

BENCHMARKING PUBLIC PROCUREMENT 2016

ASSESSING PUBLIC PROCUREMENT SYSTEMS IN 77 ECONOMIES



WORLD BANK GROUP

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Foreword

Good governance is crucial to the World Bank Group (WBG) twin goals of ending poverty and boosting shared prosperity. Countries with strong institutions prosper by creating an environment that facilitates economic growth, enables the delivery of valuable public services, and earns the confidence of citizens.

As a critical element of good governance, public procurement plays a fundamental role in achieving the twin goals of ending poverty and building shared prosperity. The public procurement market is massive. In developing countries, governments spend an estimated \$820 billion a year, about 50 percent of their budgets, on procuring goods and services. Public procurement is large in high-income countries as well, reaching about 29 percent of total general government expenditure. In the past decade, public procurement has increased 10-fold. And this growth trajectory is expected to continue.

Public procurement is a key variable in determining development outcomes and, when carried out in an efficient and transparent manner, it can play a strategic role in delivering more effective public services. It can also act as a powerful tool for development with profoundly positive repercussions for both good governance and more rapid and inclusive growth. Countries capable of controlling corruption in the public procurement sector are able to use their human and financial resources more efficiently, attract more foreign and domestic investment, and on average grow more rapidly.

Promoting good governance through strengthening and transforming public procurement is at the core of the fight in eradicating poverty and improving governments' service delivery.

The 2016 edition of the *Benchmarking Public Procurement* report aims to support evidence-based decision making on procurement policies and reforms by providing comparable data on regulatory environments that affect the ability of private companies to do business with governments in 77 economies. *Benchmarking Public Procurement 2016* builds on concepts and internationally accepted principles that are used in the context of the Bank's new Procurement Policy Framework such as openness, transparency, competition, value for money, and accountability. As the WBG continues to build on these concepts to develop new tools and approaches, this will be reflected in the *Benchmarking Public Procurement* indicators in the upcoming years to ensure this tool will support clients' effort to modernize and reform their procurement systems and institutions, leading to improved governance and efficiency in public sector procurement.



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Benchmarking Public Procurement 2016 would have not been possible without the generous contribution of a network of more than 900 local partners including legal experts, private sector firms, academics, government officials and other professionals routinely administering or advising on the relevant legal and regulatory requirements in the 77 economies measured. The names of those wishing to be acknowledged individually are listed at the end of this report and are made available on the *Benchmarking Public Procurement* website: <http://bpp.worldbank.org>.

Glossary

Bid

An offer submitted by a bidder in response to a call for tender to supply goods, perform works or provide services.

Bid evaluation

Method the procuring entity uses to compare and assess submitted bids in relation to the evaluation criteria and technical specifications established for each procurement.

Bid security

Security required from suppliers by the procuring entity and provided to the procuring entity to secure the fulfillment of obligations. It includes arrangements such as bank guarantees, surety bonds, stand-by letters of credit, checks for which a bank is primarily liable, cash deposits, promissory notes and bills of exchange. It excludes any security for the performance of the contract (UNCITRAL Model on Public Procurement of 2011).

Bidding documents (tender documents)

Documents presenting the terms of tender, the general conditions of the contract and the tender specifications.

Call for tender

The public invitation for all suppliers to submit bids to supply goods, perform works or provide services.

Complaint mechanism

Formal objection, protest or request to review the acts and procedures of a procuring entity when they are legally unjustified or contrary to the legal framework.

Conflict of interest

A conflict between the public duty and the private interest of a public official, in which the official's private interest could improperly influence the performance of official duties and responsibilities.

Cost

Official fees and charges incurred by suppliers throughout the public procurement process. Unofficial or unlawful payments or bribes are not counted as costs. Professional fees (for lawyers or other experts) are counted as a cost only if suppliers are required to use such services by law. All costs are in U.S. dollars.

First-tier review

The first time a complaint is reviewed by a procuring, administrative or judicial body.

Misconduct

Any type of suspicious conduct by the procurement official—related to conflicts of interest, corruption and other illegal activities—that raises red flags and may be reported to different government and anti-corruption entities.

Open tendering

Method of procurement involving public and unrestricted solicitation under which all interested suppliers can submit a bid.

Procurement contract

Awarded to the supplier that submitted the winning bid, it establishes the details of the execution of the procurement between the procuring entity and the supplier.

Procurement life cycle

The procurement life cycle starts with the need assessment by the procuring entity and ends with the execution of the contract.

Procurement official

Public official who is directly or indirectly involved in the public procurement process.

Procurement plan

Plan of expenditure issued by the government to establish its procuring needs over a delimited period of time (i.e. a year, half a year or a trimester).

Procuring entity

Any government entity that engages in public procurement in accord with the national or local procurement regulatory framework.

Regulatory framework

Applied to the *Benchmarking Public Procurement* indicators, the framework comprises all public procurement laws and regulations, legal texts of general application, binding judicial decisions and administrative rulings in connection with public procurement.

Standing

The capacity of a party, in this case a supplier and/or bidder, to bring suit against the procuring entity.

Second-tier review

In a second review or appeal, an administrative or judicial body has the authority to issue a final decision on the dispute.

Tender

Designation of the proposal, or bid, submitted by a supplier in response to a call for tender.

Tender notice

The document inviting all suppliers to submit bids to supply goods, perform works or provide services.

Whistleblower

An individual who exposes information on activities that are illegal or dishonest.

Abbreviations

<i>EU</i>	European Union
<i>GNI</i>	gross national income
<i>OECD</i>	Organisation for Economic Co-operation and Development
<i>SAR</i>	special administrative region
<i>SMEs</i>	small and medium enterprises
<i>UNCITRAL</i>	United Nations Commission on International Trade Law
<i>WTO</i>	World Trade Organization

Overview

If you think outsourcing, contract management and public-private partnerships are modern concepts—think twice. How did the governments of ancient civilizations acquire goods, works and services? There is no way they could have built the Giza pyramids or the Parthenon without good public procurement systems.

Doing business with the government can be traced back several thousand years. The first procurement order from around 2500 BCE was found in Syria in a red clay tablet.¹ In ancient Egypt scribes managed the supply of materials and workers for building the pyramids. They had a clerical role, noting the amount of materials needed and planning the work process on papyrus rolls.²

By the Middle Ages the institutions that developed public procurement besides the monarchy were the church and the military—for buildings, warfare and courts.³ As the cities in Europe continued to grow and industrialize, governments relied more on private suppliers for goods, works and services. However, it was not until the late 1800s that state legislatures in the United States began to create boards or bureaus in charge of purchasing.⁴ With defense purchasing during the two World Wars, modern procurement reached the next level of sophistication.⁵ But procurement was purely clerical—to obtain supplies of goods and services to keep the economy running.⁶

In the 1970s many governments were seen as ineffective, inefficient and wasteful, especially

when compared with the strong administrative systems of the private sector.⁷ More techniques and approaches from business administration were injected into the public sector in the 1980s.⁸ Because of the challenges of globalization and technological change, public procurement has since become one of the principal economic activities of governments.⁹

Public procurement accounts for around one-fifth of global gross domestic product (GDP). In most high-income economies the purchase of goods and services accounts for a third of total public spending,¹⁰ and in developing economies about half. Given its size the public procurement market can improve public sector performance, promote national competitiveness and drive domestic economic growth. And it can boost economic development. But the benefits go beyond getting value for money and other monetary goals. Today public procurement addresses such policy objectives as promoting sustainable and green procurement. And integrated with procurement policy are social objectives to support enterprises owned by disadvantaged groups and promote small and medium enterprises.

With such vast sums and interests at stake, public procurement is the government activity most vulnerable to corruption and fraud. It provides numerous opportunities for all involved to divert public funds for private gain.

Corruption in public procurement imposes very high costs on both the government and the civil society. When the tendering process is rigged because of corruption, competition cannot play its role of driving the prices down and the quality up.¹¹ Consequently, the quality of infrastructure and public service declines, directly impairing economic development. Since it raises the price paid by the administration for goods and services, corruption in public procurement also means colossal losses of tax payer money. Eliminating corruption in public procurement is probably impossible but a range of measures are available for governments to combat corrupt practices related to public contracts.

Sound public procurement laws that promote transparency and reduce the opportunity for opaque decisions are an important weapon in this fight. Failing to design laws and regulations that balance various stakeholders' diverging goals would impair economic development in the single most important marketplace in developed and developing countries. After all, public procurement is a business process within a public system.

Benchmarking Public Procurement provides comparable data on regulatory environments that affect the ability of private companies to do business with governments in 77 economies. It aims to promote evidence-based decision making by governments and to build evidence in areas where few empirical data have been presented so far, such as the consultations with

the private sector during a needs assessment and the time for reviewing protests in case of complaints.

Building on the pilot assessment conducted in 11 economies in 2014, the data collection was scaled up to 77 economies in 2015. *Benchmarking Public Procurement* measures internationally accepted good practices across various phases of the public procurement life cycle: preparing, submitting and evaluating bids, and awarding and executing contracts. Impediments to a well-functioning procurement system can arise throughout the different phases of the cycle. Private firms' participation in the public market may be affected by issues of transparency and efficiency as early as the identification of a need by a procuring entity and can expand throughout the final execution of a service.

Benchmarking Public Procurement also focuses on an equally critical aspect of procurement systems for private sector participation: a well-functioning complaint system. Efficient complaint mechanisms introduce a fairly low-cost form of accountability by offering disgruntled suppliers a forum to air their complaints. They increase suppliers' confidence in the integrity of the procurement process, encouraging more to participate, which can increase competition, lower prices and improve quality. That can allow government agencies to deliver better services and give the public more confidence in the way public funds are spent.

The transparency of public procurement regulations is far from optimal.

Benchmarking Public Procurement data that measure the transparency of procurement laws and regulations reveal that most of the 77 economies targeted by the project have at least one “transparency” deficiency. In some instances regulations are silent on details essential to suppliers, such as the legal time needed to obtain a decision after lodging a complaint. In other instances, the laws do not facilitate equal access to information for all suppliers—for example, leaving the notification of the results of a tender to the discretion of the procuring entity. Another interesting example: fewer than 10 economies surveyed require the procuring entity to publicly advertise the consultation with the private sector, when it takes place. Although there is still room for improvement in all the economies measured, OECD high-income economies do hold higher standards of transparency (figure 1).

There is a clear move toward the use of electronic means in conducting public procurement.

Of the 77 economies measured, 73 have a website dedicated to public procurement. Some are more advanced than others, and governments are using them for various purposes, whether it is to facilitate the bidding process, the award of contracts to bidders or to support the management of the procurement contract (such as processing payments online). Electronic platforms range from a website that does not support interactions but allows users to merely access tendering information—all the way to

sophisticated platforms for conducting the entire procurement process online.

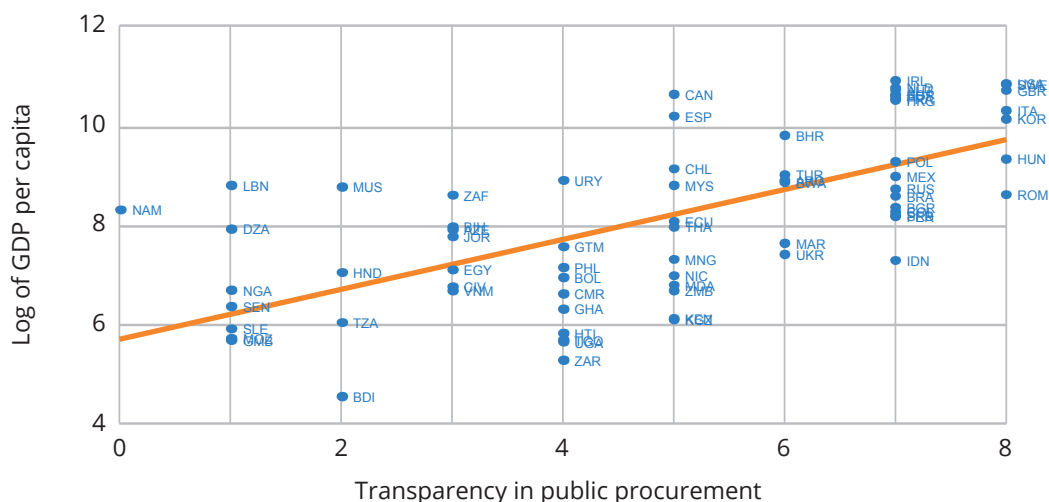
The many benefits of e-procurement have been widely recognized. They include equal market access and competition, enhanced transparency and integrity and lower transaction costs. The digitization of procurement can reduce in-person interactions that offer opportunities for corruption. But e-procurement as a standalone reform is likely to yield positive transformational results only if fully implemented.

The *Benchmarking Public Procurement* data show that in 17 of the economies measured, it is still not possible for users to access tender documents from the electronic procurement portal. Even more worrisome, when website visitors in several countries click on a “tender documents” option, they are led to an empty page. Interestingly, in 31 of the economies measured, bidders may submit their bids through an electronic platform. In a few countries like Chile and the Republic of Korea, electronic submission of bids has become the rule. But in most economies measured, e-bidding remains possible only in limited circumstances—as for a certain type of contract, or a certain industry, or if bidders have special authorization.

Although several economies have modern and sound public procurement regulations, their implementation lags behind.

Implementing the law not only guarantees the respect of the safeguards in place—it also reinforces the efficiency of the procurement process. *Benchmarking Public Procurement* data provide some evidence on the implementation

Figure 1 Countries with a high GDP per capita are positively associated with important aspects of transparency



Note: GDP per capita is gross domestic product divided by the midyear population. GDP is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in constant 2005 U.S. dollars (meaning the base period is 2005). Transparency in public procurement refers to the aspects of transparency measured by the Benchmarking Public Procurement indicators.

of laws in practice. For example, although the law provides that the payment of the contract should be processed within 30 days in 32 of the 77 economies surveyed, suppliers receive payments from procuring entities on time only in 14 of them. And in many economies where the law mandates a regulatory time limit for review bodies to assess a complaint and issue their decisions, this limit is rarely respected. Depending on the forum reviewing the complaint, this may result in months or even years of delay.

Transaction costs are still high in a number of instances throughout the public procurement process.

High costs affect all types of bidders, but small and medium enterprises (SMEs) to a greater extent, hindering their participation and access to the public procurement market. The requirement to hire a legal counsel in order to file a complaint, a rule in 4 economies, adds to the cost. Interestingly, although the remaining 73 economies do not have such a legal requirement, *Benchmarking Public Procurement* data show that it is a standard practice to hire a legal counsel in 36 economies. Another example of significant transaction costs has to do with the discretion of procuring entities in setting the maximum amount of bid security. In 23 of the economies measured, the maximum amount of

bid security that procuring entities are allowed to request is either more than 5% of the bid value or not regulated at all. In some economies,

the bid security may be as high as 100% of the estimated value of the contract, hindering the participation of bidders with limited resources.

1. About *Benchmarking Public Procurement 2016*

In recent years international principles, conventions and instruments have been developed to ensure the transparency, integrity and efficiency of public procurement systems worldwide. These instruments have generated internationally recognized good practices that provide a starting point for governments to improve their national laws and regulations. The World Trade Organization (WTO), the United Nations Commission on International Trade Law (UNCITRAL) and the Organisation of Economic Co-operation and Development (OECD) have adopted instruments to foster the harmonization of applicable public procurement rules and guidelines. Their implementation can promote best value for money, increase private sector competition and ensure fair treatment.

Launched in 2013 at the request of the G20 Anti-Corruption Working Group, *Benchmarking Public Procurement* builds on internationally accepted good practices and principles to develop comparative indicators for 77 economies.¹² By targeting the most critical issues deterring the participation of private firms, especially small and medium enterprises (SMEs) in public procurement (box 1.1), *Benchmarking Public Procurement* offers an objective basis for understanding and improving the regulatory environment for public procurement around the world.

Benchmarking Public Procurement is a work in progress. It follows the approach of the World Bank Group's *Doing Business* report, which has a recognized track record in measuring an economy's laws and regulations and leveraging reform.¹³ *Doing Business* assesses the business climate in 189 economies on recognized good practices. Since its inception in 2003 it has inspired close to 2,300 reforms in business regulation. By replicating the *Doing Business* approach and applying it to public procurement, *Benchmarking Public Procurement* offers data to fuel academic research, help governments assess the performance of their procurement systems and deliver a unique information tool to the private sector and civil society.

What does *Benchmarking Public Procurement 2016* measure?

Benchmarking Public Procurement presents cross-country analysis in 77 economies on issues affecting how the private sector does business with the government. It focuses on the public procurement cycle from the private sector's perspective. That cycle begins with identifying a need and ends with executing a contract, whether for delivering a good, providing a service or performing construction work.

Box 1.1 How public procurement helps SMEs grow

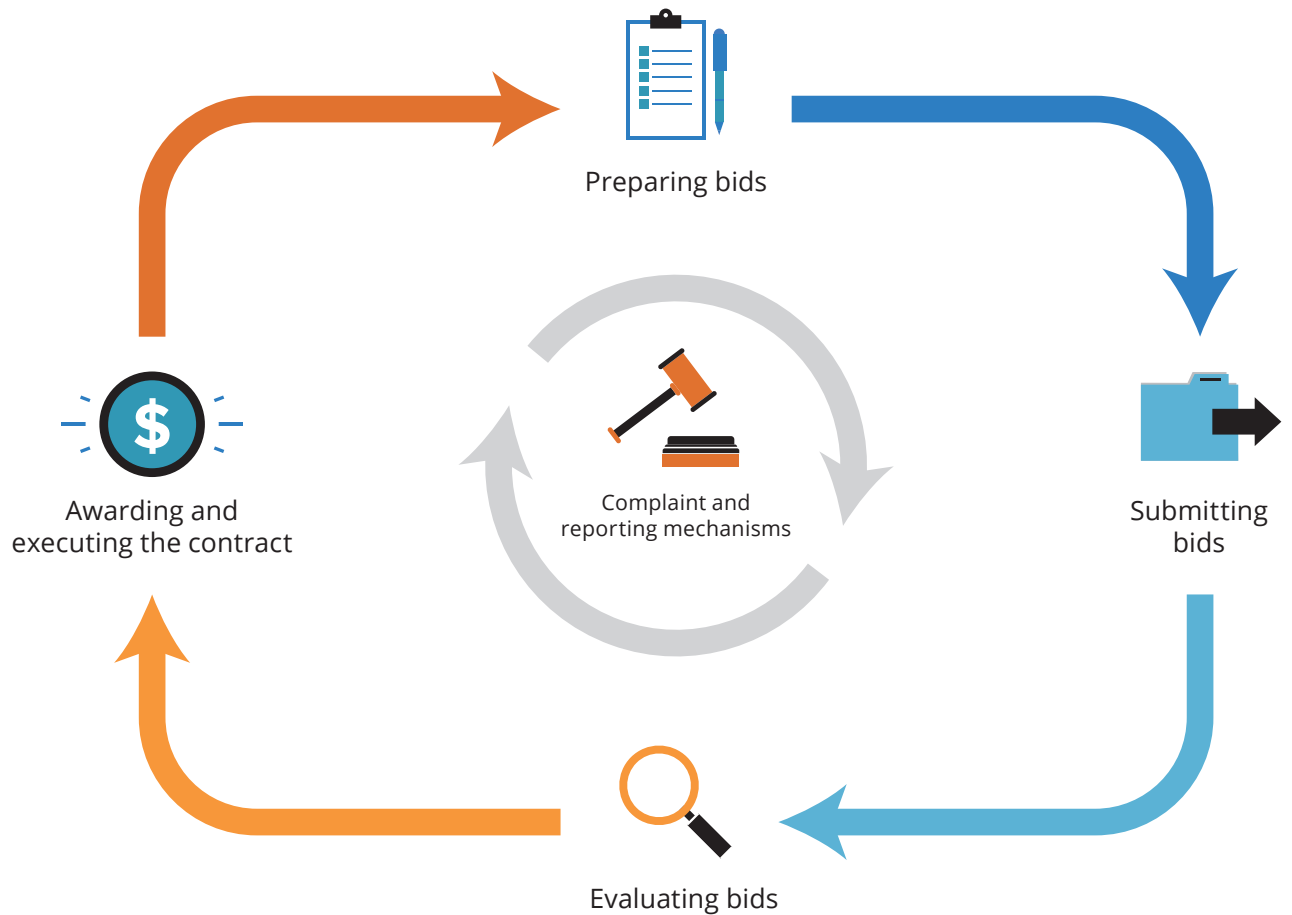
In recent decades many developed and developing countries have been modernizing and reforming public procurement regulations to increase competition, reduce corruption and generate budgetary savings. Governments have paid increased attention to the aspects related to fair and healthy competition and company participation in tenders, especially for SMEs.

But SMEs, despite their great potential to stimulate economic growth and encourage innovation and competition, are still largely underrepresented in public procurement in relation to their weight in the economy. SMEs in the European Union (EU), for example, win only 31–38% of public procurement contracts by value—much less than their 52% share in the economy.¹⁴ In the Middle East and North Africa they seldom know what the public market offers, even though they represent 80–90% of formal enterprises. In Iraq more than US\$51 billion is spent through public procurement, yet small and medium enterprises (SMEs) are not getting their fair share of that spending.¹⁵

What are the problems with the government procurement process? How can countries foster the participation of more qualified firms and lower the prices that governments pay for better quality products and services? Myriad stories published in the last few years detail the problems that private companies face when trying to enter the public procurement market. As the EU Commission highlights, many barriers still discourage SMEs from responding to tenders.¹⁶ They lack the resources and management expertise to plan, draft and complete tender applications. They also face difficulties in obtaining information, have too little time to prepare proposals and cannot provide the required financial guarantees. Already at a disadvantage they struggle with additional hurdles impairing their fair access to business opportunities, such as low access to finance and working capital. That makes it important to increase SMEs knowledge and understanding of how public procurement works and to develop their capabilities to compete for public sector contracts.

Increasing the share of procurement contracts awarded to SMEs can create more jobs. It can also enhance innovation in public service delivery and spur economic development. In some cases SMEs charge less since their costs may be lower. They can also ensure that government procurement is not dominated by oligopolies.

Figure 1.1 *Benchmarking Public Procurement* thematic coverage



Two thematic areas are critical for private firms responding to public calls for tender (figure 1.1):

1. The *Public procurement life cycle* indicator covers the four phases of public procurement ranging from preparing and submitting a bid to the system for managing contracts.

- *Preparing bids* captures elements of the procurement life cycle that take place before a supplier submits a bid.

- *Submitting bids* measures the ease of bid submission.

- *Evaluating bids* assesses whether the bid evaluation is an open and fair process in order to guarantee bidders that the bid evaluation process follows the best standards of transparency.

- *Awarding and executing contracts* assesses whether, once the best bid has been identified, the contract is awarded transparently and losing bidders

are informed of the procuring entity's decision.

2. The *Complaint and reporting mechanisms* indicator covers the ease of challenging a public procurement tendering process tender through a complaint system and reporting misconduct and conflicts of interest.

