifies that single-source procurement that is a Direct Order can be followed only under the following exceptional circumstances:

- i. If the goods, services, or works are available only from a particular supplier or a supplier has exclusive rights for such supplies thereby making any other substitute or alternative not available.
- ii. Owing to a catastrophic event, there is an extremely urgent need and engaging in any other method of procurement would be impractical because of the time involved in using those methods;
- iii. The procuring entity, having made the procurement, determines that additional supplies must be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services. Such procurement takes into account the effectiveness of the original procurement, the limited size of the proposed procurement, the reasonableness of the price and the unsuitability of alternatives;
- iv. The procuring entity determines that the use of any other method of procurement is not appropriate for the protection of essential security interests of the State; or
- v. Procurement from a supplier or contractor is necessary to implement a socio-economic policy of the country, and the promotion of such policy is not possible if procurement is made from any other supplier or contractor.

Kuwaiti Law does not elaborate the circumstances and conditions for procurement from a single source though the Direct Order method of contracting is proposed in the Law.

2.5 Formulation of the Tender Documents

As per recommended practices, the tender documents will need to be prepared, by providing the following information:

- i. Instructions for preparing tenders;
- ii. The qualification criteria and procedures;
- iii. The documentary evidence to demonstrate supplier's qualifications;
- iv. A detailed description of the following will be provided;
 - Subject matter of the procurement;
 - The quantity of the goods;
 - The services to be performed;
 - The location where the goods are to be delivered, construction is to be made or services are to be provided; and
 - The desired or required time, if any, when goods are to be delivered, construction is to be made or services are to be provided;

- v. Any requirements of the procuring entity with respect to tender security to be provided and any security for the performance of the procurement contract to be provided;
- vi. The manner, place and deadline for presenting tenders,
- vii. How, suppliers or contractors may seek clarification of the solicitation documents and whether a meeting of suppliers or contractors will be convened at this stage;
- viii. The period during which tenders shall be in effect,
- ix. The manner, place, date and time for the opening of tenders,
- x. The criteria and procedure for examining tenders;

Kuwait's Procurement Law also provides that the procurement entity shall prepare the tender documents and put the detailed specifications for each item or performance of each work, the scope of the procurement process, the time for execution of the contract and its place, and the criteria for evaluation of bids. Also, it shall mention in the tender documents the necessary instructions to contractors, drawings, and accurate bills of quantity which show the individual items and prices schedules, considering the international standards and specifications of government procurement. Also, to be included are the principles and criteria of evaluation by which comparison will be done between financial proposals, the procedures to be followed in the implementation of the contract, and the sanctions that can be imposed in case of breach of the provisions of the contract or delay in its implementation.

2.6 Setting Qualification Criteria

As per international practice, suppliers or contractors shall meet the following criteria in deciding qualification of suppliers:

- Professional, technical and environmental qualifications,
- Professional and technical competence,
- Financial resources,
- Equipment and other physical facilities,
- Managerial capability,
- Reliability, experience and personnel to perform the procurement contract.
- Compliance with ethical standards, have legal capacity, are solvent financially, have no tax dues to the state, not charged with offences, etc.

The Procurement entity before proceeding with the tendering is required to finalize the various relevant criteria from the above that are required to be fulfilled by the Suppliers or Contractors to qualify for bidding for the tender.

Kuwaiti Regulations specify that the relevant authority shall prepare tender specifications including all documents and forms required for pre-qualification process. These must include bidder specific data and activity, quality of materials and services the procuring entity wants as per the qualification, previous works, financial, technical and administrative data. The Regulations also stipulate that the pre-qualification process will prepare lists of accredited contractors, suppliers or service providers qualified to participate in the tender.

2.7 Setting Bid Evaluation Criteria

One of the final important steps in the pre-tender process is to set the evaluation criteria for the tender and the practice recommended is that the successful tenderer shall be:

- i. Tenderer whose price is lowest where price is the only award criterion; or
- ii. Where there are price and other award criteria, the most advantageous tender ascertained based on the criteria and procedures for evaluating tenders specified in the solicitation documents

If it is case of only price the criteria is simple, but where there are other award criteria to be considered it becomes more complicated. In the latter case, it requires deliberation on part of the procuring entity to set suitable criteria that can be easily assessed objectively for each of the other award criteria.