- *Availability of complaint and reporting mechanisms* assesses whether suppliers have sufficient means to raise a problem to a relevant review body and whether they have access to sufficient information to evaluate the opportunity to file a complaint.
- *First-tier review process* explores the overall procedure for a complaining party to obtain a decision from the first-tier review body as well as the characteristics of filing a complaint before the first-tier review body.
- *Second-tier review process* assesses whether the complaining party can appeal a decision before a second-tier review body and, if so, the cost and time spent for such a process, as well as some characteristics of the second-tier review.

Benchmarking Public Procurement provides *de jure* and *de facto* indicators. *De jure* indicators capture the characteristics of laws and regulations encompassing public procurement

rules, other legal texts of general application and judicial decisions and administrative rulings setting precedents in public procurement. *De facto* indicators capture time and cost aspects of the procurement cycle and complaint process. Time to perform a procedure is measured in calendar days, and the minimum time for each procedure is one day. It includes the waiting time, if any, to perform the procedure when no bribe or payment is offered to accelerate the process. Cost includes only official fees and charges. It does not include unlawful bribes or payments. Professional fees of lawyers or other experts are included only if the law requires a company to use such services.

The most important step in developing benchmarks was to identify outcomes in the eyes of potential suppliers, especially the impediments to supplier participation and the confidence in the procurement system. The choice of seven subindicators was guided by a review of academic literature and by consultations with renowned public procurement specialists and private companies—the project's expert consultative group.¹⁷

Further review of international instruments and recognized best practices has also steered the design of benchmarks. For instance, the lack of an independent complaint mechanism is the number one concern for suppliers. The *Benchmarking Public Procurement* team reviewed international instruments to identify practices that instill trust in an independent and fair complaint system and used them as a

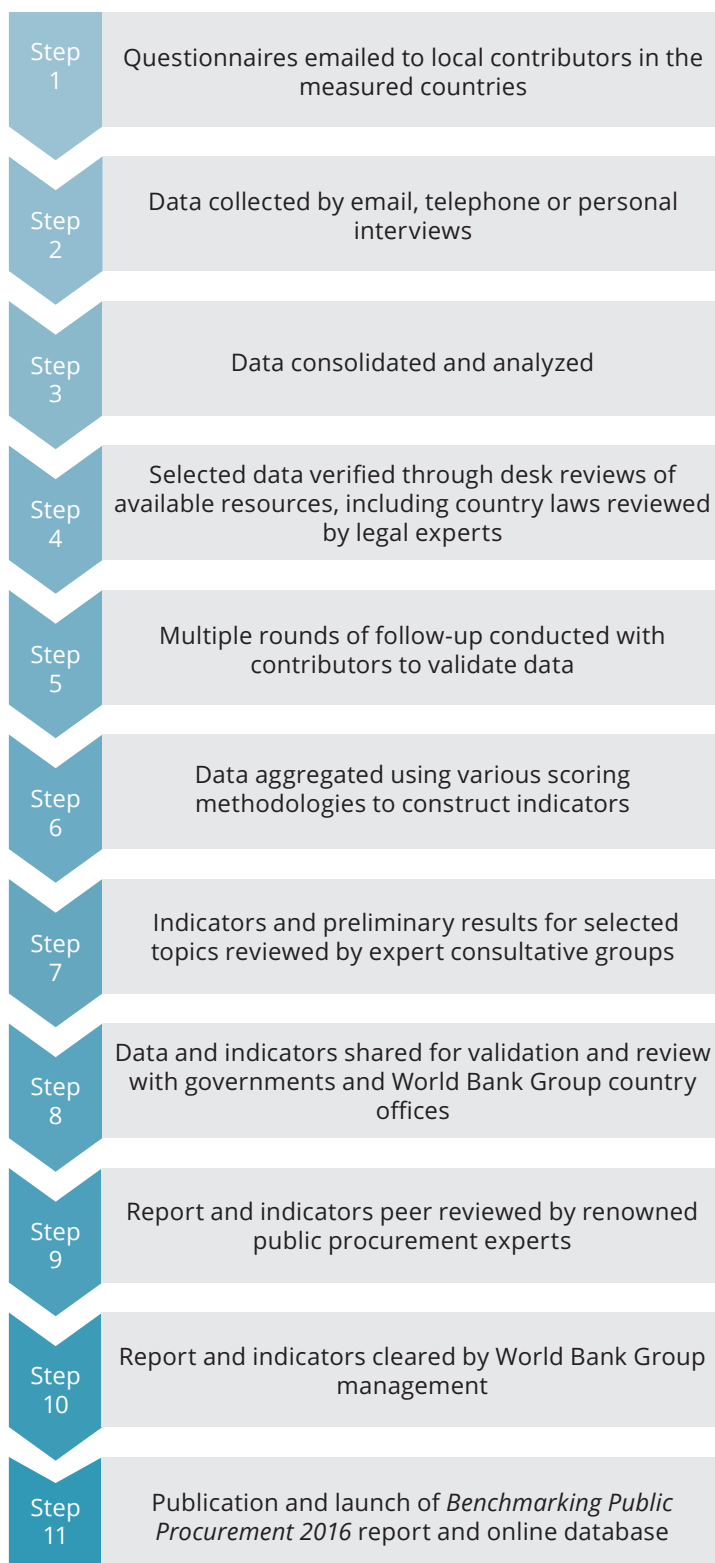
basis for developing the benchmarked areas of the *complaint and reporting mechanisms*.

Since *Benchmarking Public Procurement* aspires to be a repository for actionable, objective data, providing insights into good practices worldwide, the dataset points toward reforms to achieve a specific policy goal. For example, the data cover whether open tendering is the default method of procurement across the measured economies. Policy makers wishing to increase competition in public procurement can identify economies where this is the case and learn from their experience. The indicators and the time and cost for each procedure can help governments frame specific procurement regulations beneficial to the private sector.

How are the data collected?

The *Benchmarking Public Procurement* indicators are based on primary data collected using standard questionnaires that expert contributors in each economy complete. Once the data are collected and analyzed, several follow-up rounds address and clear any discrepancies in the answers the contributors provide, including conference calls and written correspondence. The preliminary answers are then finalized and shared with governments for further validation. The data in this report were collected up to March 2015, and do not include any changes after that. Figure 1.2 shows the steps in the process from data collection to public release.

Figure 1.2 Data collection, verification and analysis in 11 steps



Selection of contributors

The main contributors to the questionnaire were law firms, other professional services providers (mainly accounting and consulting firms), public officials involved in procurement tenders, chambers of commerce, law professors, private firms and other procurement experts. These individuals and organizations have knowledge of their economies' legal and regulatory frameworks for public procurement and experience advising suppliers wishing to do business with their government.

Contributors were selected based on their interest, availability and willingness to contribute to the project *pro bono*. They were identified primarily from the following sources:

- International guides identifying leading providers of legal services, such as Chambers and Partners, Martindale and IFLR1000.
- Large international law and accounting firms with extensive global networks.
- Members of the American Bar Association, country bar associations, chambers of commerce and other membership organizations.
- Professional services providers identified on the websites of embassies, public procurement agencies, business chambers and other local organizations.

- Professional service providers recommended by country offices of the World Bank Group.

Lawyers and other professional services providers were well positioned to complete the questionnaires. They could provide more up-to-date responses based on their experiences advising clients. Involving various experts increases the accuracy of the data by balancing out the potential biases of different stakeholders. Reaching out to both the private and public sectors also helps in comparing the views and insights of all stakeholders in the public procurement system.

The majority of data points feeding into the different *Benchmarking Public Procurement* indicators are fact-based and corroborated by the *Benchmarking Public Procurement* team by analyzing the relevant laws and regulations.

Data comparability

Comparability is at the core of the *Benchmarking Public Procurement* project. Following the methodological foundations of *Doing Business*, *Benchmarking Public Procurement* takes the same sets of questions to all economies. Standardized data, indispensable for valid cross-country comparison, come from a streamlined collection process replicable in each economy.

Comparability is further achieved through the reliance on detailed assumptions of a case study tailored for the *Benchmarking Public Procurement* questionnaires and applied across all

economies globally. Assumptions guiding contributors through their completion of the survey questionnaires pertain to the procurement contract, the supplying firm willing to submit a bid and the context of the procurement. A hypothetical medium-size local enterprise named “BizCo” seeks to participate in public tendering for the procurement of its products (box 1.2). The industry selected must, to the extent possible, be free of specific health, safety, or national security regulations. Comparing procurement of heavily regulated products and services is particularly complex since industry-specific regulations often trump the application of public procurement rules. In addition, again in the interest of comparability, the values

provided in the assumptions are not flat values but proportional to the gross national income (GNI) per capita of the economy.

Thanks to these assumptions, data collection can be cost-efficiently applied to a large number of economies and overcome deep structural differences that could jeopardize comparability.

To be relevant and to provide up-to-date information to policy makers, the dataset records reforms and highlights new trends in public procurement, which can be tracked only through a cyclical exercise. A yearly assessment allows measuring progress over the years.

Box 1.2 *Benchmarking Public Procurement 2016 assumptions*

The company, BizCo, is a private domestically owned limited liability company that operates in the main business city. A medium-size company, it has 10 to 50 employees and generates annual turnover equivalent to 100 times the GNI per capita.

The procuring entity is a local authority in the main business city that is planning to buy widgets, equivalent to 20 times the GNI per capita. It initiates a public call for tender, following an open and competitive procedure. The call for tender attracts six offers, including BizCo's. BizCo's offer is complete. It includes all required documents. It is unambiguous. And it provides a price quotation free of mistakes.

The widgets are not bought under a framework agreement. Nor is their purchase by a public entity regulated by any specific law or regulation other than the ones applicable to general public procurement.

Note: The term widget refers to unnamed articles considered for the hypothetical example.

Aggregating the data

The *Benchmarking Public Procurement* indicators are aggregated by subtopic and are designed to help policy makers evaluate their system's performance in a specific area of public procurement (table 1.1).

Only the practices and regulations recognized as good by the global public procurement community are aggregated through scores. The scoring method allocates the same weight to all benchmarks. Scores are presented in five categories at the subindicator level: 0–20, 21–40, 41–60, 61–80 and 81–100. Economies with a score of 81 or more, which are considered close

to good practice on a certain subindicator, are in the top quintile. Economies with a score of 20 or less are in the bottom quintile in the charts, which means that the economy has a lot to improve in the light of internationally accepted good practices and principles on what *Benchmarking Public Procurement* measures. The remaining three categories are in quintiles 2, 3 or 4 in the charts (respectively > 20 and ≤ 40; > 40 and ≤ 60; >60 and ≤ 80). All data points used to aggregate the *Benchmarking Public Procurement* indicators are listed at the beginning of the country pages and made publicly available on the project's website (<http://bpp.worldbank.org>).

Table 1.1 What *Benchmarking Public Procurement* measures—seven areas in two themes

Indicator 1: Public procurement life cycle

- Preparing bids
- Submitting bids
- Evaluating bids
- Awarding and executing contracts

Indicator 2: Complaint and reporting mechanisms

- Availability of complaint and reporting mechanisms
- First-tier review process
- Second-tier review process

Note: The submitting and evaluating bids subindicators have combined scores. The second-tier review process subindicator is not scored due to its limited applicability to a small number of countries. Nevertheless, highlights from the data collected are presented in the report (chapter 3).

Awarding points based on the content of the law tends to advantage economies that systematically codify rules. Therefore, *Benchmarking Public Procurement* also measures questions on the implementation of laws in practice and the time and cost to fulfill required procedures. As the methodology is further refined, the assessment of the procurement system's practices will be further expanded.

Finally, not all the data collected and published are scored. Information was also collected for contextual purposes, and it will be available on the project's website.

Geographical coverage

The 2016 report covers 77 economies in seven regions (figure 1.3). In 2014 the project was piloted in 11 economies: Afghanistan, Chile, Ghana, Jordan, Mexico, Russian Federation, Sweden, Thailand, Turkey, Uganda and the United States. A progress report highlighting common trends in public procurement regulations and related practices was published (<http://bpp.worldbank.org>).

What are the methodological limitations?

The *Benchmarking Public Procurement* indicators do not measure the full range of factors, policies and institutions that affect the public procurement system of a given economy. They do not, for example, capture aspects related to the size of budget expenditure in an economy, the training and skills of the public officials handling procurement tendering or

the professionalization of procurement in the public sector. Nor do they look at the number of procurement contracts awarded in a given economy or the number and outcome of complaints filed, even though these are strong indicators of a well-functioning procurement system. In addition, they do not take into account the impact of fraud and corruption, which are an undeniable reality in many procurement systems. But their magnitude cannot be captured through standardized survey instruments.

Although the case study assumptions for *Benchmarking Public Procurement* indicators make the data comparable at a global level, they also reduce their scope. For instance, the indicators focus, with a few exceptions, on the main business city of each economy covered. As a result the assessment focuses on national laws and regulations, which may not necessarily represent the full picture of the procurement market in countries with a federal system. It also makes no sector-specific assessment.

What's next?

Following in the footsteps of *Doing Business*, the *Benchmarking Public Procurement* methodology will continue to improve. The team is scaling up data collection to 189 economies in the fall of 2015. A thematic expansion is also planned to include topics such as *Suspension and debarment of private firms*.

In addition, practice-related questions will be added to offer a more comprehensive dataset.

Figure 1.3. Geographical coverage of *Benchmarking Public Procurement 2016*

East Asia and Pacific (10 economies)		
Hong Kong SAR, China	Philippines	
Indonesia	Singapore	
Malaysia	Taiwan, China	
Mongolia	Thailand*	
Myanmar	Vietnam	

Europe and Central Asia (10 economies)	
Azerbaijan	Romania
Bosnia and Herzegovina	Russian Federation*
Bulgaria	Serbia
Kyrgyz Republic	Turkey*
Moldova	Ukraine

Latin America and the Caribbean (13 economies)		
Argentina	Guatemala	Mexico*
Bolivia	Haiti	Nicaragua
Brazil	Honduras	Peru
Colombia	Jamaica	Uruguay
Ecuador		

Middle East and North Africa (7 economies)	
Algeria	Lebanon
Bahrain	Morocco
Egypt, Arab Rep.	Tunisia
Jordan*	

South Asia (2 economies)	
Afghanistan*	Nepal

Sub-Saharan Africa (19 economies)		
Botswana	Kenya	Sierra Leone
Burundi	Mauritius	South Africa
Cameroon	Mozambique	Tanzania
Côte d'Ivoire	Namibia	Togo
Congo, Dem. Rep.	Nigeria	Uganda*
Gambia, The	Senegal	Zambia
Ghana*		

OECD high income (16 economies)	
Australia	Korea, Rep.
Austria	Poland
Canada	Netherlands
Chile*	New Zealand
France	Spain
Hungary	Sweden*
Ireland	United Kingdom
Italy	United States*

* *Pilot economies.*

Even though a solid regulatory framework is the first step in strengthening procurement systems, it remains sterile if not backed up with efficient enforcement mechanisms. The inclusion of practice questions will be a major step in the development of the *Benchmarking Public Procurement* project.

Finally, the report's findings will be applied in the research, analysis and technical assistance of our World Bank Group colleagues and other partner organizations. Feedback is welcome on the data, methodology and overall project design to make future *Benchmarking Public Procurement* reports even more useful as a resource.

2. The procurement life cycle

Unnecessary hurdles and obstacles to efficiency can occur at every step of the procurement life cycle. Each step comes with its own set of risks, but the lack of transparency, bottle neck regulations, unexpected delays and unequal access to information are challenges that suppliers can face all the way from the need assessment phase to awarding and implementing the procurement contract. Governments, through targeted policies and strict implementation of regulations, have an important role in making the overall process easier for companies. Generally speaking, international good practices can be used as goals when designing procurement policies. But beyond guiding principles of transparency, efficiency and fairness that are beneficial to all regimes, governments must look into the specificities of their own system, identify risks and opportunity, and adopt targeted rules that will address these risks and make their systems stronger.

Transparency and access to information remain a priority in each stage of the procurement process, from the first conception of the procuring entity's need, through contract award and all the way to final delivery and payment. Ensuring that suppliers can easily become aware of tendering opportunities, obtain copies of tender documents, and understand how and on what grounds bids are evaluated are just a few examples of how policy makers can make procurement regimes more transparent. Transparent processes, easy access to

information and open procurement markets drive down costs, improve quality and provide better value for money. They also lower the risk that any party will be improperly advantaged due to flaws in the system. Conversely, when it is difficult or costly to obtain information on the government's needs, technical specifications and processes for submitting and evaluating bids, the procurement system is drained of efficiency, transaction costs rise and potential bidders may be excluded from participating.

Benchmarking Public Procurement measures the procurement life cycle from the perspective of the private sector through four phases. In the first phase, *preparing bids*, the procuring entity sets the stage for the rest of the procurement cycle by assessing its needs, conducting market research to identify solutions that the private sector can provide and crafting the technical specifications to evaluate bids. In the second phase, *submitting bids*, it has to advertise the procurement to the private sector so that potential bidders can create and submit their offers. In the third phase, *evaluating bids*, it evaluates the offers submitted. In the fourth phase, *awarding and executing contracts*, it awards the contract to the supplier that submitted the winning offer and oversees the execution of the contract. (Note that the procuring entity is not always the entity overseeing contract execution, as in Jordan, which has a central purchasing/tendering department for all ministries.)

This chapter presents some of the *Benchmarking Public Procurement* findings for the four phases of the procurement life cycle in 77 economies.

Preparing bids

The Metropolitan Municipal District of Quito, Ecuador, just had elections and the people of Quito elected a new Council and a new mayor. The new mayor made it a priority to address some issues in the public school system. One goal was to provide new desks, chairs, blackboards and chalks to each city public school. The District of Quito was about to initiate a call for tender for a procurement contract following an open and competitive procedure.

Meanwhile, a company with experience supplying furniture for public schools was considering seeking opportunities with the District of Quito. It was about to negotiate a contract with an important private school in the city, which would demand its full work capacity for two months. But it did not want to miss any opportunity with the District of Quito, since providing supplies to several public schools over a long period would be more profitable than supplying a single private school for two months.

The company was looking for some clarity on the priorities and needs of the public schools. Would the District of Quito advertise its needs? If so, where? Would it publish a procurement plan? What information would the advertisement contain?

When assessing their needs and researching potential solutions, procuring entities often need to consult with the private sector to determine the solutions available, a process called market research. Early communication with the private sector often shapes the procurement, most notably the technical specifications required in the tender documents. If one or only a few suppliers are consulted during the market research, other suppliers may not be able to submit offers that comply with the technical specifications. This limits not only competition but also the procuring entity's ability to consider the full menu of options available, and thus the opportunity to get the best value for public money.

After its market research the procuring entity chooses the appropriate procurement mechanisms to conduct its procurement and specify clear technical specifications for the evaluation of offers. To ensure that potential suppliers are encouraged to compete, certain baseline information has to be included in tender documents, and a notice of tender is to be advertised, preferably through multiple channels and ideally through a central online procurement portal. These documents should be available as early as possible, if not immediately after they are final, and they should be free.

Various elements of the preparation period can weigh heavily on a supplier's decision to respond to a call for tender. Easy access to a procurement plan is critical for anticipating and planning the preparation of a proposal.

Detailed tender specifications—clearly stating the requirements to meet and the assessment method used by the procuring entity in evaluating proposals—are essential for a supplier to gauge its chances of winning the contract.

Preparing bids captures elements of the procurement life cycle that take place until a supplier submits a bid (figure 2.1). Through calibrated data points it measures the ease for prospective bidders to become aware of tendering opportunities, make an informed decision on whether to submit a bid and acquire the information and material necessary to prepare a proposal.¹⁸

Advertise the procuring entity's needs assessment

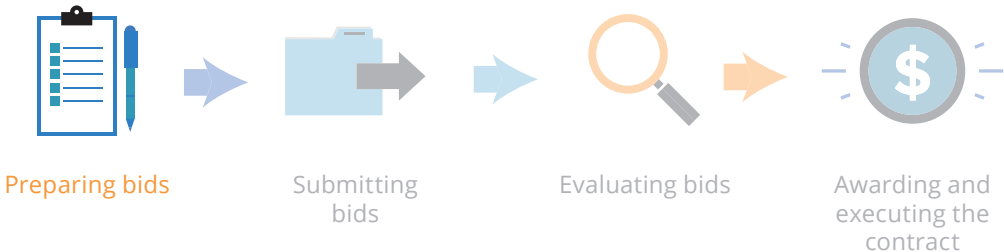
During the needs assessment phase, the procuring entity can engage the private sector to assess the procuring entity's needs—the type of good or service needed, the quantity and the technical specifications—before drafting the tender notice.¹⁹ To provide an equal opportunity to all firms and potential bidders, it should

publicly advertise any interaction with the private sector during market research. Such advertisement promotes the transparency and integrity of the procurement process.

Companies in Argentina or Brazil are able to participate in a preliminary consultation process for all interested parties to provide their input on the technical specifications of the procurement, under certain conditions. Indeed in Argentina, when the amount of the contract or the complexity of the procurement is very high, a call for consultation is published online for a minimum of 10 days and allows any person to submit comments.²⁰ In Brazil a public consultation is mandatory 15 days before publishing the tender documents for high-value construction and engineering contracts.

Algeria, Canada, Chile, Poland and Taiwan, China also require publicly advertising consultations with the private sector during market research. In Canada, Chile and Taiwan, China consultations with the private sector are always required to be public, and notices are published

Figure 2.1 Preparing bids



- Advertise the procuring entity's needs assessment
- Publish the procurement plan
- Advertise the call for tenders
- Include key elements in the tender notice and tender documents

online to reach a wide audience. In Poland, the procuring entity must publish a notice online and include information on the consultations in the tender documents.²¹

Publish the procurement plan and advertise the call for tenders

To promote transparency and help bidders identify upcoming tendering that might interest them and grant them more time to prepare a viable offer, procuring entities should be required to publish their procurement plan.

More important, widely advertising the call for tenders is essential to attract a maximum number of offers and guarantee private sector suppliers' access to tendering opportunities. In its Methodology for Assessing Procurement Systems (MAPS) the OECD promotes the publication of open tenders "in at least a newspaper of wide national circulation or on a unique official Internet site, where all public procurement opportunities are posted that is easily accessible."²²

Channeling information to private companies on the Web is generally a good practice. But in countries where internet access can pose a challenge for users, especially SMEs and other bidders with few resources, governments may allow for a transition period so that the tendering information and materials remain accessible through traditional communication channels.

With online procurement platforms the legal framework in many economies has been revised to require only online publication.

However, many economies continue to broadcast calls for tenders through traditional channels. Indeed, traditional channels provide information in countries where SMEs have less capacity and less access to online portals.

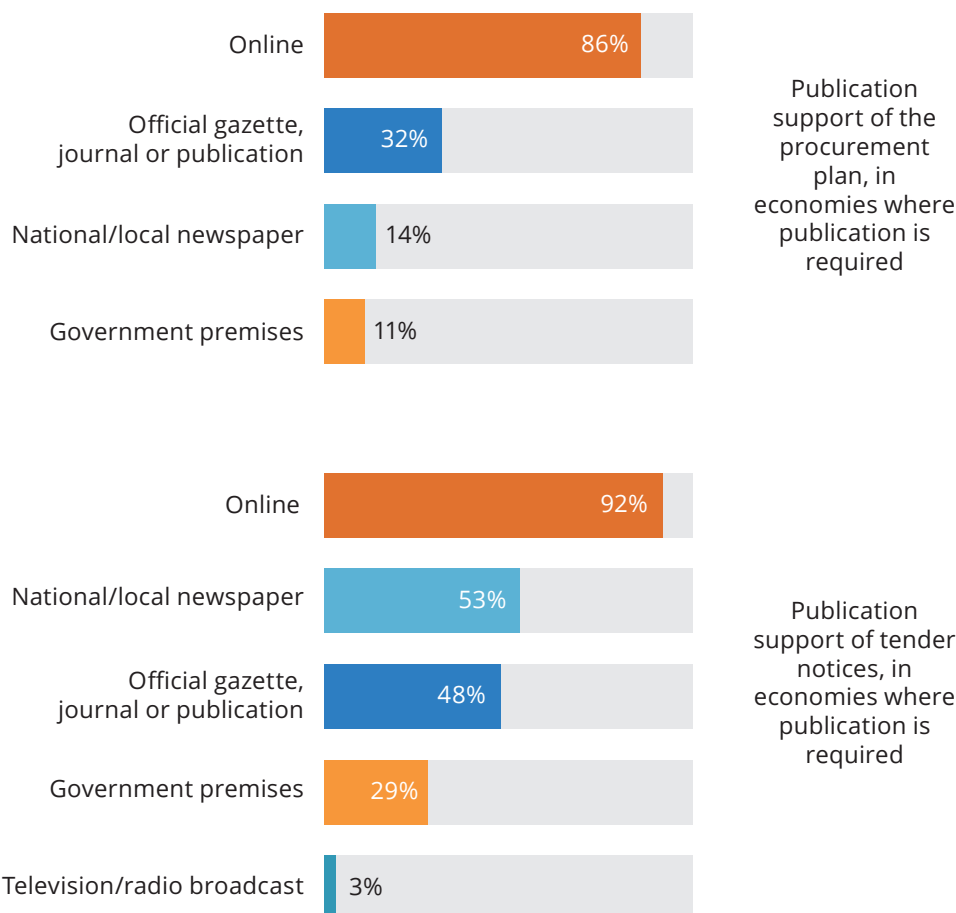
In all economies measured, open calls for tenders are advertised on at least one channel, but publishing the plan is mandated in only 38 of the 77 economies (figure 2.2). In a few economies, the transition to electronic communication support has started but not been completed. In Mozambique and Sierra Leone users can click on a link to access tender notices, but no details are published on the corresponding page.

Include key elements in the tender notice and tender documents

To make an informed decision on whether to respond to a call for tender, a company needs an easy access to the requirements to meet and to the criteria the procuring entity will use to assess bids. Both elements should be included either in the tender notice or in the tender documents. When they are accessible only in tender documents, they should be freely accessible.

According to the OECD's MAPS the "content of publication" should include "sufficient information to enable potential bidders to determine their ability and interest in bidding."²³ Does the law provide for minimum content of the tender notice and tender documents? Do the tender notice and tender documents feature technical and financial requirements and criteria for assessing bids?

Figure 2.2 The internet is the most common channel used for the publication of the procurement plan and tender notices (when required)



At one end of the spectrum is Mauritius, where the regulatory framework does not mandate mentioning specific elements, either in the tender notice or in the tender documents. At the other end is Burundi, where the law provides a list of elements required for both the tender notice and tender documents, and where both must include the technical and financial requirements that bidders have to meet and the criteria for assessing bids.

A closer look at the data also shows that simply because key information is accessible on the same channel in two countries, it does not mean that this information held on this channel is equally accessible in those countries.

For instance, neither in Bolivia nor in Lebanon does the law provide that the requirements and assessment criteria be included in the tender notice. In both countries a company has to

read tender documents to obtain this information. But in Bolivia a company could download these documents from the electronic platform for free in a few minutes, and without delay, following the call for tender. In Lebanon, where tender documents can be obtained only in hard copies, a company has to go physically to the premises of the procuring entity and pay a fee to obtain the tender documents. If a company and the procuring entity are in different locations, obtaining the documents could be time-consuming and costly.

Submitting bids

If you live in Moscow, in the Russian Federation, there's a reasonable chance you could get stuck in an elevator at some point. The City of Moscow has twice as many elevators as New York, many of which have exceeded their lifespans. Moscow even has a fleet of well-trained elevator rescuers, who work night and day. Recently, the Government of Moscow launched a program to renew the oldest elevators of official buildings. It was about to initiate a call for tender, following an open and competitive procedure.

An experienced elevator supplier was interested in responding to the call for tender and to be in business with a city with so many elevators. The company was looking for clarity in regards to the process of submitting a bid for this particular procurement. Would it be able to submit a bid electronically? How much time would it have to prepare and submit the bid? Would it have to post bid security along with the bid?

For a small company several elements come into play between the moment a call for tender is advertised and the moment it submits a bid in response to the call. Before anything else the company will have to decide whether to participate in the tendering. If it decides to do so, it will have to properly prepare and submit its bid in addition to complying with the timeframe and specifications that the procuring entity imposes.

The regulatory framework can substantially ease the tasks for prospective bidders. For instance, making it mandatory for the entity to address bidders' questions on technical specifications in a timely fashion guarantees better access to information. Ensuring that the answers that are not specific to one bidder are shared with all bidders levels the playing field and conveys the notion that they are treated fairly and equally. By the same token, requiring that tender documents be distributed for free or at a regulated price prevents excessive transaction costs that could deter participation.

The regulatory framework can also prevent unnecessary hurdles for prospective bidders when it comes to bid submission. In countries where accessing the internet is not challenging, the ability to submit a bid online facilitates the process for bidders. Imposing a maximum amount of bid security that the procuring entity can request from bidders also helps prevent excessive costs and deterring participation. Allocating a reasonable time to submit a bid is an important element for bidders.

Submitting bids measures the extent to which the regulatory framework and procedures in practice facilitate bidders' access to information while preparing their bids and ease the bid submission process (figure 2.3).²⁴

Electronic submission of bids

Using electronic means to conduct public procurement is widely perceived as a step toward procurement efficiency. It increases access to tendering opportunities, eases complying with procedures and reduces transaction costs for bidding firms. The submission of bids through an electronic portal is only one of the options available on an online portal. For bidders, submitting a bid online offers a safer option for delivering proposals efficiently. The 2014 European Union procurement directive²⁵ provides that, by the end of 2018 "fully electronic communication, meaning communication by electronic means at all stages of the procedure, including the transmission of requests for participation and, in particular, the transmission of the tenders (electronic submission), should be made mandatory."²⁶

Except for a few countries like Chile and the Republic of Korea, where electronic submission of bids has become the rule, e-bidding is possible only in limited circumstances in most economies measured. In Turkey e-bidding is available only for pharmaceutical products and in the case of framework agreements. In Morocco the procuring entity can decide to receive bids through the portal but is not required to do so. In Poland the ability to submit a bid online is contingent on the procuring entity's approval.

E-bidding can also be possible for just a few government agencies, as in Hong Kong SAR, China, where only one government department can receive bids online. Restrictions can also apply to bidders. In the United States a company has to go through an authorization process to bid online. As a result, e-bidding mandated at the national level and across all procuring entities remains the exception for open calls for tender.

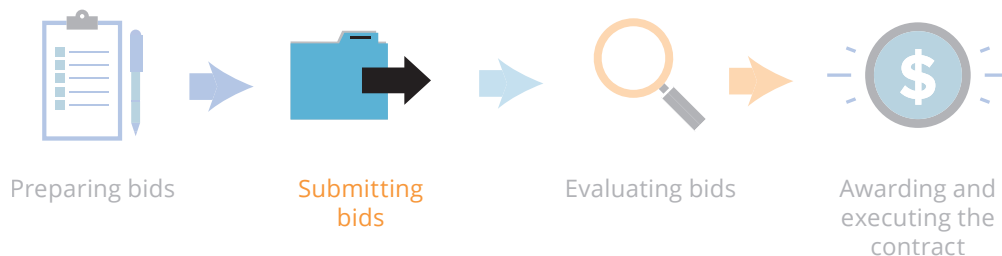
In addition to online submissions, sending a bid by email is another efficient option to reduce transaction costs for bidders. While less common than submission on a procurement platform or another website, it is allowed in 17 economies, as in New Zealand and Singapore (figure 2.4).

Minimum time to submit bids

Granting suppliers enough time to prepare and submit their bids can ensure fairness, especially for SMEs as preparing a bid can require hiring consultants, preparing plans, producing samples and performing other time-consuming tasks. If the timeframe to do so is too short, smaller companies have less chance to meet the deadline and submit a solid proposal. But for efficiency the timeframe should not be excessive either (figure 2.5). Policy makers thus have to strike the right balance between fairness and efficiency in determining the bidding timeframe, taking the reliability of the postal system into account versus online platform and email.

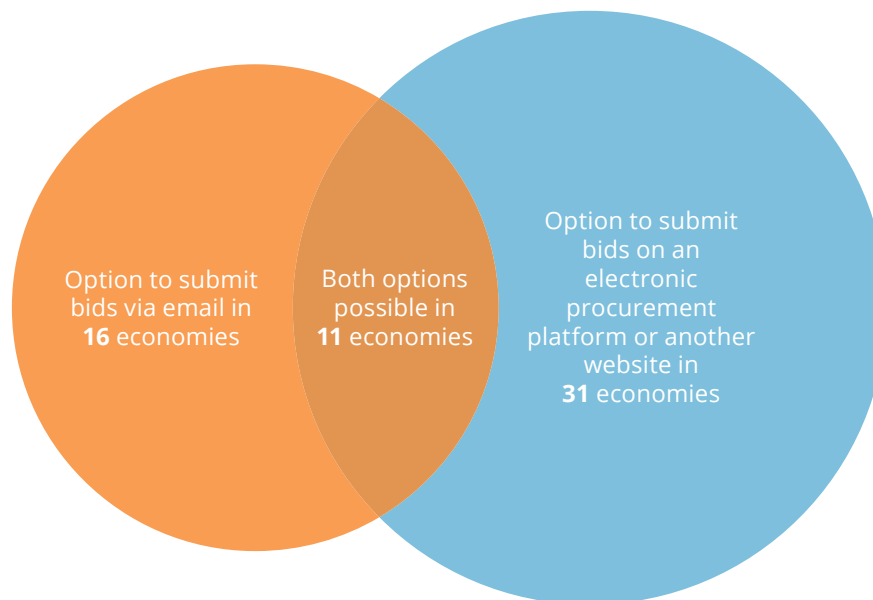
The 2014 European Union directive on public procurement shows that a longer timeframe to

Figure 2.3 Submitting bids



- Electronic submission of bids
- Minimum time granted to submit bids
- Bid security, when required, is regulated

Figure 2.4 Bids can be submitted online or by email in 47 economies

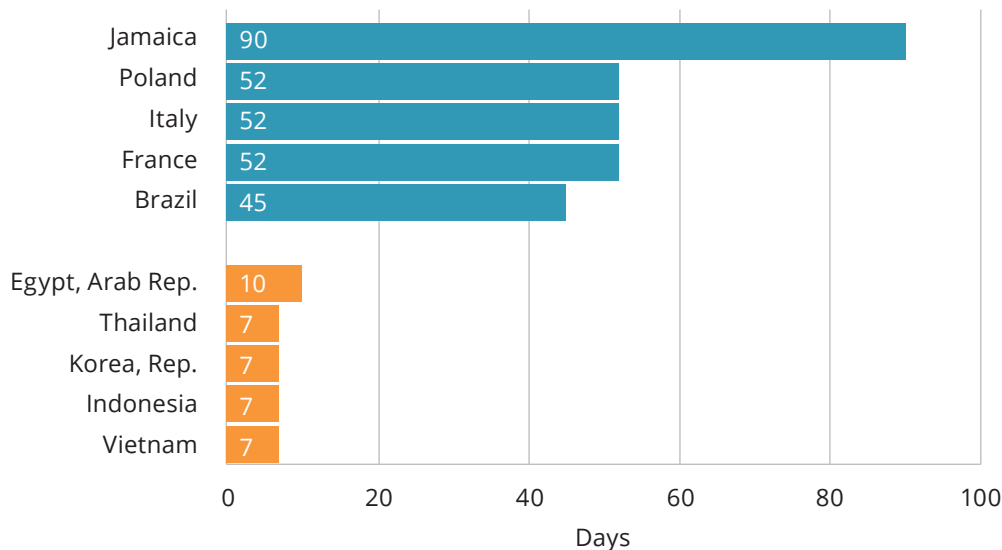


Note: No option was available for 30 economies.

submit a bid is not necessarily better. Indeed, the directive lowered the minimum time for suppliers to submit a bid for above threshold procurement from 52 days (as in the previous directive) to 35.

Only in Algeria, Bahrain, Colombia and Jordan does the law not provide a minimum timeframe for submitting a bid. A supplier has at least 90 days to submit a bid in Jamaica, but only 7 in Thailand.

Figure 2.5 The gap is 83 days between the longest and shortest timeframes allocated to submit bids for open tendering



Bid security, when required, is regulated

Bid security is an efficient instrument for procuring entities to ensure that they receive only serious offers, which bidders will maintain until the selection is made. On the amount of bid security, there is no internationally accepted good practice. The amount should be substantial enough that it deters suppliers from submitting frivolous offers. But when the amount of the bid security is too high, it can deter potential bidders. Since the amount of bid security adds to the cost of submitting a bid, expensive bid security can deter SMEs and other bidders with limited resources. Procuring entities may thus strike a balance in determining what's appropriate.

A procuring entity could fix a high amount of bid security to prevent some suppliers from submitting a bid and grant better chances to a favored candidate. To avoid such abuse the law can fix a maximum amount, based on the value of the bid or the contract, that procuring entities are entitled to request from suppliers. While the maximum can vary according to the risk in a specific tender, imposing a maximum limits the discretion of the procuring entity, and bidders can better anticipate the amount they will have to deposit as bid security. The law can also provide a list of acceptable forms of bid security and mandate that bidders, not procuring entities, can choose the form that best suits them.

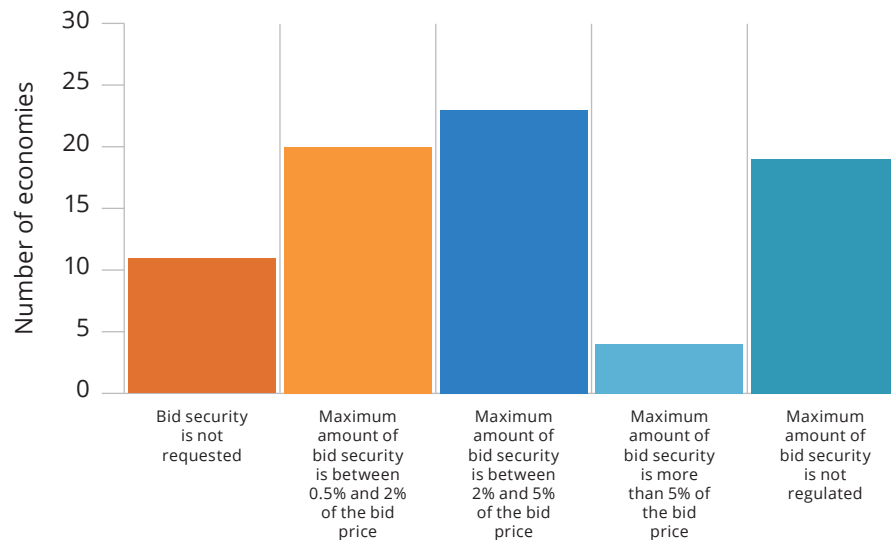
Of the economies that regulate bid security only a small number specify only the minimum amount that procuring entities can ask for, as in Jordan, Nepal and Turkey (figure 2.6). The approach clearly favors the procuring entity, which is merely bound by a minimum amount as bid security but otherwise retains full discretion. For other economies the value of the procurement contract or the bidder's proposal is used as a reference to determine the maximum that procuring entities can request. In Bahrain a company would be required to post bid security amounting, at a maximum, to 1% of its bid or the estimated contract price. But in the United States for contracts above \$150,000, the bid security is 100% of the estimated value of the contract.²⁷ Such variation would make a big difference in a company's decision to respond to the call for tender.

Evaluating bids

Flying in and out of traffic, Boda-boda taxis, in Kampala, Uganda, create a challenge for pedestrians and other drivers. But they are the fastest solution to get around the city and avoid traffic jams. Kampala City has decided to address the road congestion that affects the city on a daily basis. Because building a new road infrastructure is extremely costly and time-consuming, the Kampala Capital City Authority decided to purchase a large number of street and traffic signs and made a call for tender for a contract.

Six bids were received, including one from a supplier specializing in the production of signs such as stop, yield, speed limit, no parking, school zone and street name signs. With the capacity to design and produce on demand, that supplier believed it was in a good position to win the tender.

Figure 2.6 The bid security in the 66 economies where imposed can range between 0.5% and 100% of contract value, or be left to the discretion of the procuring entity



The supplier wanted to make sure that its bid would be taken into consideration by the Kampala Capital City Authority. Would its bid, along with all others, be opened immediately once the bid submission deadline is reached? Would the company be allowed to attend the bid opening session? Would the bid opening session be recorded? Would the procurement officials in charge of drafting the technical specifications be part of the bid evaluation committee?

The bid opening session should be transparent and the bid evaluation should follow the technical specifications and other award criteria detailed in the tender documents. But if the legal framework does not provide clear enough guidance, or if the procuring entity is not transparent enough about how bids are evaluated, suppliers can perceive the evaluation phase as a subjective decision to select the supplier it prefers to do business with. If this perception is allowed to persist, suppliers may lose faith in the system's integrity, feeling that the process is rigged against them and they may ultimately opt out of the procurement market.

Several good practices help procuring entities avoid the perception that their bid evaluation process is anything other than fair. The legal framework should set forth clear procedures to follow as soon as bids are submitted. The process should include scheduling the bid opening session immediately after the bid submission deadline is reached or, at least, specifying an exact timing for bids to be opened. The regulations should describe the bid opening process, such as specifying which parties can attend the

bid opening sessions and whether any aspects of it will be recorded.

Evaluating bids looks at whether the bid evaluation is open, transparent and fair to guarantee bidders that the process follows the best standards of transparency (figure 2.7).²⁸

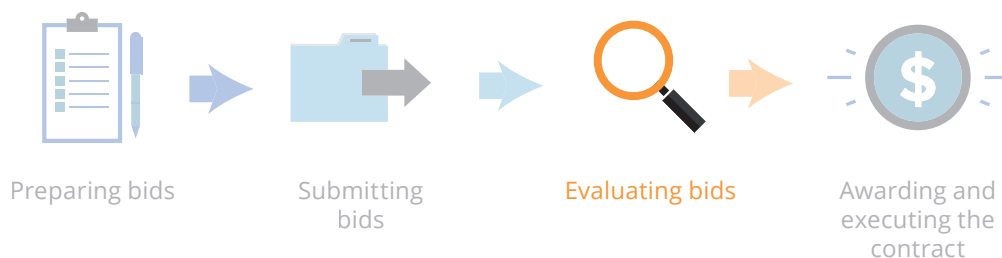
Timeframe to proceed with the bid opening

The legal framework in half the economies surveyed requires the bid opening session immediately after the closing of the bid submission period—or indicates the timeframe for the bid opening session to take place.

In Bolivia a company can refer to the mandatory timeline determined by the procuring entity for each procurement, which states the date, time and place for the bid opening session. In Spain it knows the exact date, time and place of the bid opening session, but that can be up to 30 calendar days after the closing of the bid submission period. In Malaysia this company finds no direction for the date, time and place in the regulatory framework, only that the bid opening be done expeditiously after the closing date. In Australia, Jamaica, Namibia or Sweden the legal framework is vague and guarantees only that the session take place as soon as possible or practicable.

In Afghanistan, Cameroon and Morocco a company has in practice no guarantee that the procuring entity will comply with the law and respect the time imposed to proceed with the bid opening.

Figure 2.7 Evaluating bids



- Timeframe to proceed with the bid opening
- Who attends the bid opening
- Procurement official participation in the bid evaluation

Who attends the bid opening

To ensure the transparency of the competitive bidding system, all bidders or their representatives should be able to attend the bid opening session.

A vast majority of the surveyed economies allow the presence of bidders and their representatives at the bid opening and about 35 of those are open to the public. In cases where procurement is conducted electronically, as in Chile, the Republic of Korea, the Netherlands and Taiwan, China the electronic bid opening can be conducted without the bidders. But in these instances, bidders can be notified electronically of the opening of their bids. In the Netherlands a company would systematically receive an automatic electronic notification when its bid is open. In Taiwan, China, however, the notification is not automatic. In Chile the bid opening is conducted automatically, through the information system, on the day and time established in the notice of invitation to tender and in the tender documents. The information system provides the bidders with

information about the session. Note that the regulatory framework there allows for procurement outside the information system. In such cases a company could attend the bid opening in person.

In Canada, Hong Kong SAR, China, Ireland, Lebanon and Malaysia the regulatory framework is silent on who can attend the bid opening session.

Procurement official participation in the bid evaluation

Once the bid evaluation is under way the bidder will want to know whether the best person possible has been appointed to evaluate bids. It knows that in some economies, public officials involved in the initial stages of the procurement cannot take part in the evaluation.

To guarantee the efficiency of the bid evaluation, the procurement official conducting the needs assessment and drafting the technical specifications should not be prevented from participating in the bid evaluation. Indeed, if

procuring officials are prevented from participating in any procurement, there is a real danger of excluding the most qualified officials from the bid evaluation. There are also benefits from having an integrated evaluation team.

In Burundi and The Gambia bidders find that the law prohibits the participation of public officials involved in the initial stages of the procurement. In Italy bidders would be confronted with a situation where public officials involved in assessing needs and drafting the technical specifications are excluded from the bid evaluation, but the president of the bid evaluation commission is the only person authorized to participate in both steps of the process. Therefore, in Italy the person preparing the procurement is the final decision maker.

Awarding and executing contracts

The firefighters worked all night long but couldn't stop the fire that destroyed half the books of Warsaw's largest public library. A wide range of different collections were lost but, luckily, no historical books were destroyed. Due to the importance of books to the community, the City of Warsaw made it a priority to replace all that were destroyed. It also decided to take the opportunity to expand the library's collection by purchasing a wide variety of additional books, novels and encyclopedias.

The City of Warsaw awarded the contract to a company following an open call for tenders. To schedule the delivery of the books, the company wanted to make sure that it officially won the

tender and that the terms of payment were clear.

The company had several questions. Is there a standstill period for losing bidders to challenge the contract award? How fast could the company expect to be paid once the books are delivered? Could it charge a penalty for late payments?

Once the bidder that best satisfies the technical specifications and award criteria is identified, the contract has to be awarded promptly and transparently. The legal framework should require that a contract award be published, as stated in Article 23 of UNCITRAL Model Law on Public Procurement. In addition, losing bidders should be informed of the award and given an opportunity to learn why they did not win.