Kuwait Procurement Law has laid out the Principles of Evaluation and the criteria for the comparison of tenders. According to these rules:

- The Board Director of the Central Agency for Public Tenders shall approve the system of determining the criteria against which the comparison is made between the bids. It is required that these criteria would be objective and quantifiable, and the cost shall be the primary criterion in case of comparison.
- In cases of contracts in which the technical nature requires evaluating the proposals by the points system, the tender documents shall include the elements and principles of evaluation. In this case, the evaluation points and the minimum technical acceptance would be determined first, and the priority of bids would be ordered by dividing the financial value of each bid on the total obtained technical points. Further, it is not allowed to amend these conditions after offering the tender.
- The technical section (according to the law, the agency i.e. CAPT shall form a technical section and it includes engineers, quantity surveyors and persons with experience from different disciplines. Experience of each one of them would not be less than ten years.) in the procurement, authority shall undertake the calculation of the cost of technical proposals and make comparison among them. This will be done after unifying the principles of comparison about the financial aspects, by assessing the non-priced elements with a cash value. The booklet of conditions would disclose these elements, the most important of which are the terms of providing warranty and maintenance, spare parts, operating requirements, the terms of payment and delivery. Accordingly, it shall submit its recommendation of award to the Board to decide about the same.

- The Board is guided, if necessary, before deciding on the bid, also by the last prices previously accepted locally or externally, and by the market prices, in assessing the extent the bids are of high or low value. Also, it will be guided by comparison of the quantities provided in the tender with the rate of quantities in contracts approved in previous tenders.

Kuwait Procurement Regulations prescribe the most prominent elements of assessment that must be included in the booklet of conditions. These are the following:

- Number and sizes of projects which the contractor had done of similar nature.
- Proposed method of execution.
- Execution schedule.
- Performance certificates from customers.
- Technical data related to the sources of materials or devices.
- A statement of the types and specifications of equipment and devices which are used in execution.
- Names and experiences of technical staff which shall supervise the work execution by the contractor.
- Subcontractors and their experiences.

Thus, setting evaluation criteria is an important and critical step in the pre-tendering or preparatory step of the procurement process and has implications for assuring competition, fairness, transparency and equality principles.

3.0 Procurement Process- Procedural Aspects

This section will explain the procedures related to public practices, pre-qualification proceedings, language of communications, fees for tender documents and tender submission, solicitation and invitation for tenders, receipt and acceptance of tenders, opening of bids, constituting evaluation committees, holding question answer sessions, award of contract, acceptances of pre-award complaints and post award grievances.

3.1 Rules for Public Practices

Kuwait Procurement Regulations stipulate that public practice of contracting will be subject to the following:

- i. The Procurement authority shall apply to the board (The Board of Directors of the Central Agency for Public Tenders) when it requires approval to make the contracting through a public practice,
- ii. The Board of CAPT shall convey approval to the procurement authority or the agency to handle the procedures of the practice.
- iii. The practice shall be published through advertisement in the official gazette, the electronic website of the agency or the procurement authority.

- iv. Financial proposal of the tender request shall also include details about the specifications, quantity, quality, payment conditions, delivery conditions and any other requirements.
- v. Proposals shall be submitted within 30 days from the date of advertisement.
- vi. The granting of the public practice is by tendering for the least price or best offer.
- vii. Also, Board of CAPT shall inform in case the negotiation shall be with all bidders or the least price bidder.

3.2 Pre-qualification Proceedings

Prior to inviting tenders, the procuring entity may decide to call for pre-qualification proceedings. This step facilitates a more efficient and quicker tendering process by filtering out the suppliers who do not meet the qualifying criteria. The recommended practice for pre-qualification proceedings is as follows:

- i. The objective of pre-qualifying is to identify qualified suppliers and contractors before the tenders are invited.
- ii. Pre-qualification proceedings should be advertised as per Procurement Law & Regulations
- iii. The invitation to pre-qualify shall include the following important information:
 - Summary of the procurement contract terms and conditions. This includes nature, quantity and place of delivery of the goods/services/works and required time for delivery.
 - Criteria and procedures that will be used to decide the qualification.
 - How and where the qualification documents can be obtained.
 - The price, if any, to be charged for the pre-qualification documents and, after pre-qualification, for the tender documents;
 - Means and currency of payment of the price;
 - The language of the pre-qualification documents and, after pre-qualification, the solicitation documents;
 - The manner, place and deadline for presenting applications to pre-qualify and, if already known, the manner, place and deadline for tender,
 - The price for the pre-qualification documents shall reflect only the cost of providing them.