Awarding the contract is the end of the formal procurement process but the contract must still be managed and the supplier must be paid in return for its performance. Many procurement systems do not cover this phase of the procurement life cycle. Indeed, even internationally accepted procurement models—such as the World Trade Organization's Revised Agreement on Government Procurement and the UNCITRAL Model Law on Public Procurement—do not provide guidance or good practices for contract management.

To build and maintain a reputation as a trustworthy and efficient business partner, which can increase competition in later procurements, the purchasing entity has to pay promptly when payment is due in return for

adequate performance. The legal framework should specify a timeframe for making payments and provide additional compensation when the procuring entity fails to pay on time. Indeed, delays in payment can have severe consequences for private sector suppliers, particularly SMEs, which typically do not have large cash flows.

Awarding and executing contracts assesses whether, once the best bid has been identified, the contract is awarded transparently and the losing bidders are informed of the procuring entity's decision (figure 2.8).²⁹ Before the contract is executed, a standstill period should be granted to the losing bidders. Furthermore, once the execution of the contract is taking place, the procuring entity should be encouraged to manage the payment process through an online system, offering the possibility for supplier to sign the contract and request payments online. It should also comply with clear regulations when it comes to paying the supplier on time—and if not, with penalties.

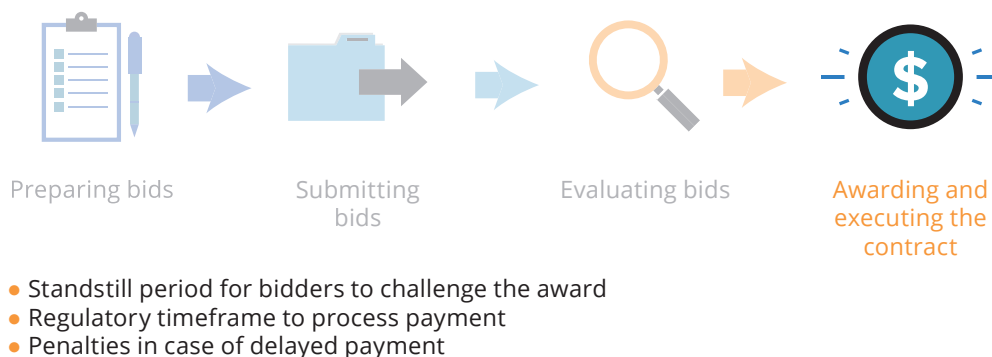
Standstill period for bidders to challenge the award

A standstill period—between announcing a potential awardee and signing the contract—ensures that bidders have enough time to examine the award and decide whether to initiate a review procedure. This is particularly important in economies where an annulment of the contract is not possible,³⁰ or when a complaint does not trigger a suspension of the procurement process.

In accord with UNCITRAL the period should be long enough to file any challenge to the proceedings, but not so short as to interfere unduly with the procurement.³¹ A minimum of 10 days is a recognized standstill period, as reflected in judgments by the European Union Court of Justice,³² and the WTO's Government Procurement Agreement. The standstill period and the time limits for the review body should be synchronized.³³

More than half the economies do not provide for a standstill period or support a shorter

Figure 2.8 Awarding and executing contracts



time for filing a complaint (table 2.1). A company would see 7 days in Brazil, 4 in Jordan, 8 in Mexico and 7 in Nepal. In some economies such as the United States no standstill is needed because unlawfully awarded contracts can be terminated.

Regulatory timeframe to process payment

A company has fulfilled its contractual obligations and submitted a request for payment to the procuring entity. It is now waiting to be paid for services rendered. It knows that an efficient public procurement system processes payments to suppliers within a limited number of calendar days once a request for payment is submitted.

In Poland, in compliance with the 2014 European Union directive on public procurement, the company is guaranteed payment within 30 days of the date of issuing certificates of works

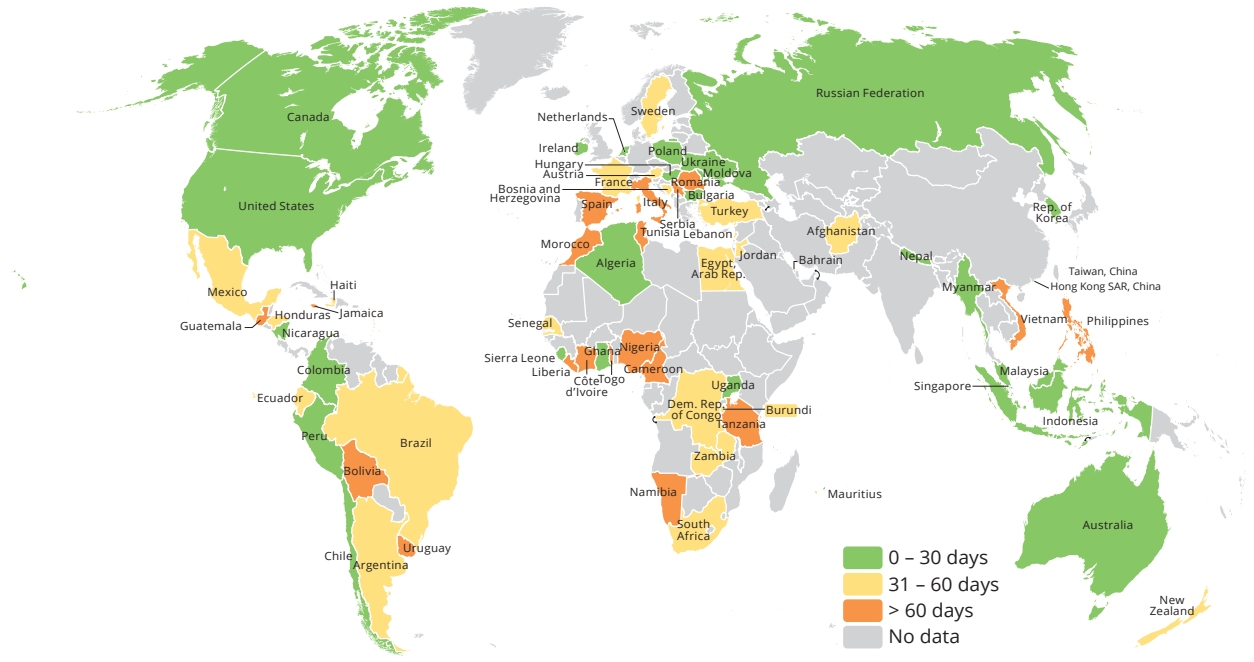
or documenting performance, as per the law.³⁴ But in 28 surveyed economies can a supplier expect to receive payment within 30 days (map 2.1). In the rest of the surveyed economies, delays of more than 30 days are common in practice. In half of these economies, suppliers have to wait longer than 60 calendar days for payment. In Argentina, the Arab Republic of Egypt, Guatemala, Italy and Tunisia delays are due in part to budgetary constraints in the procuring entity.

In some economies procuring entities are not requested to respect a particular deadline to pay their suppliers, unless payment terms are specified in the procurement contract. In Bolivia, Colombia, Ecuador, The Gambia, Honduras, Mozambique, Mauritius, Nepal, Serbia, Turkey and Vietnam a company could find the payment schedule and forms in the contract. But in some economies, payment processing takes more than 30 days. The two most prominent

Table 2.1 Economies with no standstill period to economies that guarantee more than 10 days, a recognized good practice

No standstill period	1 to 9 days	10 days or more
Bahrain	Cameroon	Afghanistan
Canada	Haiti	Austria
Colombia	Indonesia	Bosnia and Herzegovina
Egypt, Arab Rep.	Jordan	Côte d'Ivoire
Lebanon	Mauritius	Italy
Moldova	Morocco	Peru
Sierra Leone	Mozambique	Romania
	Nicaragua	Senegal
	Tunisia	United Kingdom

Map 2.1 Time needed in practice to receive payment takes longer than 60 days in 19 economies



reasons are the length of administrative procedures and budgetary constraints. In Senegal a company receives payment within 45 days of submitting its request.³⁵ In 19 countries payment can be received after 60 calendar days:

- Bahrain
- Bolivia
- Cameroon
- Côte d'Ivoire
- Guatemala
- Italy
- Jamaica
- Morocco
- Namibia
- Nigeria
- Philippines
- Romania
- Serbia
- Spain
- Tanzania
- Togo
- Tunisia
- Uruguay
- Vietnam

In a third of economies surveyed a company has to ask for the inclusion of payment terms in the contract. Their procurement systems do not stipulate a payment timeline and do not require that payment terms be in the contract. But in Kenya the procuring entity has to process the payment in 30 days if the said company were owned by youths, women or persons with disabilities.³⁶

Penalties in case of delayed payments

Many economies do not mandate procuring entities to pay penalties to suppliers in cases of late payment (table 2.2). A company is entitled to receive penalties if the procuring entity fails to pay on time in two-thirds of the economies surveyed. In Canada it automatically receives interest when an account is overdue.³⁷ But in

Guatemala it has to submit a request for the procuring entity to recognize the accrued interest.³⁸

Even in economies where penalties are legally granted to suppliers, half do not follow their laws in practice, including many in Europe and

Central Asia and in Latin America and the Caribbean. In Mexico a supplier would probably see, as part of the procurement contract, provisions for penalties if payment is delayed. Even so, the entitled suppliers rarely request such penalties.

Table 2.2 A large number of economies do not mandate procuring entities to pay penalties to suppliers in case of delays in payment

East Asia and Pacific	Europe and Central Asia	Latin America and the Caribbean
Hong Kong SAR, China	Azerbaijan	Argentina
Philippines	Bulgaria	Guatemala
Vietnam	Kyrgyz Republic	Haiti
	Serbia	Jamaica
		Mexico
		Uruguay
South Asia	Sub-Saharan Africa	Middle East and North Africa
Nepal	Burundi	Algeria
	Cameroon	Egypt, Arab Rep.
	Gambia, The	Jordan
	Mozambique	Lebanon
	Nigeria	Morocco
	Sierra Leone	
	South Africa	
OECD high income		
Australia		
Hungary		
Ireland		
Korea, Rep.		

3. Complaint and reporting mechanisms

Establishing a good complaint mechanism has become a key element of any procurement reform agenda. A few decades ago, resolving disputes between suppliers and the government was complicated in many procurement systems. Perhaps the lack of technical expertise to establish an independent review body was to blame. Perhaps the judiciary was weak or the legal system simply did not contemplate mechanisms for procurement complaints. Firms would not go to court to resolve disputes with the state because the judicial system would not render a decision in a timely manner, and therefore firms would not do business with the government since it was too risky or they could not afford the delays.

The past decades have seen an intensive set of procurement reforms throughout the world. For instance, in Poland the public procurement reform of 1995 introduced an appeals mechanism, which has since been strengthened, increasing the number of appeals exponentially throughout the years. In Kenya a 2011 reform created the Public Procurement Complaints Review and Appeal Board, later merged with the Administrative Review Board, to deal with complaints about procurement decisions. This also opened the possibility for bidders to monitor the procedures of the actual procuring entities and to subsequently file a complaint, thus creating more transparency in the procurement system.

With companies and citizens demanding more transparency, accountability and participation

in policy and decision making, establishing good complaint mechanisms is a crucial part of the reform agenda. Such mechanisms can ensure transparency and accountability in public procurement. Having set rules, defined time limits and remedial actions when processes fail strengthens credibility and confidence in the system.

One of the main objectives of these mechanisms is to enforce public procurement laws so that the authorities can correct mistakes and noncompliance.³⁹ The system should provide “timely access, independent review, efficient and timely resolution of complaints and adequate remedies.”⁴⁰

Suppliers “have a natural interest in monitoring compliance by procuring entities.”⁴¹ So do contracting authorities, since they can correct mistakes and solve disputes in a less costly and more flexible way. Channels to report irregularities, misconduct and conflicts of interest can increase the fairness of procurement by adding credibility and legitimacy to decisions, thus strengthening citizen trust in government and public spending.

Trust in the procurement system will encourage more bidders to compete for public contracts.⁴² This can enable the government to acquire goods and services at more competitive prices. The added competition also reduces

the risk of collusion, particularly important in smaller markets with few suppliers.

The resolution of complaints should be timely and efficient, since long timeframes can increase the costs for both governments and suppliers. Unduly long reviews with unclear or complicated procedures could also deter potential bidders, particularly SMEs, which cannot afford the cost of protesting an award.

Depending on who is complaining and the stage of filing the complaint, the issues raised may vary. A potential bidder might argue that it was not notified about amendments to the technical specifications. Or it could see a flaw in the contract award and choose to challenge the decision. The way complaints are resolved also differs, depending on the design of the review and remedy mechanism.

The multiple purposes of any complaint mechanism system may inevitably conflict.⁴³ Some seek to preserve good governance and due process, which can be costly and lengthy. Others lean toward fostering efficiency by limiting the procurement delays and disruptions. Complaint mechanisms that are appropriate to each national procurement system can better serve the interests of all stakeholders, particularly private suppliers.

In some countries the review mechanisms and procedures relate exclusively to procurement. In others disputes are covered by general mechanisms and procedures for the review of any administrative act.

This section on complaint and reporting mechanisms compares 77 economies in relation to global good practices in three areas:

- Availability of complaint and reporting mechanisms.
- First-tier review process.
- Second-tier review process.

Availability of complaint and reporting mechanisms

In busy downtown Amman, Jordan, it is almost impossible to find a public phone that works. To address this problem, the Greater Municipality of Amman decided to purchase a large number of mobile charging stations and advertised a call for tenders. One supplier, which had supplied mobile charging stations in other countries in the region, prepared its bid. A clarification meeting was held with the procuring agency and the potential bidders, during which the legal representative of the supplier noticed that one of the members of the evaluation committee, Mr. Kamal, is the brother-in-law of the principal shareholder of a competing company.

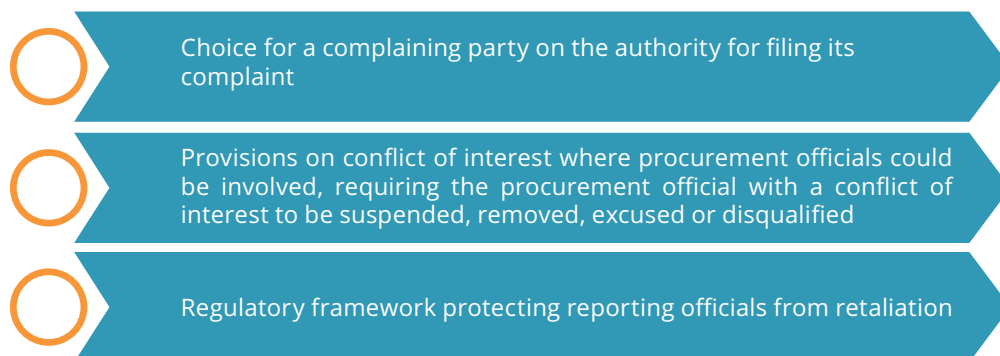
The supplier believed that if Mr. Kamal were to remain a member of the evaluation committee, there would be a conflict of interest. It decided to file a complaint to report the conflict. While preparing the submission of its challenge, several questions came to mind. Where can it find information on mechanisms dealing with complaints? Is such information freely accessible? Does the law mandate that Mr. Kamal disclose the conflict of interest and recuse himself from the process?

Having all documents and procedures available on a government-supported website reduces transaction costs. To enhance transparency, parties should know what to include in their complaint and where to submit it. With different options available, a company can decide where to submit its challenge for a more efficient review, with decisions rendered at a lower cost and at a faster pace.

Suppliers may doubt the integrity of procurements if they believe that procurement officials have a conflict of interest. Procurement officials should also be able to report cases of misconduct, such as fraud or corruption.

Availability of complaint and reporting mechanisms assesses whether potential suppliers have sufficient means to raise a problem to a relevant review body (figure 3.1). It also measures whether they have access to sufficient information to evaluate the opportunity to file a complaint. And it evaluates whether they can choose the forum that will decide on its complaint. It also assesses whether suppliers have the means to disclose situations where they believe procurement officials cannot make an unbiased decision—and, if so, the safeguards available.

Figure 3.1 Availability of complaint and reporting mechanisms



Note: The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the Benchmarking Public Procurement website (<http://bpp.worldbank.org>).

Options for a complaining party to choose the authority for filing its complaint

The complaining party should have some choice on the review forum, especially if the review is by the procuring entity. If a company feels its complaint will not be properly addressed by the contracting authority, it can file with another entity that will conduct the review.

Few economies offer a choice, and in most, the complaining party has to file before the procuring entity. In Poland a company should file with the National Appeals Chamber, and in Ireland and the United Kingdom, with the High Court.

Even though the complaining party does have a choice in some economies, it can still file it with the procuring entity. In Ukraine complaints are normally filed with the Complaint Review/Antimonopoly Committee, but a company may file with the procuring entity. In the United States there are three fora available to file a complaint: the procuring agency directly, the Government Accountability Office at the federal level (the most widely used) and the Court of Federal Claims.

Procurement officials should not participate in the procurement if a conflict of interest arises

To safeguard the integrity of the procurement process, Mr. Kamal should recuse himself from participating in the evaluation of proposals. Indeed, procurement officials must be immediately excluded from participating in the procurement as soon as they have a conflict of

interest. This prevents officials from potentially influencing the process, and furthers the perception of an independent procuring entity.

If a company were in Azerbaijan, the Democratic Republic of Congo, Indonesia, Singapore or Tanzania, nothing in the laws and regulations prevents Mr. Kamal from staying involved on the bid evaluation committee.

In countries where the public procurement system addresses situations of conflict of interest, a formal investigation may be launched to substantiate a report of conflict of interest. But in some of these countries the public official is not prohibited from participating. In Turkey, following the report of a conflict of interest, the public official is asked to provide a written defense within 10 days, and the relevant board should resolve the matter within three months.⁴⁴ In Ukraine the immediate supervisor or chief executive of a public authority decides and notifies the subordinate within two business days of receiving the notice.⁴⁵

Reporting officials should be protected

A crucial aspect of a functioning reporting system is protecting procurement officials who report misconduct. When there are no sanctions against others who may retaliate or options for protecting a reporting official's identity, whistleblowers have no incentive to come forward, so accountability suffers.

Of the countries that provide the means to report, Chile, Malaysia, Mongolia, Nigeria and Peru require whistleblowers to provide their ID number.⁴⁶

Most countries protect reporting procurement officials in some way and only 11 provide no protection.⁴⁷ In some economies, reporting officials cannot be fired due to a disclosure (as in Australia), be evaluated by a denounced superior official (as in Chile) or be refused a promotion or receive salary cuts in connection with their disclosure (as in Ukraine).⁴⁸

Of the economies measured, 15 provide specific sanctions for retaliation against reporting procurement officials.

First-tier review process

Sofia, the capital of Bulgaria, needed to renew its bus fleet. To reduce pollution and fuel costs, it decided to get buses with two motors, one diesel and one electric. The Municipality of Sofia called for bids and published the tender documents.

A company interested in submitting a bid reviewed the documents and noticed that the technical specifications on the brand and color of the buses favor one of its competitors. It is clearly disadvantaged as it can supply buses that meet the technical specification to have two motors. After enquiring a little bit, the company discovered that the competitor hired some consultants that were previously hired by the Municipality of Sofia to help assess its needs, hence suspecting a possible situation of conflict of interest.

Since this contract is a big business opportunity for the company, it decided to file a complaint challenging the published specifications. How should the company initiate the complaint process? Which

entity should it approach first? Would its complaint trigger a suspension of the procurement process? How long would it take to obtain a decision?

The first-tier review body can be the contracting authority, an administrative entity or a court.⁴⁹ Most countries give the procuring entity the first chance to review a complaint and to fix the problem if possible. A procuring agency can conduct the review swiftly and at less expense, but its decision may lack independence and impartiality. The choice of the review body should be tied to who may file a complaint, whether the complaint triggers a suspension, what type of remedy is provided and at what speed the first-tier review renders its decision.

Suspending a procurement allows time to review a complaint and provide a remedy. A stay needs a defined duration, but it should not be so short that it precludes responding to a complaint (such as three days) or so long that it hinders the procurement (such as more than 100 days). Some economies allow some flexibility in the time limits based on the complexities of the complaint. For instance, a court usually requires more time than a procuring entity to render a decision.

Rules of legal standing to file a complaint usually differ depending on the type of remedy sought, on the review body and on the stage in the procurement process when the complaint is filed.⁵⁰ Before the award, standing should not be limited to suppliers submitting a bid—but be open to potential bidders if they can prove that they have an interest in the tender or

contract. After the award, only bidders should be allowed to challenge, otherwise the procurement process could become more vulnerable to frivolous complaints.

And if complaints trigger a suspension, awarding a contract could become a long and inefficient process. Limiting standing in countries that allow suspensions during the post-award phase is particularly important, especially where bidders might try to obstruct procurement procedures or to force competitors out of the running. Court fees and deposits or penalties can prevent such frivolous complaints.⁵¹

To avoid added transaction costs, a complaining party should not have to show proof that it is eligible to file a complaint. Nor should it have to notify the procuring entity of its complaint if that entity is not the first-tier review body.

First-tier review process explores who has standing to file a complaint, the methods available to do so and the overall procedure for a complaining party to obtain a decision from the first-tier

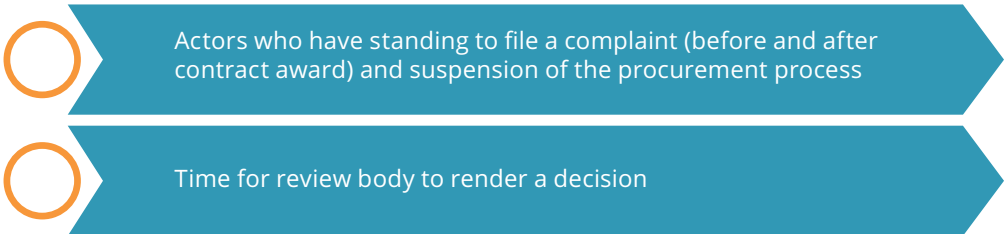
review body (figure 3.2). As the analysis showed, all surveyed economies have at least a first-tier review mechanism in place.

Suspending the procurement in case of a complaint: who has standing and the duration of stay

An automatic suspension during the process can disrupt the procurement system, so the mere filing of a complaint should not automatically trigger a suspension. Instead, the regulatory framework should prevent individuals from using complaints to delay procedures. An automatic suspension should be linked to *who* has standing to file a complaint—and *how long* the suspension can last.

In Botswana, Ecuador, Hungary, Mongolia, Serbia, Togo and Uruguay a company would see that any person can file a complaint and thus trigger a suspension. But in Kenya, the Kyrgyz Republic, Peru, Tanzania and Zambia a company would see that automatic suspensions exist but that only those who submitted a bid can file a complaint.

Figure 3.2 First-tier review process



Note: The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the Benchmarking Public Procurement website (<http://bpp.worldbank.org>).

In most economies a suspension is possible through an interim injunction only if the review body deems it necessary (figure 3.3). The review body may determine that urgent and compelling reasons exist for making the award, or that it is in the best interest of the government to proceed with the procurement process and grant the award before resolving the protest.