Kuwait Procurement Law stipulates that the tenderer is not considered eligible for the award of the tender, or to subscribe in the tender in the event of a pre-qualification of bidders, unless it meets the conditions stipulated in the pre-qualification requirements. Prequalification documents include the call to participate in qualification, requirements and qualification basis.

Kuwait Procurement Regulations have the following further stipulations concerning pre-qualification:

1. The pre-qualification shall be made for one process or for a specified period,
2. Procurement authority shall prepare tender specifications including all documents and forms required for pre-qualification process.
3. Procurement authority conducts qualification procedures according to established principles and procedures and prepares a list of qualified suppliers.
4. List of qualified suppliers shall be submitted to CAPT for its approval or amendment.
5. CAPT shall announce in the Official Gazette and on its website the qualifiers list. It will also notify the result to both qualified as well as non-qualified suppliers.
6. Qualification conditions and requirements and valuation standards must achieve transparency and justice among the bidders.
7. Procurement authority may exclude – at any stage – any tenderer if it is revealed that its submitted data or documents are invalid, or if it lost one of qualification requirements.

3.3 Language of Communications

The language of communication becomes very important for wider participation of suppliers that will lead to wider competition which can save the costs of procurement. Wider communication will also satisfy the principles for fairness, transparency and equality. Clarity on this is essential as well for planning the required human resources engaged in the tendering within the procuring entity.

International practice recommended about the language of communication is as follows:

- i. The pre-qualification or pre-selection documents, if any, and the solicitation documents shall be formulated in official language or languages and, in a language, customarily used in international trade,
- ii. Applications to pre-qualify or for pre-selection, if any, and submissions may be formulated and presented in the language of the pre-qualification or pre-selection documents and solicitation documents, respectively, or in any other language permitted by those documents.

Kuwaiti regulations stipulate that advertisement of tender invitation or qualification requests shall be published (at least) in a foreign language beside Arabic language in the following cases:

- If tender or bid shall be external i.e. outside the country.
- If offering is limited to foreign companies.

However, Kuwaiti regulations are silent about the language of the pre-qualification or pre-selection documents, leaving it to the discretion of the Procurement Entity to decide.

3.4 Fees for Tender Documents and Tender Submission

Kuwaiti Law and Regulations stipulate that a fee be paid for receiving the tender documents and also for a fee for the provision of tender documents for those who wish to participate as well as the event of applying for alternative bids. The fees should reflect only the cost of copying and distribution of the tender documents.

3.5 Solicitation and Invitation of Tenders

The solicitation defines the firms or suppliers who will receive the tender request and will therefore become eligible to compete in the tendering. The model practice suggests different procedures for solicitation and invitation of tenders based on the type of contracting as follows:

- i. Open Tendering & Electronic Reverse Auction
 - In this case the invitation will be published in the publication identified in the procurement regulations.
 - An international publication to be widely accessible to international suppliers or contractors.
- ii. When the procuring entity engages in procurement by means of restricted tendering it shall solicit tenders from all suppliers and contractors from which the subject matter of the procurement is available; always ensuring enough suppliers or contractors to ensure effective competition.
- iii. Where the procuring entity engages in procurement by means of request for quotations it shall request quotations from as many suppliers or contractors as practicable, but from at least three.
- iv. Where the procuring entity engages in procurement by means of competitive negotiations it shall engage in negotiations with enough suppliers or contractors to ensure effective competition.
- v. Where the procuring entity engages in single-source procurement it shall solicit a proposal or price quotation from a single supplier or contractor.
- vi. Prior to direct solicitation in accordance with the provisions of paragraphs i., iv. and v. the procuring entity shall cause a notice of the procurement to be published in the publication identified in the procurement regulations.

According to Kuwait Law, the announcement of the invitation for tender, shall be published in the Official Gazette, as well as on the website of the CAPT, in advance no later than (30) thirty days from the deadline. In addition, the announcement may be published in one of the periodic commercial publications, appropriate artful or professional magazines. The regulation shall specify the cases in which the dissemination of announcements through the international network for information on the website of public procurement is considered fulfilling the requirements for publishing stipulated in the law. The law does not specify the solicitation procedure separately based on the type of contracting method.

3.6 Receipt and acceptance of tenders

According to Kuwaiti Law, any tender submitted after deadline for submission of tenders may not be received, any tender that has a sign or mark may not be received. Further the following procedures shall apply:

1. The receiving documents from tenderer or his representative in the prescribed place shall be by physical means.
2. The accepting authority shall make sure of the data of tenderer or his representative and verify its capacity to submit the tender.
3. A receipt that includes tenderer data and capacity shall be delivered to the tenderer.
4. In the case of submission of alternative bids (alternative bid is another bid which differs in the technical specifications than the submitted original tender, for reasons beyond the control of the bidder, force majeure, or non-availability of a minimum of manufacturers or suppliers), a set of official documents for each alternative bid are obtained and should be clearly written on each set of these documents that it represents an alternative bid, a receipt shall be given and it shall be delivered for each alternative bid.

3.7 Holding Question Answer Sessions

Kuwaiti Regulations provide that in cases where the procurement entity decides to hold a session of questions regarding the tender or bid, it must consider the following controls and procedures:

1. It shall provide an advertisement informing the date and place for such a preparatory meeting.
2. Every person who purchased the tender documents will be authorized to attend the preparatory meeting in person or through their representative.
3. Everything recorded at the minutes of such a meeting is considered an integral part of the tender document and shall be effective against the bidders.
4. Questions, inquiries and its responses must circulate after the meeting to all tenderers in enough time before the closing of bidding date. In addition, the proceedings shall be published on the website of the CAPT. The proceeding recording shall not disclose the source of inquiry or question.

The question and answer session have critical importance for ensuring better understanding of the tender requirements as well as the bidders' compliance with them. It is however noted that such question and answer meetings are not mandatory in all tender instances.

3.8 Procedure for Evaluation of Bids

The basic sequence for bid evaluation consists of the following steps:

- Preliminary examination;
- Determination of bid responsiveness;
- Correction of arithmetic errors;

- Quantification of omissions and deviations;
- Application of evaluation criteria;
- Comparison of bids; and
- Preparation of evaluation report

The procedure for evaluation of bids according to Kuwait law is outlined below:

- The CAPT shall refer the envelopes of technical bids to the procurement authority to study them and submit their recommendations
- The recommendations should be submitted to the CAPT within a period of (30) thirty days. The procurement entity - in cases of major and technically complex projects – shall have a right to demand extending this period up to a maximum (60) sixty days, if approved by CAPT.
- The Board of CAPT shall have a right to take assistance of the technical staff at the Agency on the returned envelopes, to express an opinion if necessary.
- The applicants of the technically accepted proposals shall be notified of the date and venue for the session of opening the financial envelopes.
- For non-technical acceptance, the relevant authority shall show the deficiencies and violation of the conditions and specifications in the bids.
- The financial envelopes of these proposals shall be opened only after the receipt of the technical recommendation on them.
- The financial envelopes of the unacceptable technical proposals shall be returned to their owners without opening them.

Generally, it is the practice to form several ad-hoc tender committees such as the following to ensure an efficient tender evaluation process. The Committees are temporary in nature and may be the following:

- Pre-Tender Committee (Preparations of Specifications/TOR/Drawings)
- Bid Opening Committee (Technical)
- Bid Opening Committee (Financial)
- Bid Evaluation Committee (Technical)
- Bid Evaluation Committee (Financial)
- Samples Evaluation Committee
- Post-Tender Negotiation Committee (Clarification of issues)

These above committees are each tasked with oversight of certain activities of the tender preparation and process so that they can address the skill requirements for each in a specialized fashion.

3.9 Opening of Bids

This is an important aspect of the procurement process. It is through public opening that the public, whose money is funding the procurement, can see that the procuring entity is following its obligation to ensure the maximum of free and fair competition in procurement. Public bid openings should therefore be open preferably to anyone who wishes to attend. Procuring entities are also encouraged to invite Civil Society Organizations for key procurement cycle activities, such as attending bid openings as they help bolster public confidence in the fairness of the tendering process. Public bid openings are also important in that they help to reassure bidders and consultants that the procurement process is being undertaken fairly and that all those who submit an offer have an equal chance of securing a contract. This encourages participants to compete and results in a higher number of competitive bids.