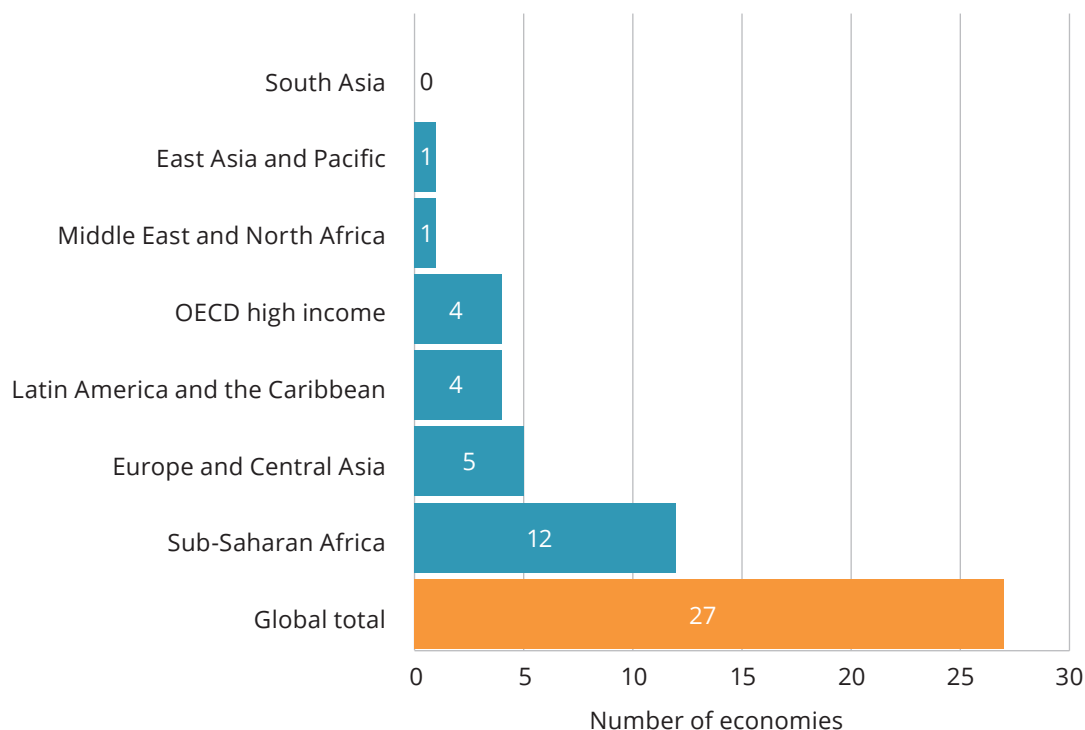
Time limit for the review body to render a decision

Once a complaint is submitted a time limit should be set in the law so that a complaining party can know when it will obtain a response. A company will notice that once it files its complaint, the time to render a decision might vary

between the legal timeframe and the actual practice. The time limit varies across the economies measured, and 12 do not have a set time limit:

- Australia
- Hong Kong SAR, China
- Ireland
- Jordan
- Lebanon
- Myanmar
- Namibia
- Netherlands
- New Zealand
- Sweden
- Thailand
- United Kingdom

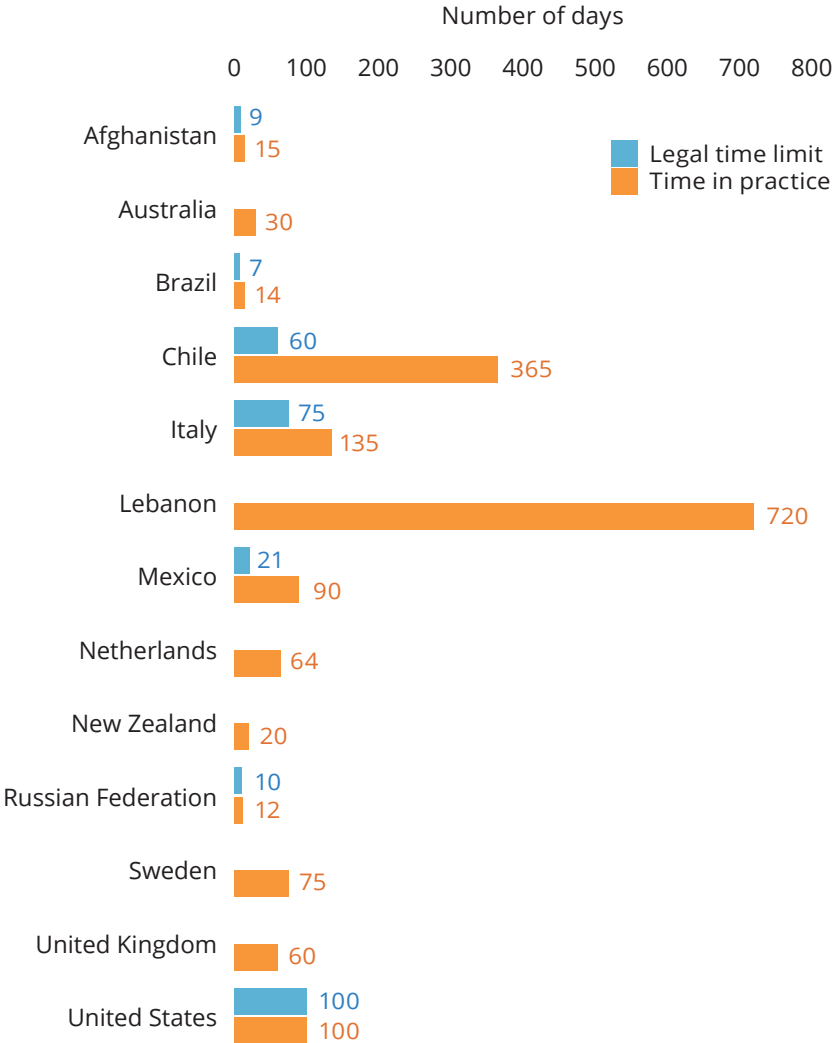
Figure 3.3 In 27 of the economies measured, filing a complaint triggers an automatic suspension of the tendering process



Although the law is silent in Australia, the Netherlands, New Zealand, Sweden and the United Kingdom, a company can expect a decision within 30 days, or a maximum of 90 days (figure 3.4). Other economies *do* have legal provisions, but it may take several months or years to obtain a decision, as in Chile and Mexico.

A short time limit does not permit a meaningful review, yet a long period could be disruptive. In the high-income OECD economies just mentioned, the law does not provide a timeframe, but a complaining party can be confident that it will obtain a resolution in a timely manner. A company would find that difficult in Lebanon, however, where the law is silent and a decision

Figure 3.4 Even in economies where the law explicitly sets a time limit for the first-tier review body to render a decision, it may take months or years to obtain a decision



Note: In Australia, Lebanon, the Netherlands, New Zealand, Sweden and the United Kingdom no time limit is set in the law.

can take up to two years. In Myanmar it knows that there is no legal provision specifying a time limit for the first-tier review body to issue a decision and that getting a response depends on the procuring entity.

Second-tier review process

Recent outages in Yaoundé, Cameroon, left inhabitants without electricity for a few hours. In Yaoundé's main hospital, the blackout could have seriously affected the performance of medical equipment; the hospital's emergency generator was functioning but could only last a limited number of hours. To prevent future outages and address this risk, the Municipal Council of Yaoundé purchased several solar panels.

The contract was awarded to a renowned company specializing in solar power production, which scored highest following a quality and cost evaluation. A competitor challenged the award, alleging that the winning company offered low quality products at a cheap price and that the solar panels would soon have to be replaced because of poor performance and limited durability.

The competitor obtained a response from the procuring entity within the legal timeframe, explaining that the supplier's solar panels had been inspected for quality. The awarded contract was maintained. Still unhappy with the decision, the competitor found out about the possibility of filing an appeal. How would the appeal process differ from the initial one? Would the competitor need a lawyer and to plan for additional costs?

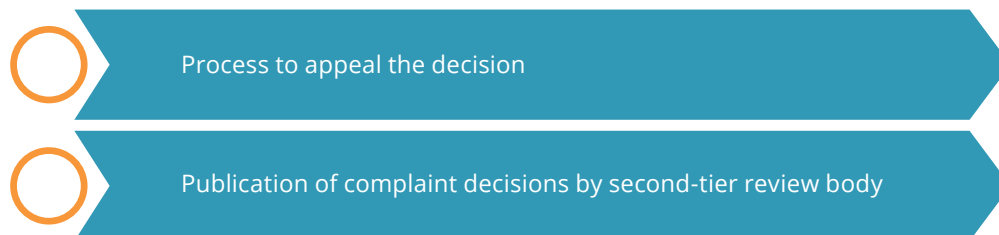
Would it be worthwhile to file an appeal? Would the decision be published and available to the public?

Complaining parties should have an independent forum to appeal decisions by the first-tier review body if they feel that their complaint was not appropriately addressed, particularly if the first review was by the procuring entity.⁵² In such cases those dissatisfied should be able to pursue their complaint at either an independent administrative forum or a court.⁵³ An independent forum might have the skills and knowledge needed to resolve complaints but it adds to government costs if established exclusively to hear complaints. And although courts can ensure independence and enforcement, they can be expensive and time consuming. There is no clear-cut good practice, but a second-tier review is essential.

The appeal process should involve minimal procedural steps, time and costs. To minimize burdens on the party making the appeal, the second-tier review body, rather than the complaining party, should notify the procuring entity of the filing of an appeal.

For efficiency and transparency a company should know how long the second-tier review body will take to render a decision. Although there is no time limit defined as a good practice, more than several months would signal a dysfunctional complaint system and a company probably would not appeal because of the high costs in money and time.

Figure 3.5 Second-tier review process



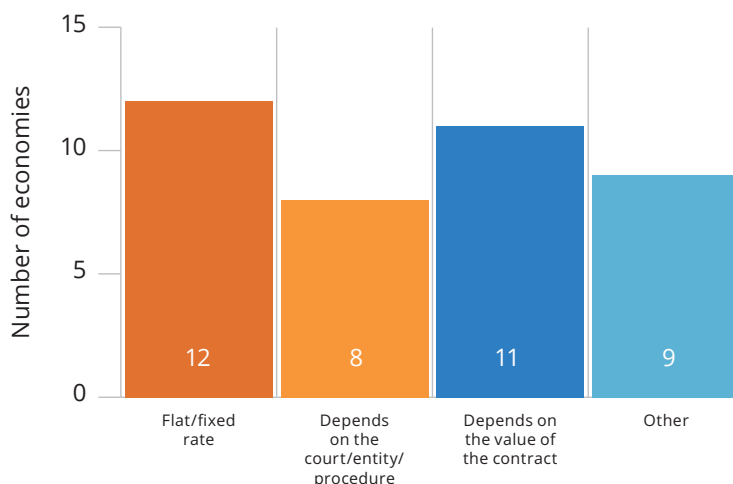
Note: The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the Benchmarking Public Procurement website (<http://bpp.worldbank.org>).

Second-tier review process assesses whether the complaining party can appeal a decision before a second-tier review body, and if so, the cost and time needed for such process, as well as some characteristics of the second-tier review (figure 3.5). The findings are based on 71 of the 77 surveyed economies where a two-tier review mechanism is available.

Cost associated with appealing the decision of the first-tier review body

Having low (or no) costs for a complaining party is a good practice, particularly for SMEs. Of the economies measured 51% do not impose a cost for filing an appeal. The cost may be fixed or variable depending on the value of the contract or the forum and appeal procedure used (figure 3.6).

Figure 3.6 Costs associated with appealing procurement decisions may range from a flat/fixed rate to a variable rate depending on the value of the contract or the review body



Aside from attorney fees, the complaining party does not incur a cost for appealing the first-tier review body's decision in Australia, Brazil, Chile, France, Mexico, the Netherlands, Sweden, the Republic of Korea or the United States.⁵⁴ By contrast in Italy the cost of filing a complaint to the Consiglio di Stato is between 2,000 and 6,000 euros, depending on the value of the contract (Presidential Decree No. 115/2002).

Publication of the second-tier review body's decision

Almost half the economies studied have laws that mandate the publication of decisions by

the second-tier review body (figure 3.7). A company would find that the most frequently used channels of publication are online, through the websites of procuring agencies and the relevant courts. In Brazil, Honduras and Peru decisions are also communicated through the official gazette. In Bolivia, although the law does not specify the channels, the means for publication are news, radio and the public board at the judicial house. A company would not find published decisions in most Sub-Saharan economies.

Figure 3.7 In 31 economies the second-tier review body is not required to publish its decision—in others publication is mandatory through one or more channels

East Asia and Pacific	Europe and Central Asia	Latin America and the Caribbean
Hong Kong SAR, China	Azerbaijan	Argentina
Philippines	Bulgaria	Guatemala
Vietnam	Kyrgyz Republic	Haiti
	Serbia	Jamaica
		Mexico
		Uruguay
South Asia	Sub-Saharan Africa	Middle East and North Africa
Nepal	Burundi	Algeria
	Cameroon	Egypt, Arab Rep.
	Gambia, The	Jordan
	Mozambique	Lebanon
	Nigeria	Morocco
	Sierra Leone	
	South Africa	
OECD high income		
Australia		
Hungary		
Ireland		
Korea, Rep.		

Notes

1. Nolan 2014.
2. *Idem*.
3. *Idem*.
4. Thai 2001.
5. CIPS 2007.
6. Nolan 2014.
7. Basheka 2010.
8. *Idem*.
9. CIPS 2007.
10. PwC 2014.
11. UNODC 2013.
12. The Anti-Corruption Working Group was created by the G20 Leaders at the Toronto Summit in 2010 to take action on the negative impact of corruption on economic growth, trade and development. In the spirit of the G20 High-Level Principles on Corruption and Growth, the working group encourages international efforts to reduce corruption and enhance transparency, particularly by international organizations and multilateral development banks.
13. <http://www.doingbusiness.org>.
14. UNODC 2013.
15. World Bank 2014. <https://www.openknowledge.worldbank.org/bitstream/handle/10986/19281/899160PUB0978100Box385216B00PUBLIC0.pdf>.
16. UNODC 2013.
17. The consultation has taken place with leading legal experts and practitioners from many organizations, among them the World Bank Group—including both the World Bank and IFC; The George Washington University; Organisation for Economic Co-operation and Development (OECD); Inter-American Development Bank; United Nations Commission on International Trade Law (UNCITRAL); American Bar Association (ABA); and General Electric (GE).
18. The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the *Benchmarking Public Procurement* website (<http://bpp.worldbank.org>).
19. Or any other governmental entity conducting the needs assessment.
20. Article 32 of Executive Decree No. 893/2013 on Public Procurement of Argentina.
21. Article 31 of the Public Procurement Law of Poland, as amended in 2014.
22. OECD 2010.
23. *Idem*.
24. The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the *Benchmarking Public Procurement* website (<http://bpp.worldbank.org>).
25. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.
26. Article 52 of the Directive.
27. Article 28.10–2 of the Federal Acquisition Regulation of the United States.
28. The thematic coverage of the subindicator is broader than is presented here, and

- additional data points are available on the *Benchmarking Public Procurement* website (<http://bpp.worldbank.org>).
29. The thematic coverage of the subindicator is broader than is presented here, and additional data points are available on the *Benchmarking Public Procurement* website (<http://bpp.worldbank.org>).
 30. UNCTAD 2014.
 31. *Idem*.
 32. Case C81/98 Alcatel Austria and Others v Bundesministerium für Wissenschaft und Verkehr, and C212/02 Commission v Austria.
 33. OECD 2007b.
 34. Article 8 of the Act on Payment Terms in Commercial Transactions of 8 March 2013.
 35. Article 104 of the Public Procurement Law of Senegal.
 36. Regulation 34 of the Public Procurement & Disposal (Amendment) Regulations of Kenya, 2013.
 37. Section 4.70.30.1 of the PWGSC Supply Manual of Canada.
 38. Article 63 of Decree N. 57–92, Law of Public Contracts of Guatemala.
 39. SIGMA 2013.
 40. OECD 2007a.
 41. UNCTAD 1994.
 42. *Idem*, p. 41.
 43. *Idem*, p. 1.
 44. Article 35 of the Regulation Regarding Ethical Conduct Principles and Procedures and Principles for Application for Public Officials of Turkey.
 45. Article 28 (3) of the Anti-Corruption Law of Ukraine.
 46. Chile, Malaysia, Mongolia, Nigeria and Peru require ID. In Chile, reporting misconduct may be done online at the Offices of the Public Ministry (as of 7/12/2015 at <http://www.contraloria.cl/NewPortal2/portal2/ShowProperty/BEA%20Repository/Sitios/Ciudadano/Inicio>). The person reporting needs to provide his or her identification number but has the option of requesting confidentiality. In Malaysia procurement officials can submit a report on the Anti-Corruption Commission website (as of 7/12/2015 at <http://www.sprm.gov.my/portaladuan/Modules/Portal/index.html>). Once in the system, the reporting person has to provide his or her name, gender, nationality, identification number, passport number, phone number, address and email address. In Mongolia the online form of the Independent Authority against Corruption requires whistleblowers to provide their identification number (as of 7/12/2015 at <http://www.iaac.mn/medeel/gemthereg>). In Nigeria the Independent Corrupt Practices and Other Related Offences Commission offers the possibility to make a report online. On their website (as of 7/12/2015 at <http://icpc.gov.ng/>), the complainant must include a scanned copy of his or her identification card. In Peru Article 5.3 of the Resolution of the Comptroller No. 184–2011–CG on the National System of Reports Handling states “Every

report received the General Comptroller needs to include the following: a) Name, address, phone number, email, identification number/document.”

47. Azerbaijan, the Democratic Republic of Congo, Côte d'Ivoire, the Arab Republic of Egypt, the Kyrgyz Republic, Lebanon, Myanmar, Nicaragua, the Philippines, Thailand and Togo.
48. Section 10 of the Public Interest Disclosures Act of Australia, 2013; Article 90(A) of Law 18.834 establishes certain rights for reporting officials, Chile; Article 53 (3) of the Anti-Corruption Law of Ukraine.

49. Gordon 2006.

50. OECD 2007b.

51. *Idem*.

52. Data for the second-tier review process subindicators are not scored. This information can be found on the project website (<http://bpp.worldbank.org>).

53. Gordon 2006.

54. There is no filing fee at the agency level or at the Government Accountability Office. However, protesters do have the option to file directly in the Court of Federal Claims, which does require paying a filing fee.

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Economy datasheets

Only the practices and regulations recognized as good by the global public procurement community are aggregated through scores. The scoring methods allocate the same weight to all benchmarks. Scores are presented in five categories at the subindicator level: 0–20, 21–40, 41–60, 61–80 and 81–100. Economies with a score of 81 or more, which are considered close to good practice on a certain subindicator, are in the top quintile. Economies with a score of 20 or less are in the bottom quintile in the charts which means that the economy has a lot to improve in the light of internationally accepted good practices and principles on what BPP measures. The remaining three categories are in quintiles 2, 3 or

4 in the charts (respectively >20 and <=40; >40 and <=60; >60 and <=80). All data points used to aggregate the *Benchmarking Public Procurement* indicators are made publicly available on the project's website (<http://bpp.worldbank.org>).

Below are the areas that have been assessed by the *Benchmarking Public Procurement 2016* indicators. Additional information that has been collected for contextual purposes can be found on <http://bpp.worldbank.org>.

For data containing a (-), please refer to *Benchmarking Public Procurement's* website (<http://bpp.worldbank.org>) for further information.

The procurement life cycle

Preparing bids	Submitting bids	Evaluating bids	Awarding and executing contracts
Requirement to publish the procurement plan	Open tendering as the default procurement method	Who can attend the bid opening session	Publication of tender award
Channels of publication of the procurement plan	Implementation of an electronic procurement portal	Requirement to record the bid opening session	Notification of the award to losing bidders

Preparing bids	Submitting bids	Evaluating bids	Awarding and executing contracts
Advertisement of the needs assessment phase	Guidelines accessible on a procurement portal	Requirement to evaluate bids strictly and solely in accordance with the bid evaluation criteria	Losing bidders' right to a debriefing
List of elements featuring in the tender notice	Procuring entities' mandatory use of standard bidding documents	Prohibition for the public official in charge of conducting needs assessment/ drafting the technical specifications from participating in the bid evaluation	Standstill: timeframe
List of elements featuring in the tender documents	Procuring entities' mandatory reference to international and/or national industrial standards in tender documents		Time within which the procuring entity must process the payment
Publication of tender notices	Bidders' right to ask questions		Time needed to receive a payment (in practice)
Time needed to access the tender documents	Electronic means to submit bids		Requirement for procuring entities to pay penalties in case of delays of payments to suppliers
Cost to access the tender documents	A minimum timeframe to submit a bid		Possibility to request a payment online
Accessibility of tender documents on a procurement portal	Form and submission of a bid security		

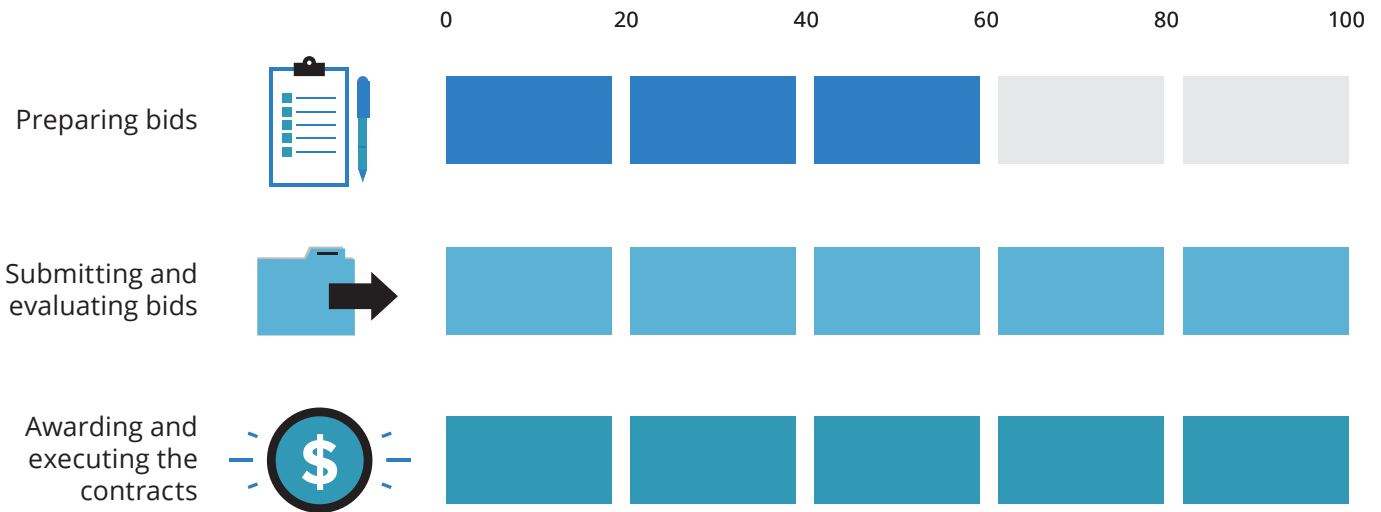
Complaint and reporting mechanisms

Availability of complaint and reporting mechanisms	First-tier review process	Second-tier review process ^a
Legal framework with provisions on bidders' complaints	Actors who have standing to file a complaint	The process to appeal the first-tier review body's decision
Accessibility of rules and regulations on complaints on a government-supported website	Parties allowed to challenge the award	Notification of appeal to procuring entity
Choice for a complaining party regarding the authority to which to file its complaint	Proof that a complaining party must show to be eligible to file a complaint	Time limit for review body to render a decision
Accessibility of the procedure to file a complaint on a government-supported website	Method available to file a complaint	Remedies
Alternative dispute resolution mechanism to resolve issues arising from the procurement process	Access of complaining party to evidence presented during review process	Publication of complaint decisions by second-tier review body
Requirement for a procurement official in a situation of conflict of interest to be suspended, removed, excused or disqualified from participating in the procurement process, as well as its implementation in practice	Notification of complaint to procuring entity	
Requirement to report misconduct	Publication of complaint decisions by first-tier review body	
Protection of reporting officials from retaliation: The possibility to report anonymously	Time limit for review body to render a decision	
Protection of reporting officials from retaliation: The possibility to request confidentiality	Remedies	
Protection of reporting officials from retaliation: The existence of sanctions in case of retaliation		

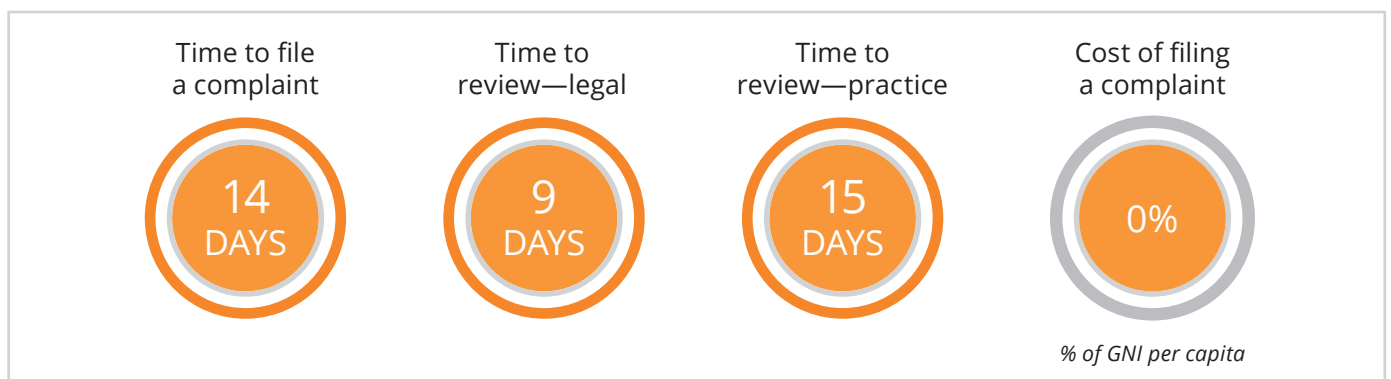
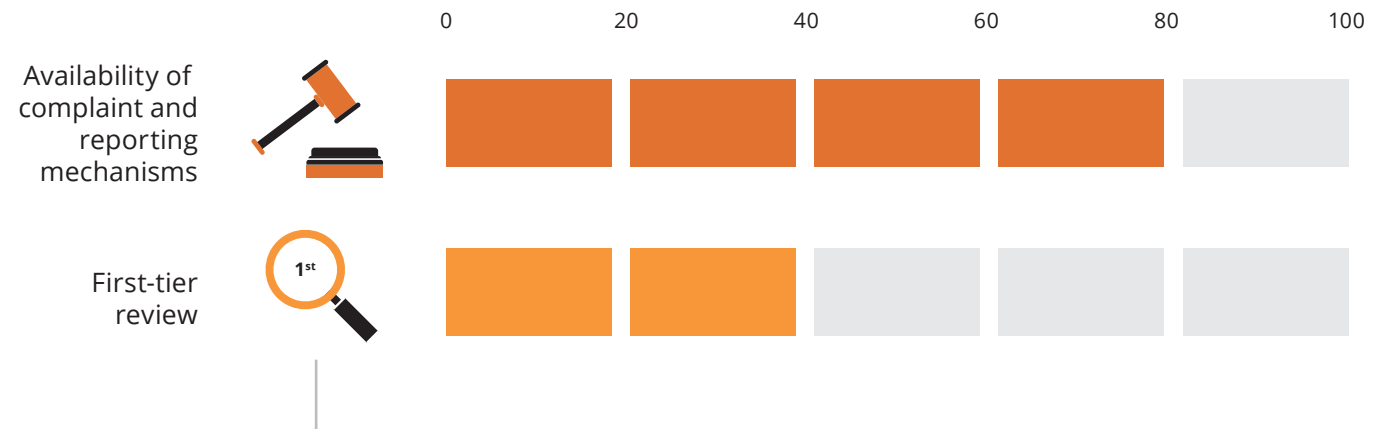
^a The second-tier review process subindicator is not scored due to its limited applicability.

South Asia

The procurement life cycle



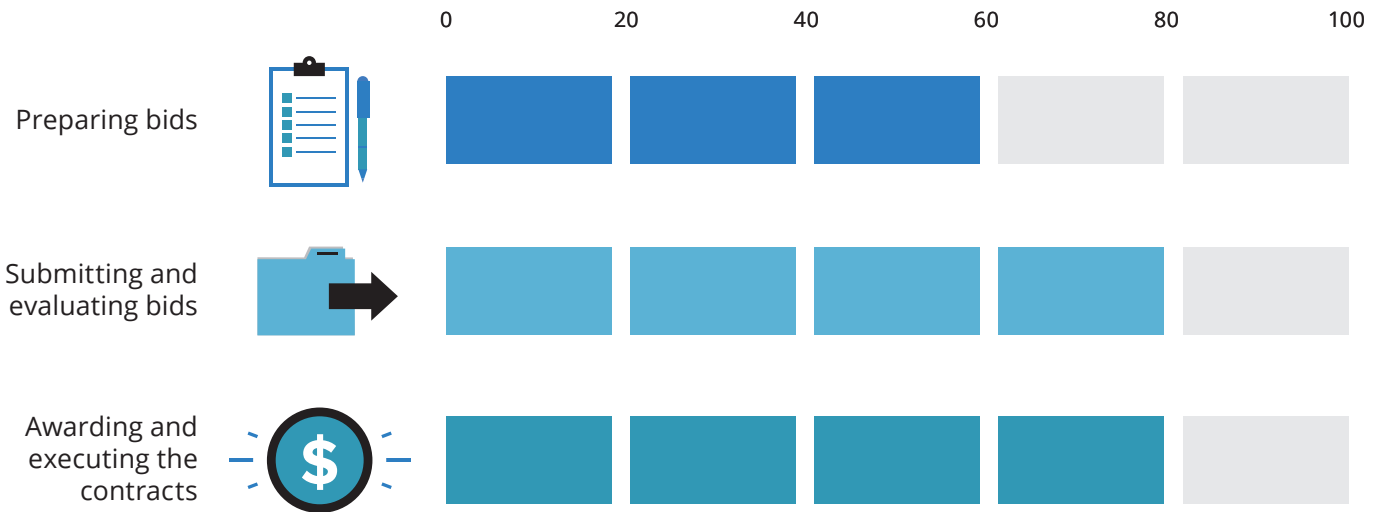
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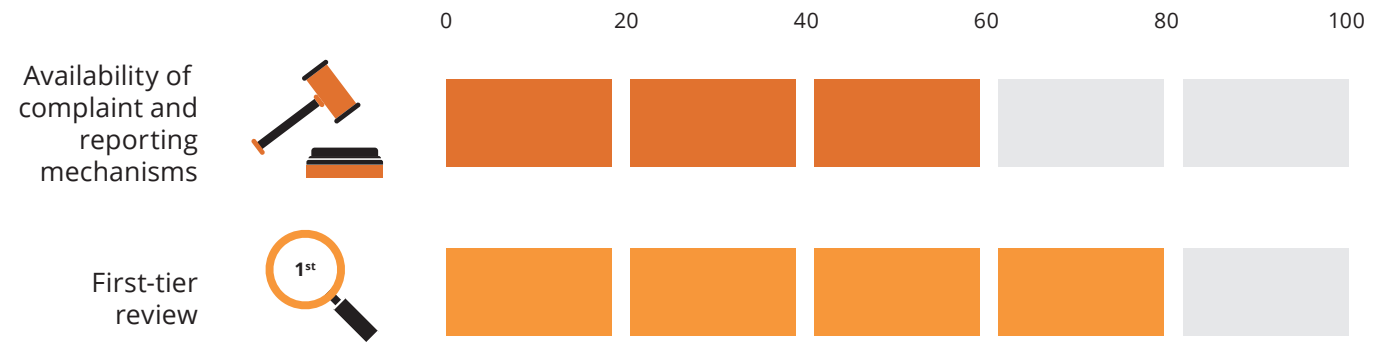
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Middle East and North Africa

The procurement life cycle



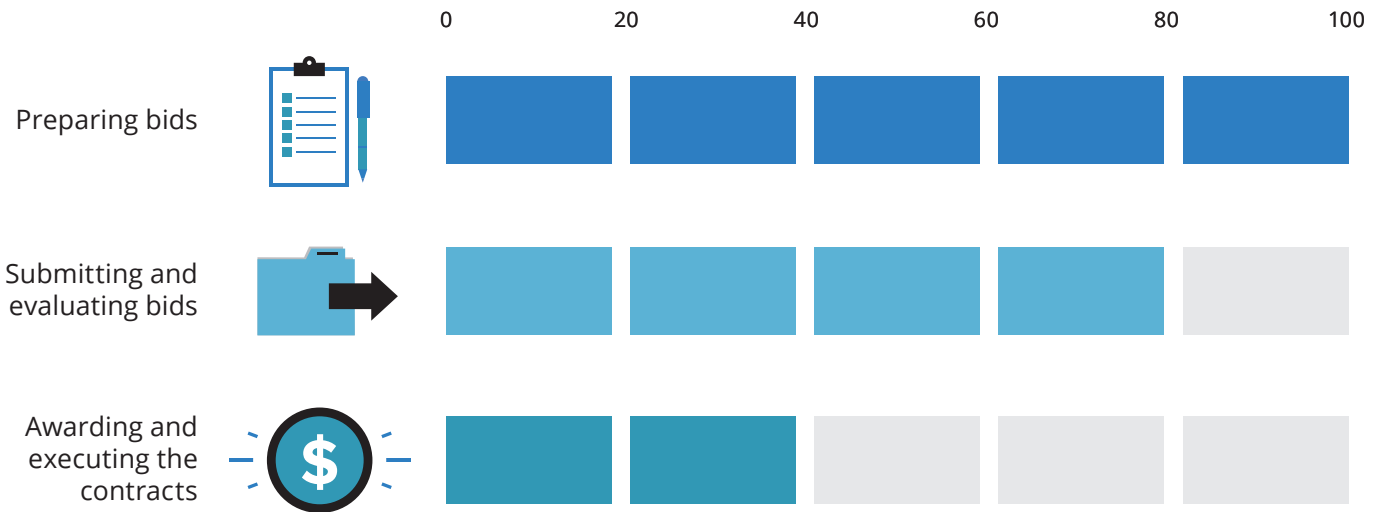
Complaint and reporting mechanisms



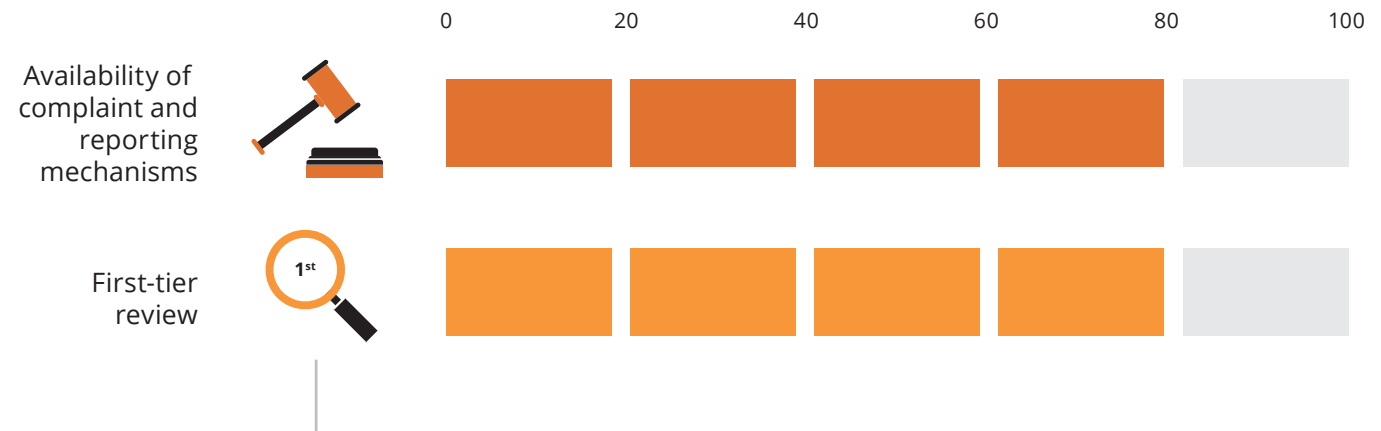
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Latin America and the Caribbean

The procurement life cycle



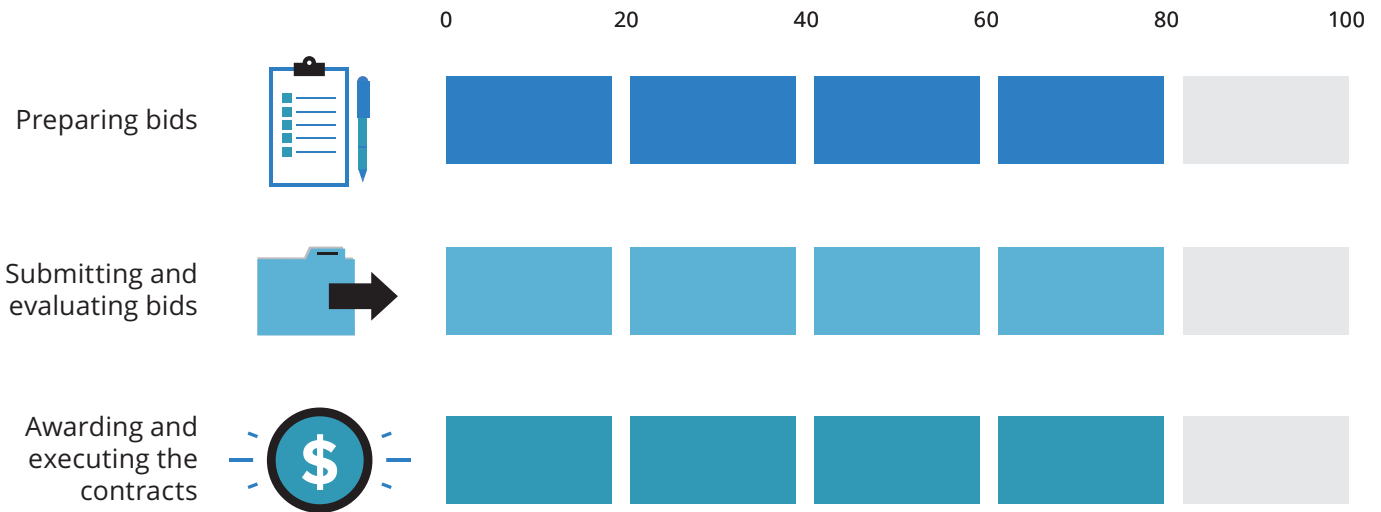
Complaint and reporting mechanisms



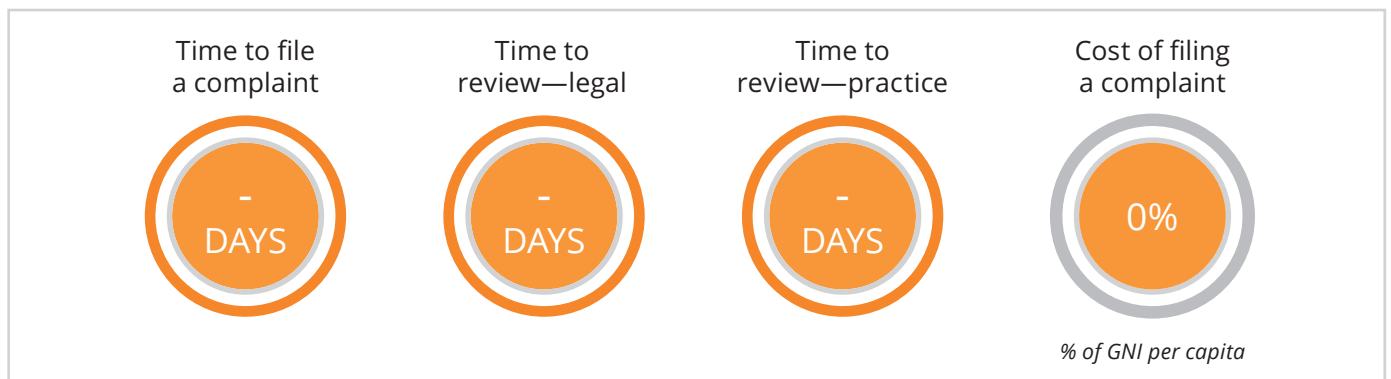
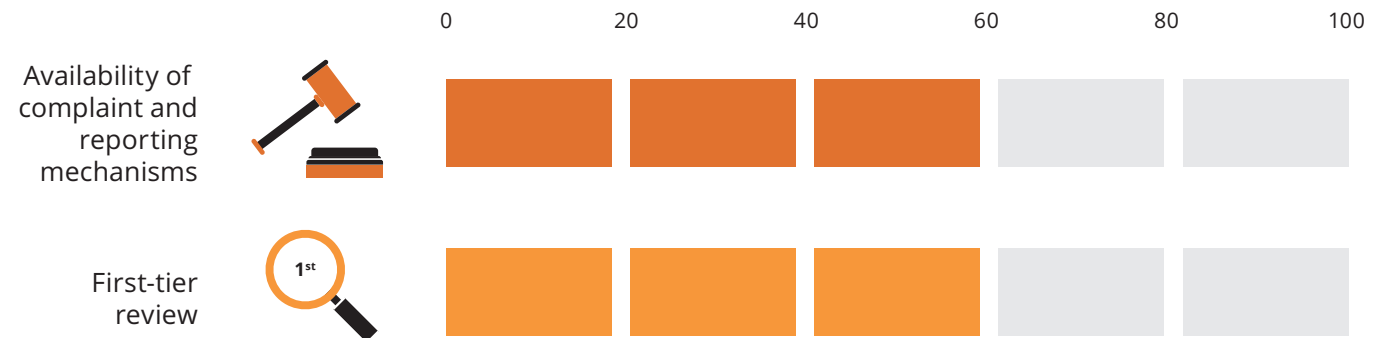
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High-income OECD

The procurement life cycle



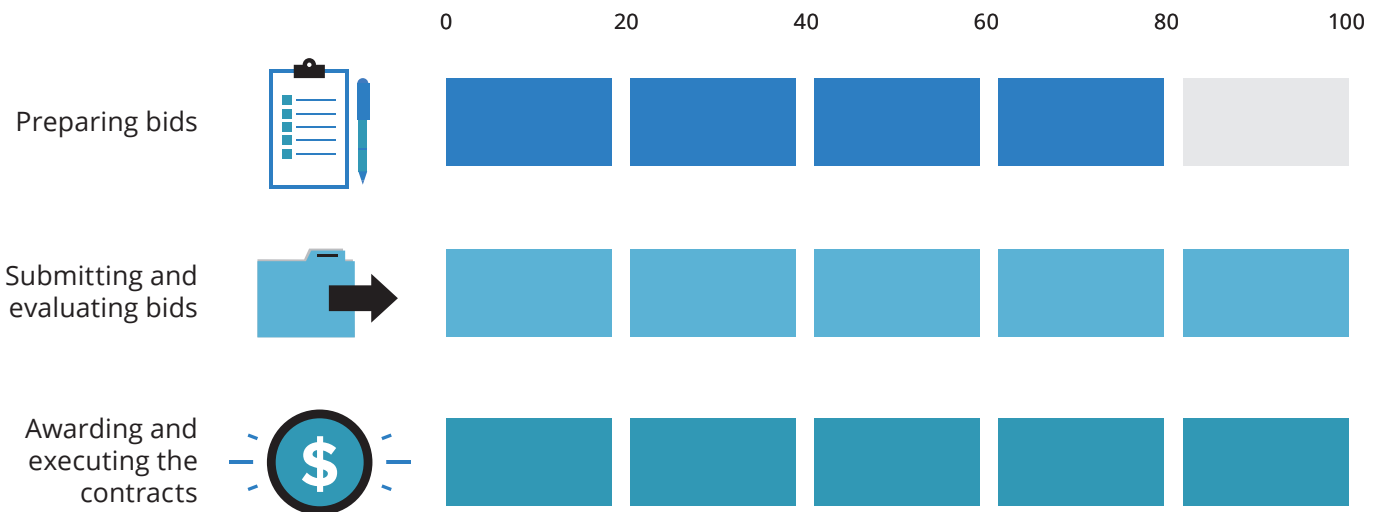
Complaint and reporting mechanisms



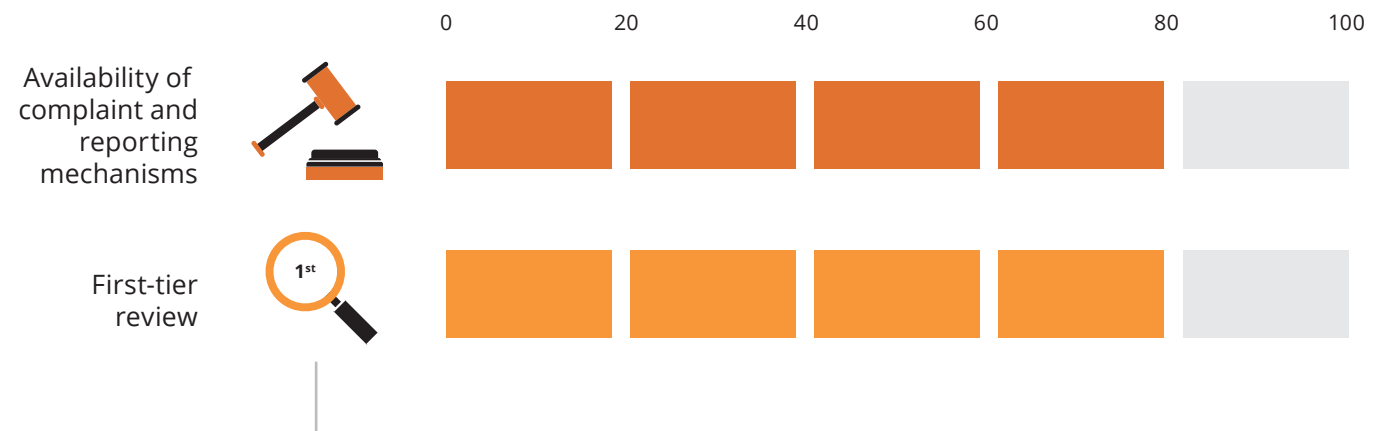
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High-income OECD