International practice concerning opening of tenders or bids is as follows:

- Tenders shall be opened at the time specified in the solicitation documents as the deadline for presenting tenders. They shall be opened at the place and in accordance with the manner and procedures specified in the solicitation documents
- All suppliers or contractors that have presented tenders, or their representatives, shall be permitted by the procuring entity to participate in the opening of tenders.
- The name and address of each supplier or contractor whose tender is opened, and their tender price shall be announced to those persons present at the opening of tenders. These will also be communicated on request to suppliers or contractors that have presented tenders but that are not present or represented at the opening of tenders. These are also included in the record of the procurement proceedings.

Kuwaiti Law stipulates the bid envelope be opened at the time and place set forth in the tender documents, in a public session and in the presence of bidders or their representatives. The same shall be disseminated live on the website of the CAPT. It is preferable that procuring entities are encouraged to invite civil society organizations to attend key procurement cycle activities, such as bid openings. Kuwait Law does not provide for such practice. As mentioned previously a Bid Opening Committee composed of procurement personnel and a rotating membership from other Departments within the procurement entity is recommended to be set up.

So also, a Tender Evaluation Committee composed of members with the necessary skills, knowledge and experience, relevant to procurement requirements is recommended. Where appropriate, the members of the Evaluation Committee shall be based on their knowledge and expertise in the supplies, works or services, as well as procurement procedures and the law. If required, members, with the required technical expertise suitable for the evaluation of specific tenders will be chosen. Subject matter experts may also be used. The Committee membership should thus have skills in the following areas:

- Relevant technical expertise and knowledge;
- End user representation;
- Procurement and contracting skills;
- Financial management or analysis skills;
- Legal expertise (where possible).

Evaluation of low value / routine procurement activities, where no Tender Evaluation Committee is necessary, can be undertaken by the Procuring Entity staff, with the evaluation records / quotations kept for audit purposes.

3.10 Award of Contract

According to Kuwait Law, the award of the contract will be done on the following basis:

- CAPT in the cases that do not require a technical examination of the tender, shall award the tender immediately to the owner of the bid which is of the least price.
- For the tenders with the technical and financial proposals, which require a highly complex technology, a high engineering level and accurate technical specifications with high cost, the tenders are awarded to the tenderer who meets the technical requirements and his bid was of lower cost.
- After evaluating the bids of all technical and financial aspects, the Board of CAPT shall disclose the result.
- The person affected by the decision of assessment may appeal about it.

As per industry practice the award notification letter must contain:

- The date;
- The name of the winning bidder;
- The title of the Contract;
- The description of the goods, service or works to be provided;
- The tender reference number;
- The price that was announced at the bid opening or the revised calculated or award price.

The award of the contract is followed by signing of the contract subject to no-complaint of any of the bidders during the standstill period and no consequent changes to the tender.

3.11 Submitting Complaints and Grievances

A complaint system that is designed to function well in the context of public procurement plays several important roles and fulfills many purposes. A fair and transparent complaint mechanism instills confidence in the government

procurement process because it increases the likelihood that the procurement will be carried out in a fair and transparent manner. For suppliers i.e bidders a fair and impartial complaint mechanism is critical as it guarantees that they can file a complaint and that their complaint will be examined that too in a timely fashion. A strong complaint mechanism also becomes a deterrent to improper conduct by officials of the government procuring entity, contributing to the integrity of the procurement system.

According to Kuwait Law the procedures for submitting a complaint and deciding thereon shall be as follows:

- Any tenderer who has suffered from loss or damage as a result of breach of any obligation of this law or the regulation, may submit, a complaint at any stage of the procurement, requesting to reconsider the procedure from which he was affected, or cancelling action, if the damage has resulted from it.
- A complaint may be submitted with the procurement authority of any shortcoming in the preparation of technical documents of the tender from the point of equality, justice and equal opportunities until the closure of the bidding; and the competent procurement authority shall decide on the complaint within seven (7) business days, and its decision shall be recorded.
- If the matter is related to procurement procedures which have not yet resulted in a contract of procurement, the complaint should be submitted to the head of the relevant procurement authority, if within its competence, or to the Head of CAPT, if the procedures are issued from one of its committees or from it. The complaint must be submitted in writing. The complaint must be submitted during a period of (7) seven Days from decision or action.
- Once the complaint is submitted, the head of the competent procurement authority, or the Board or the committees of the Agency depending on the subject may suspend the procurement procedures. Also, within (7) seven business days, they are required to issue a written decision with regard thereto, including the reasons on which the decision was built.
- In case the decision is issued in favor of the complainant by accepting his complaint, the decision shall include the necessary corrective measures.
- Any decision regarding the complaint shall be recorded in the register of the procurement procedures.
- Complaints of decisions issued by the CAPT should be submitted to the Board of CAPT to decide thereon.