The procurement life cycle



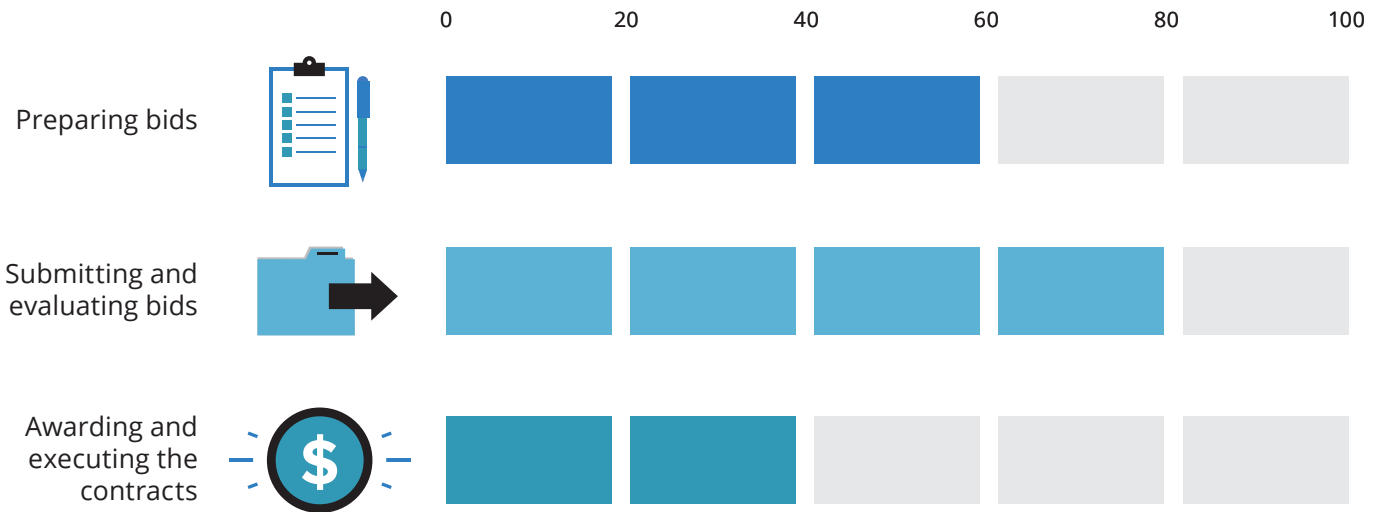
Complaint and reporting mechanisms



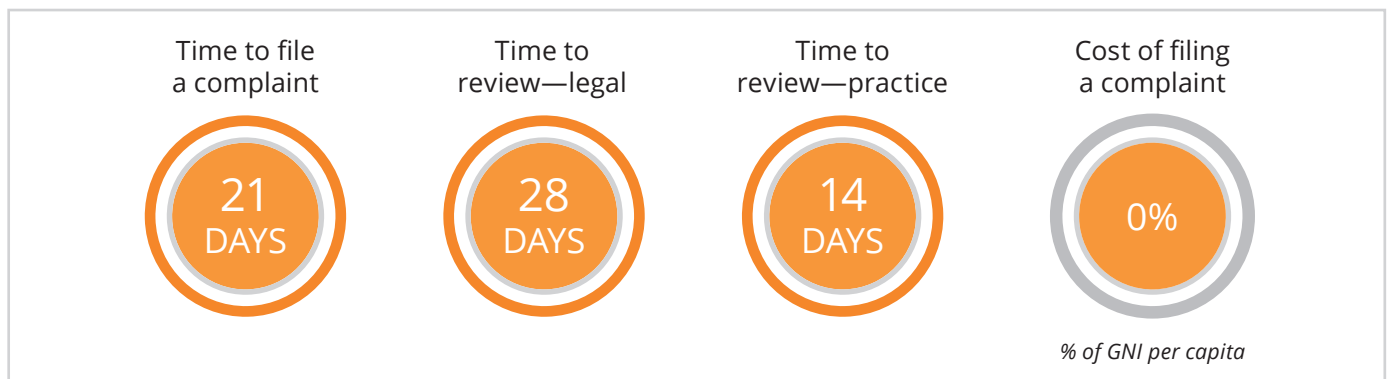
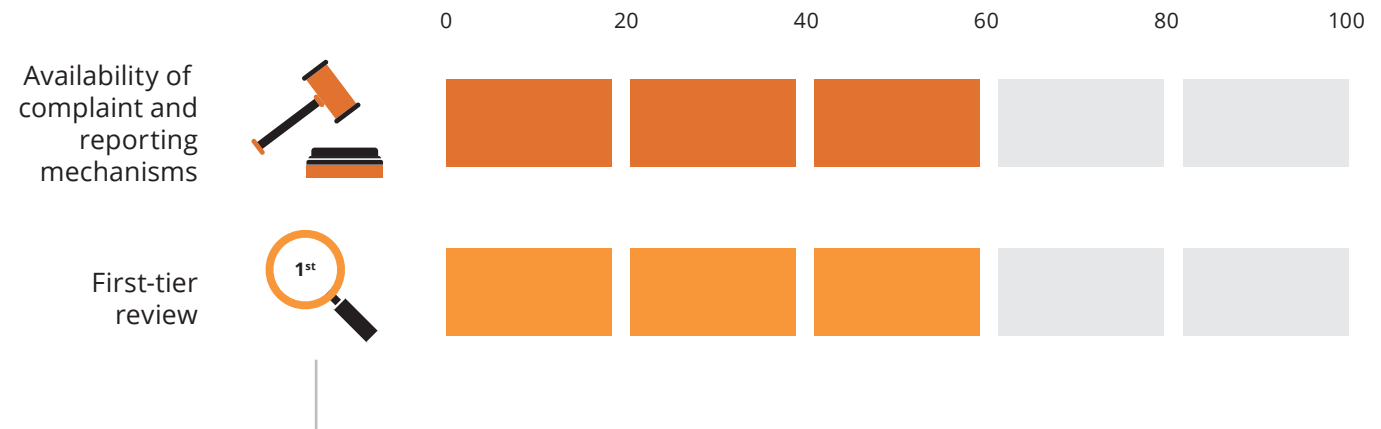
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Europe and Central Asia

The procurement life cycle



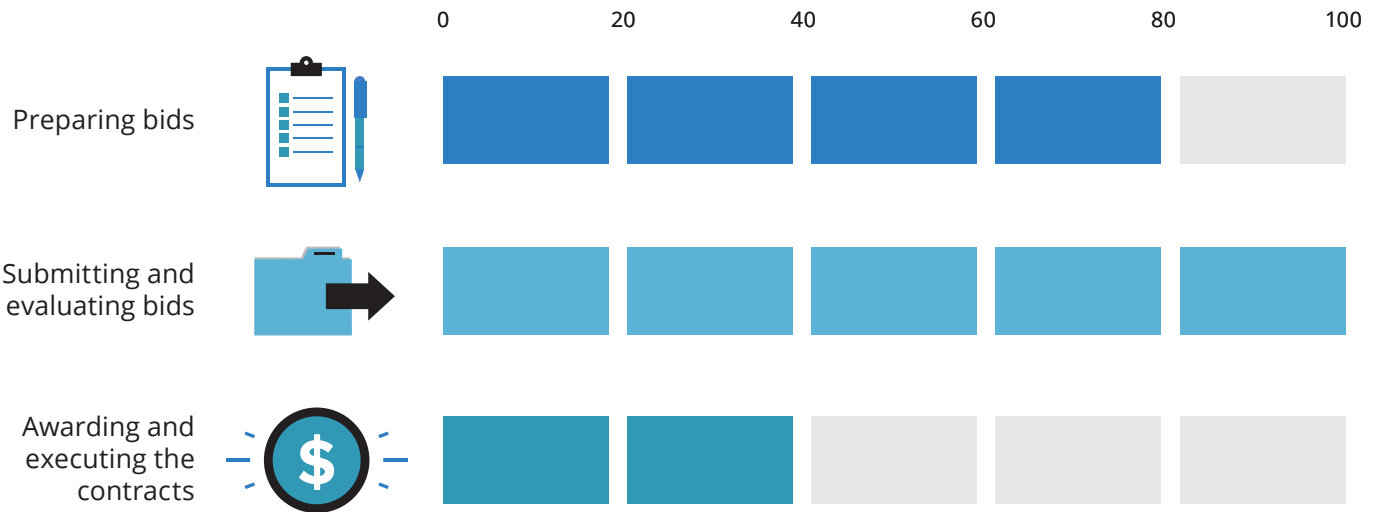
Complaint and reporting mechanisms



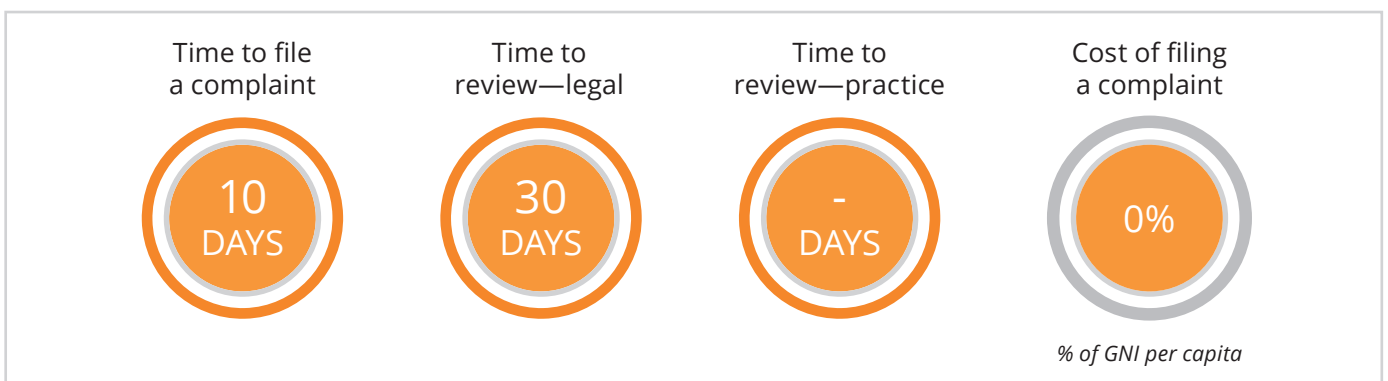
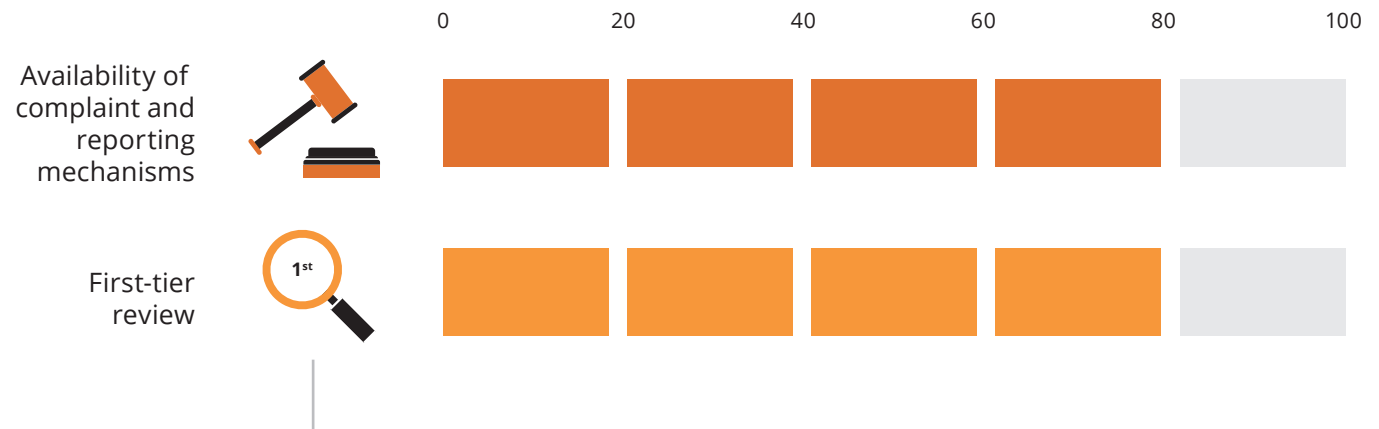
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Middle East and North Africa

The procurement life cycle



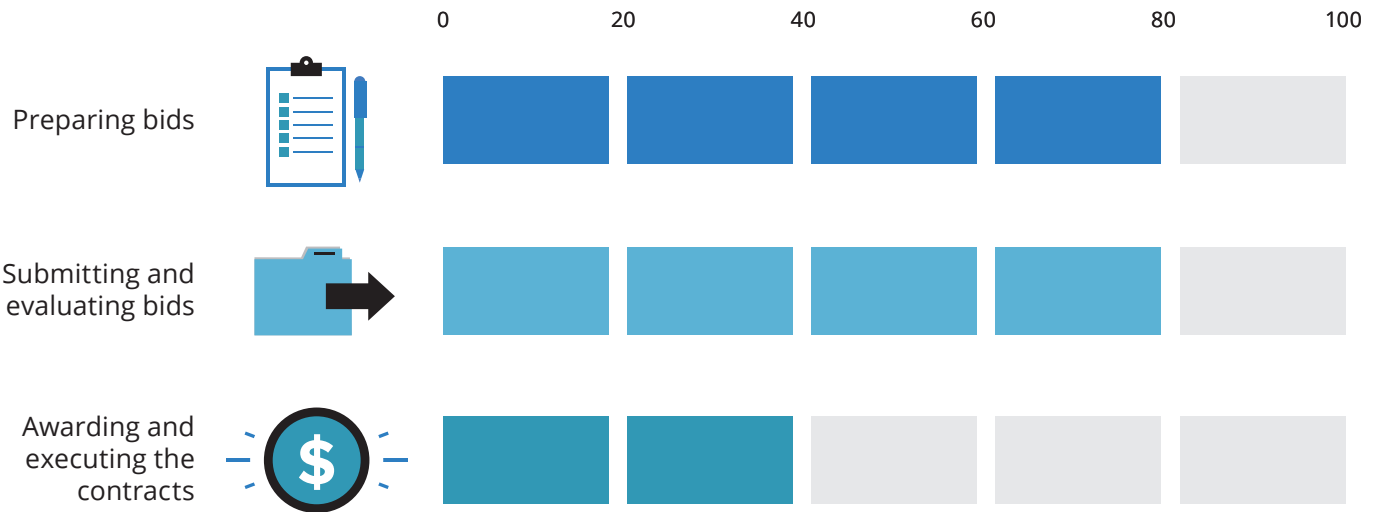
Complaint and reporting mechanisms



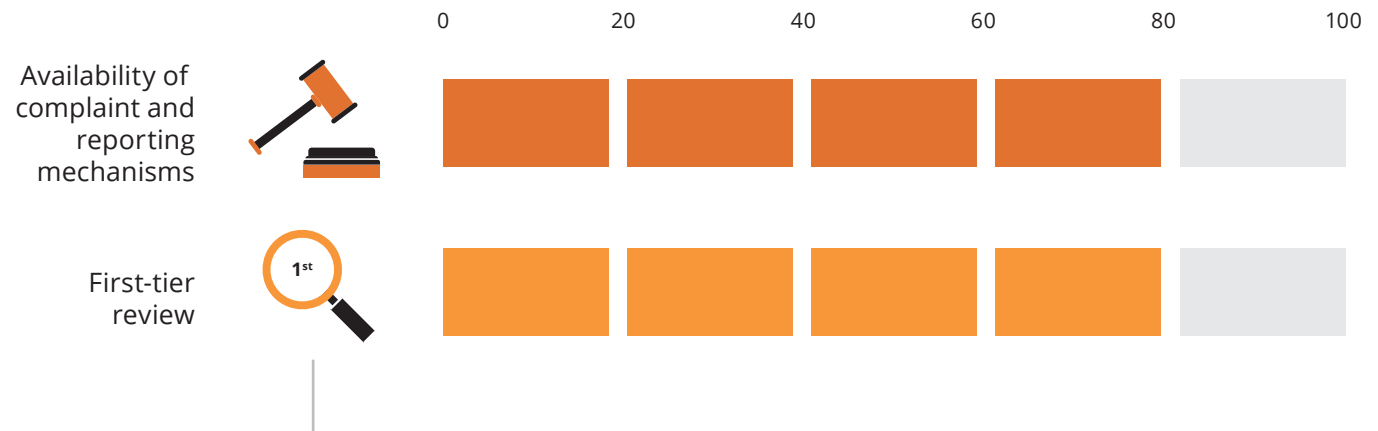
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Latin America and the Caribbean

The procurement life cycle



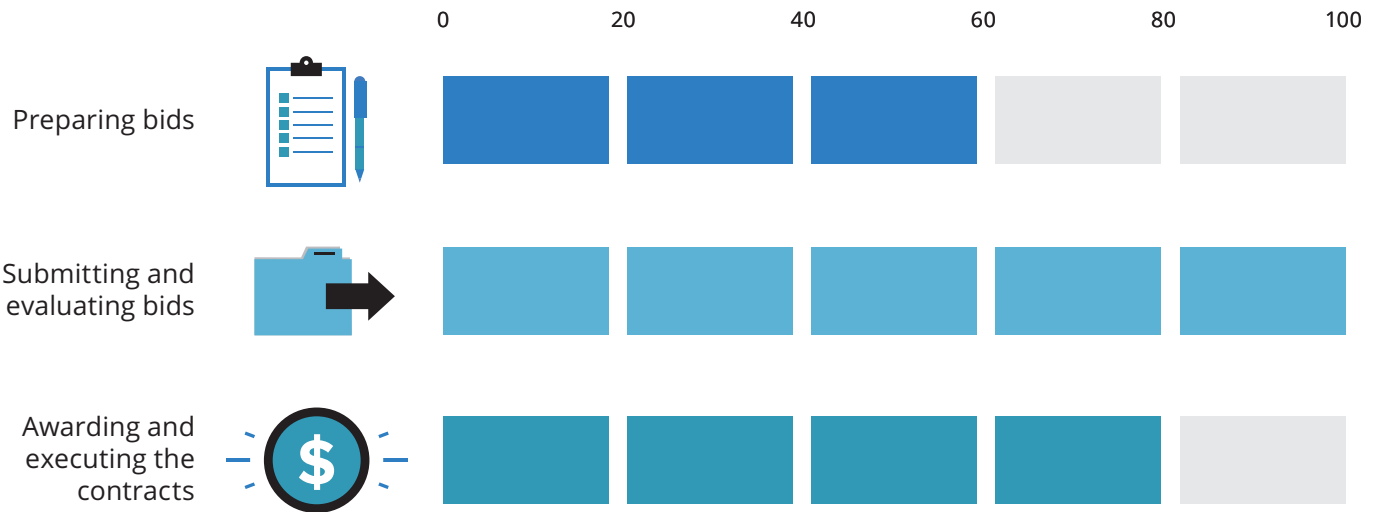
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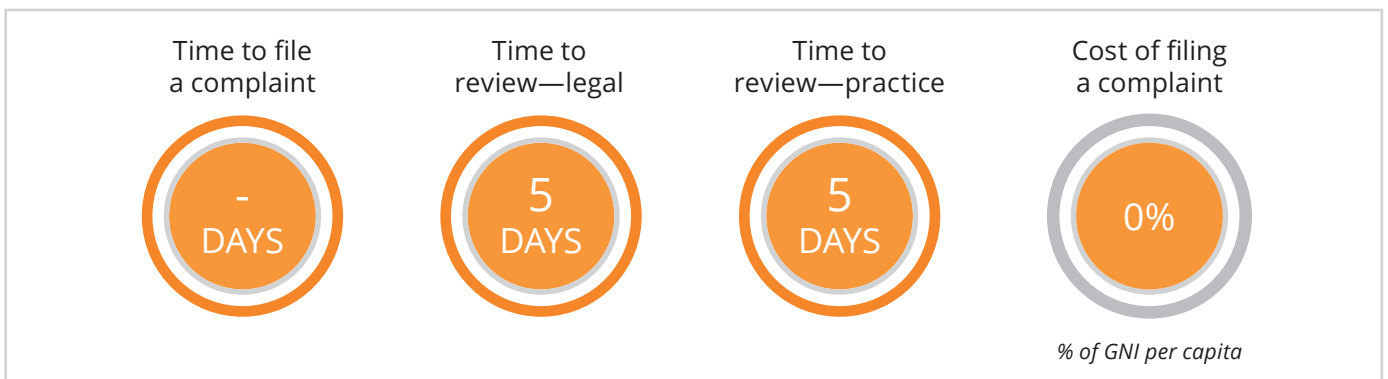
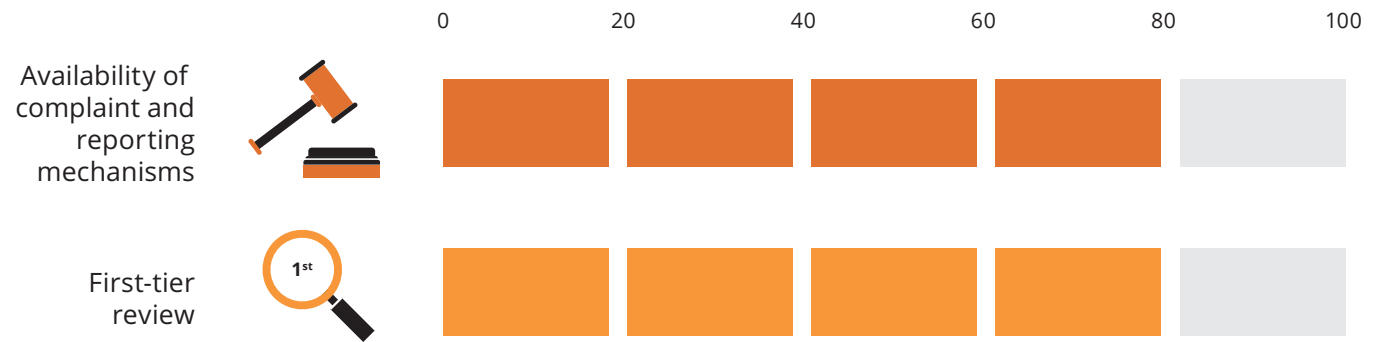
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Europe and Central Asia