A committee for grievances shall be established by a resolution of the Council of Ministers, to be attached thereto. It consists of (five) members and it shall be formed of specialized legal, financial and technical experts. In case of acceptance of the complaint, the decision shall contain the necessary corrective actions, of which the head of the CAPT would be notified within seven days from the date of referral of the complaint to them.

4.0 Procurement Process - Operational Aspects

This will discuss the operational aspects of Kuwaiti Public Procurement like classification sizes for bidders to participate; bid security types allowed and bid security value, performance guarantee types, performance guarantee fees, price preferences for national products and preference for SMEs.

4.1 Classification Sizes for Bidders

Kuwait Regulations classify the suppliers into four categories according to their financial, technical positions and previous works. The four categories are as follows:

Category-1: Includes public contracting providers who can provide contracts for projects with value more than KD 10million, which involve high engineering levels.

Category-2: Includes contractors who have required financial and technical capacity to participate in tenders between KD 5million and KD 100million.

Category-3: Includes contractors with financial and technical capacity to participate in tenders between KD 1million and KD 10million.

Category-4: Includes local contractors who are permitted to participate in tenders not exceeding KD 2million.

To obtain the classification the capital or assets of the applicant must be not less than:

- i. KD 10 million for Category-1
- ii. KD 5 million for Category-2
- iii. KD 1 million for Category-3
- iv. KD 100,000 for Category-4.

4.2 Types of Bid Security and Value

A bidding entity is often required to post bid security, either in the form of cash deposit or a bank or insurance guarantee. The purpose behind bid security deposits is to see that genuineness or seriousness of the offer. They penalize and hence ensure that bidders do not withdraw their bids from the procurement process in an untimely manner. The government procuring entity holds the security deposit until the procurement contract is signed, after which all deposits are returned to the bidders. Bid security thus helps avoid the unnecessary use of resources by the government procuring entity.

Kuwaiti Regulations stipulate that all bids should be provided with an initial insurance (Bid Security) on the following conditions:

- i. One of the tender conditions shall specify a Bid Security between 1% to 5% of the tender's estimated value.
- ii. In divisible tenders, the Bid Security shall be between 1% to 5% of the estimated value of each item applied for.
- iii. The Bid Security must be an approved cheque or a letter of guarantee from an authorized bank in the State of Kuwait.
- iv. The Bid Security must be valid for the period of bid validity.
- v. The winner may not withdraw the Bid Security except after 90 days of the closing the tender or upon signing the contract unless the tender is cancelled.

4.3 Performance Guarantee Types and Fees

Suppliers are required to provide performance guarantee deposit that will be forfeited by the supplier in case they fail to complete the supply to the requirements and terms of the procurement contract. This is almost universal as it may be a means to protect the interests of the purchasing entity from failures due to supplier incapacity and incompetence. The size of the guarantee must be fixed judiciously as a large amount will prevent several smaller and newer suppliers from participating in the bid while too small an amount will open the door to inefficient and incompetent supplier to bid for the contract.

Kuwait Law stipulates that a performance guarantee is required to be provided by suppliers and the conditions are as follows:

- i. The value of the performance bond must not be less than 10% of the total value of the contract.
- ii. It shall be in the form of a bank guarantee letter approved in the State of Kuwait.
- iii. It shall be valid till final execution of the contract including the guarantee or maintenance period or longer.

The performance bond will be returned only after successful completion of the works to the agreed specifications and provided there are no claims against the supplier against the guarantee.

4.4 Price Preference for National Products

The Kuwait Regulations provide for a price preference for national products. The price preference is 15% i.e the prices submitted by national suppliers shall not exceed the lowest price for similar products imported by 15%. The national product is required to comply with the specifications and other conditions of the tender.

4.5 Preference for SMEs

Kuwaiti Law provides that the bids offered by small and medium entrepreneurs shall be given preference if they comply with the terms and specifications in case two bids are equal in terms of prices and one of them is for small and medium enterprises.

Section 2: Current Mega Projects in Kuwait

Project	Sector	Value (KD bn)	Scope	Status
South Al Mutlaa City	Housing	2.33	30,000 residential units, schools and other facilities	Underway: The infrastructure works have progressed up to 93% on Plots N2 & N3 and up to 67% on Plots N1 & N4. Construction works have commenced on water distribution network.
Jahra & Sulaibiya Low Cost Housing City	Housing	0.6	Low cost housing project north of Kuwait City; 824 Hectares	Underway: Progress at 11%. Infrastructure works contract awarded and expected to complete in May 2021. Project is scheduled to complete in 2030. Project was in the execution stage as per latest update in May 2020.
New Refinery Project (NRP)	Oil & gas	3.9	New 615,000 bpd refinery by KNPC	Underway: Progress at 99%. Technology provider appointed. Construction works are complete on P-1 to P-5. The project is to operate by end-2021 from June-2021. Final consultancy contract yet to be awarded.
Clean Fuels Project (CFP)	Oil & gas	3.7	Specification upgrade and expansion of 2 existing refineries to produce 800,000 b/d.	Complete: Overall progress 100%. Construction works completed. Lowest bid for shutdown mechanical maintenance contract submitted for \$312.7 million; yet to be awarded.
Jurassic Non Associated Oil & Gas Reserves Expansion: Phase 2	Oil & gas	1.22	Production of 120,000 b/d of wet crude and more than 300 million cubic feet a day (cf/d) of sour gas	Underway: Progress at 57%. Construction activities completed on West and East Raudhatain field, Sabriyah and Umm Niqa and commissioning is underway. JPF-4 & 5 bid submission deadline extended to 1Q2021 due to travel restrictions in the region. The invitation to bid for JPF-6 and 7 are not yet issued.
Petrochemical Facility at Al-Zour	Oil & gas	2	Petrochemical plant to be integrated with Al-Zour refinery.	Planning: FEED works completed. Qualified companies are yet to be shortlisted for all 3 phases. ITB expected by 4Q2021.
LNG Import and Regasification Terminal	Oil & gas	0.8	4 full containment LNG tanks each with a working capacity of 225,500 m3 and a regasification plant with capacity of 1500 BBTU/day	Underway: Progress at 97%. Dredging works have been completed and undertaken while construction works are still progressing.

Project	Sector	Value (KD bn)	Scope	Status
Al-Zour North (IWPP) – P2 to P5	Power & water	0.5	1800 MW of power generation capacity and 464,100m ³ / day of desalination capacity	Complete/Planning: Overall progress 55%. P-1 is complete. KAPP shortlisted teams for Transaction Advisory Services contract for P-2 & P-3. P-4 & P-5 are under study.
Al-Khairan Power & Desalination Plant (IWPP)	Power & water	0.51	Net capacity of a min 1,500 MW of power and a min 125 MIGD of desalinated water	Bidding/Planning: KAPP shortlisted teams for Transaction Advisory Services contract. P-2 & P-3 are still in the study phase.
Umm Al Hayman Waste Water (PPP)	Power & water	0.47	Initial treatment capacity of 500,000 m ³ /d. Plant may replace Riqqa WWTP in future	Underway: KAPP signed the award letter and final agreements. Construction works commenced and set to be completed by January 2024.
Kabd Municipal Solid Waste Project	Power & water	0.3	Waste to energy facility; 50% of all the municipal solid waste produced in Kuwait will be processed at the facility	On Hold: The project has been put on hold and the client is likely to cancel the project.
Kuwait Metropolitan Rapid Transit	Transport	5.4	165 km transit line running across Kuwait.	Planning: Feasibility study for the project has been completed and awaits final approval from government to tender.
Airport Expansion (New Passenger Building)	Transport	1.9	To increase the annual handling capacity of the airport to 20 million passengers and new runways and infrastructure expansion	Underway/Planning: Overall progress at 36%. Construction works ongoing on Terminal. P-2 contract for landside works is yet to be awarded. Crossroads contract bid submission deadline extended to 5-May 2020. The main contract tender is yet to be issued on P-1 of Package 1. The Cargo City (Package 4B) is still in its initial stage of development.

Source: NBK



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