The procurement life cycle



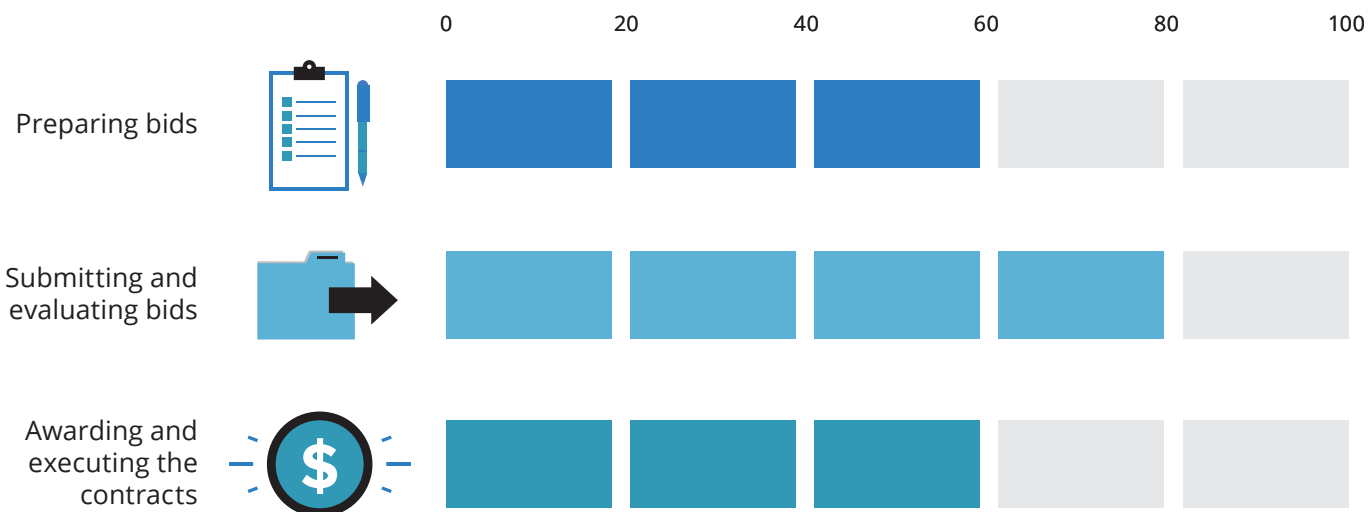
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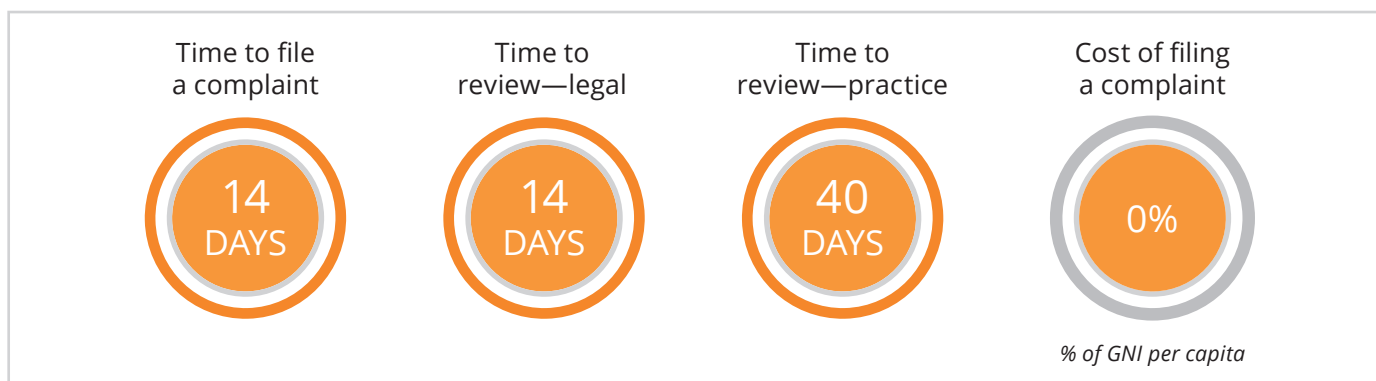
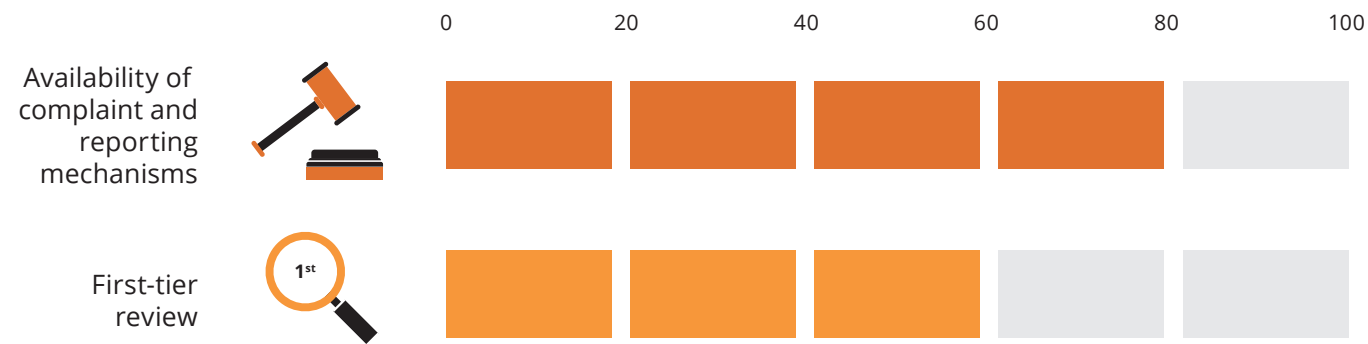
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Sub-Saharan Africa

The procurement life cycle



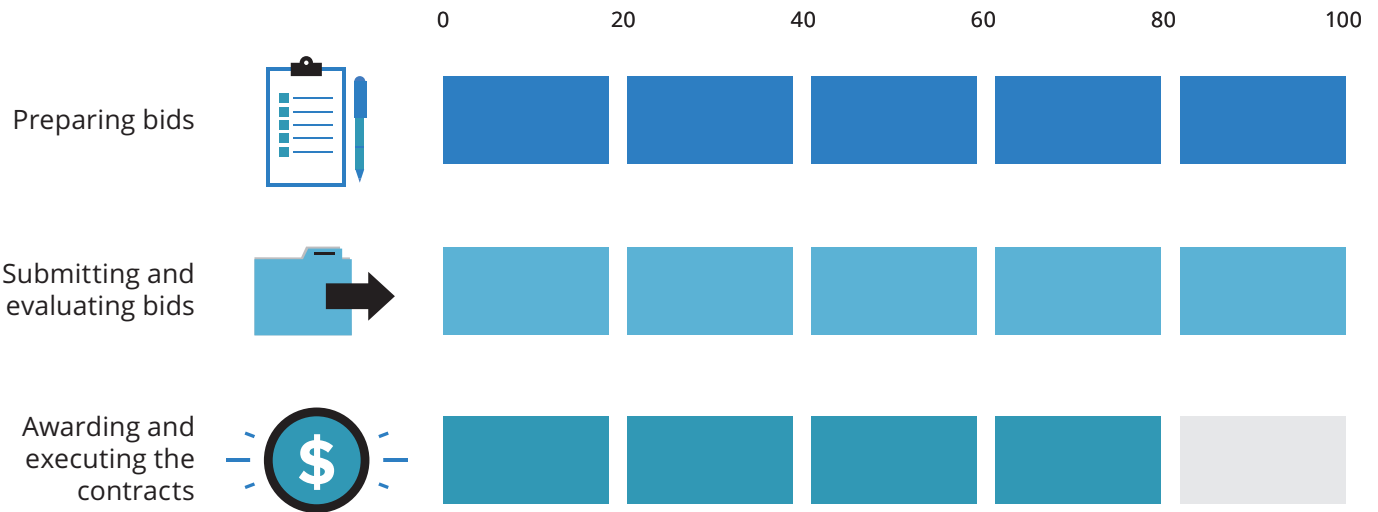
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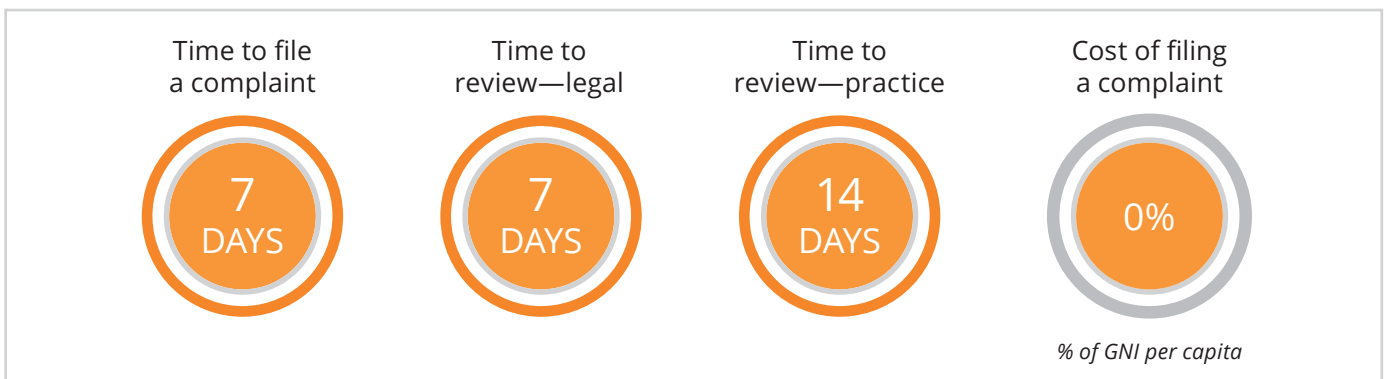
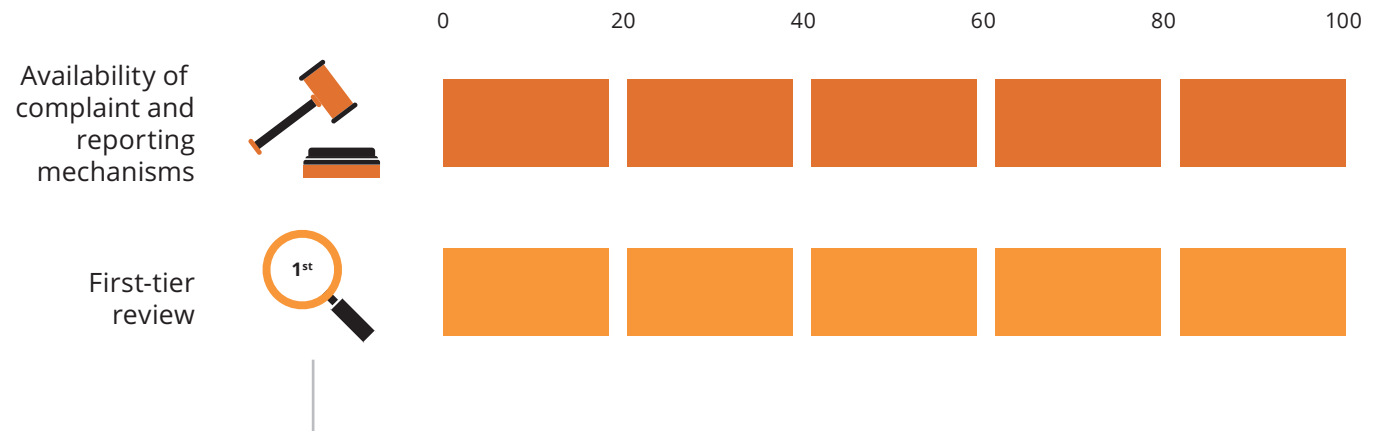
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Latin America and the Caribbean

The procurement life cycle



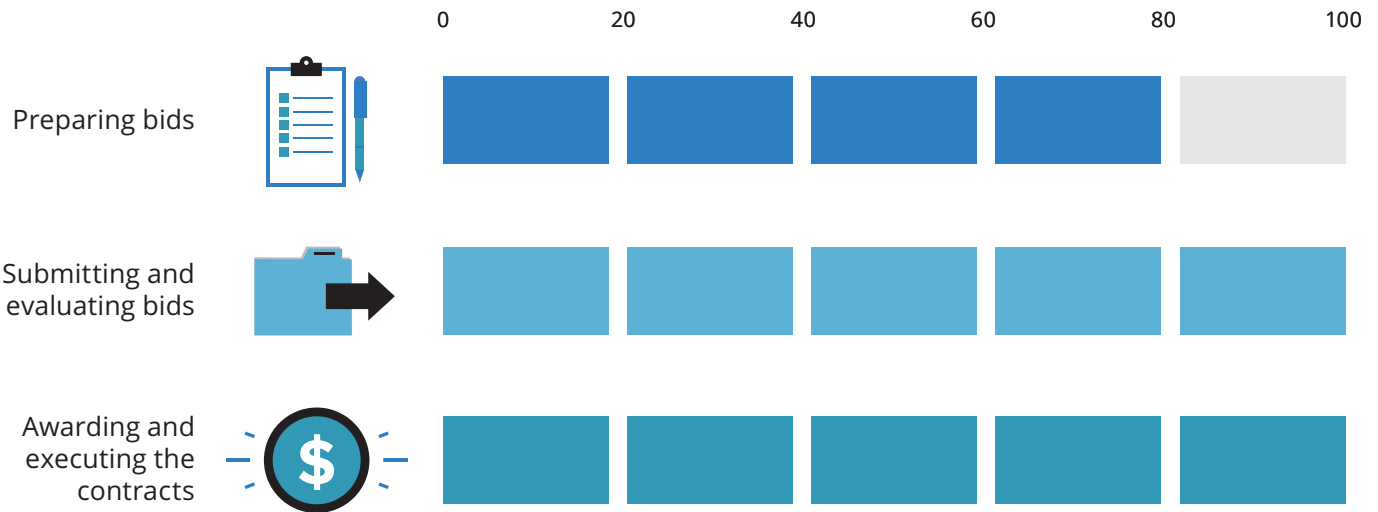
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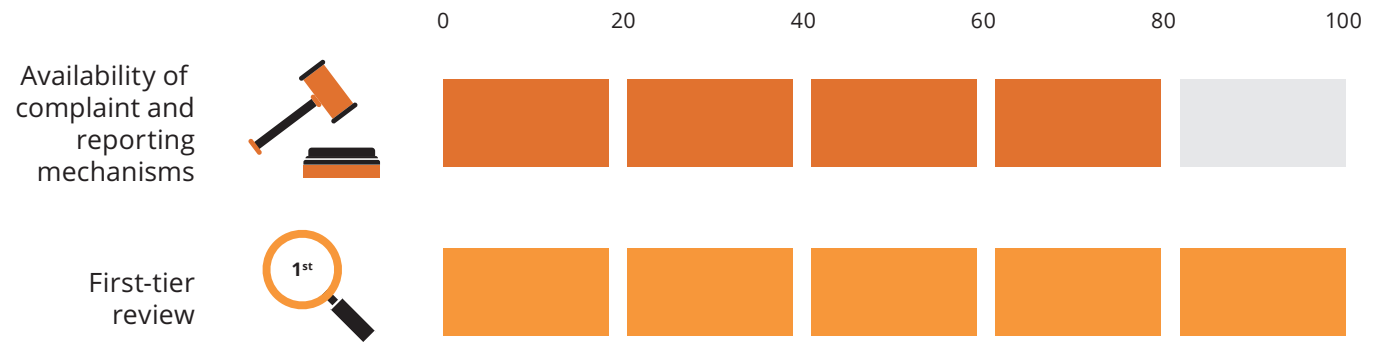
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Europe and Central Asia

The procurement life cycle



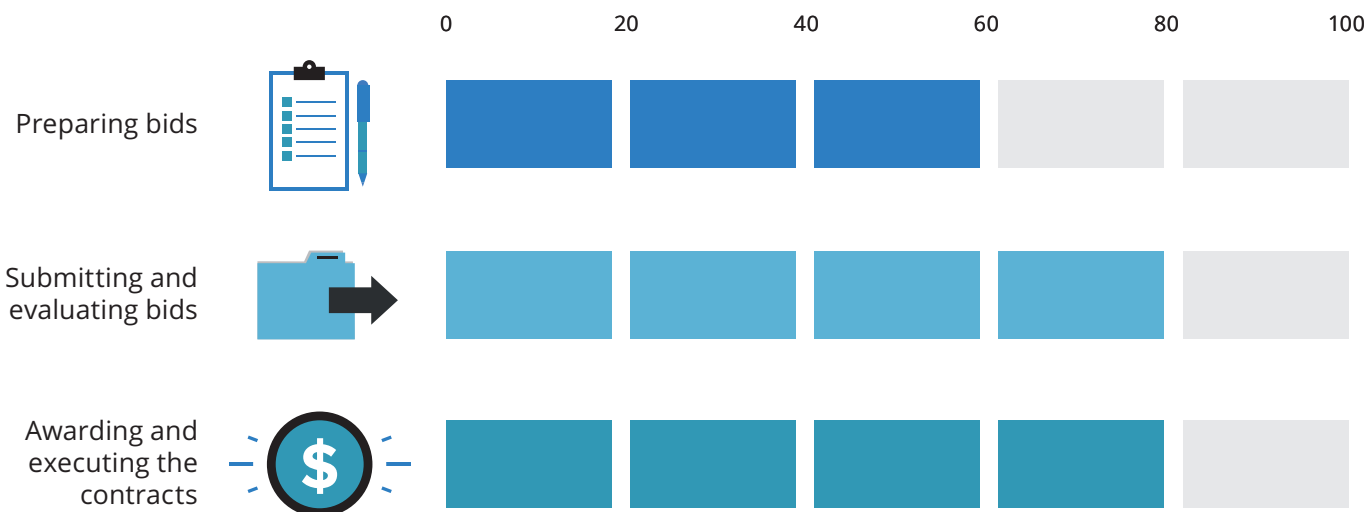
Complaint and reporting mechanisms



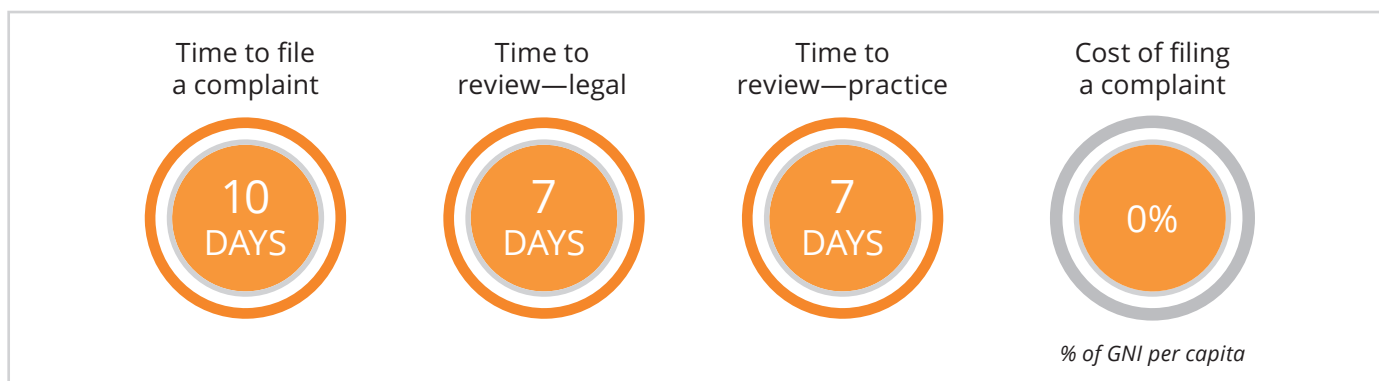
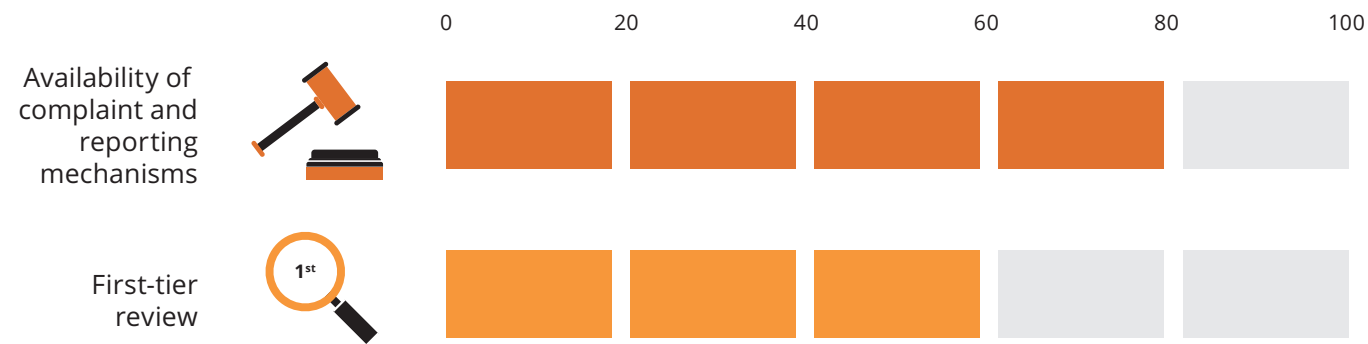
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Sub-Saharan Africa

The procurement life cycle



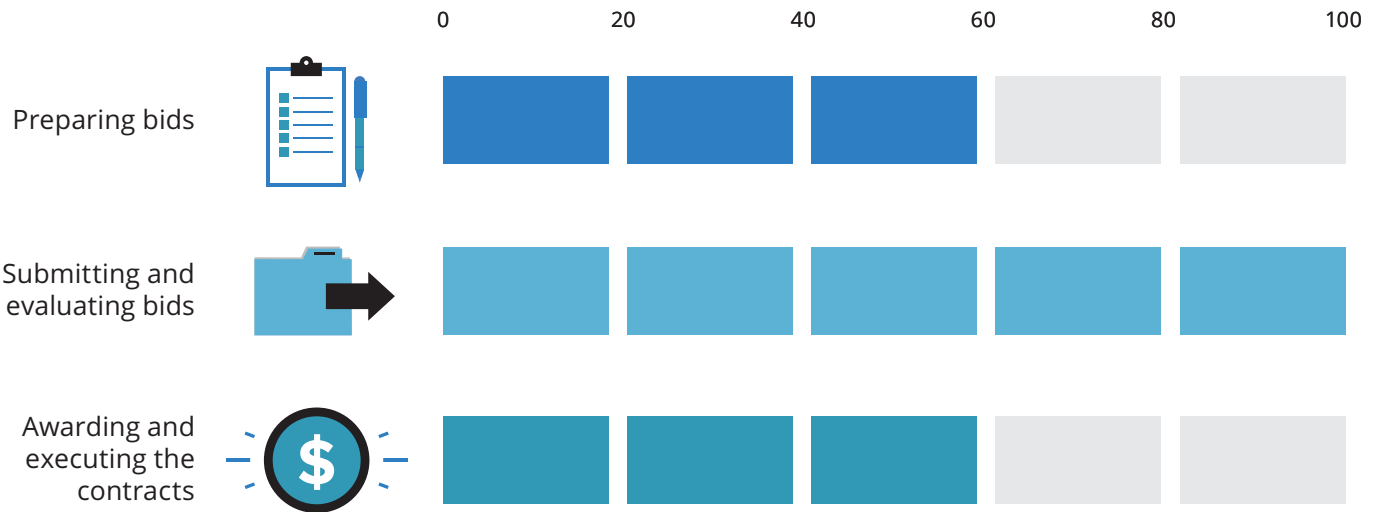
Complaint and reporting mechanisms



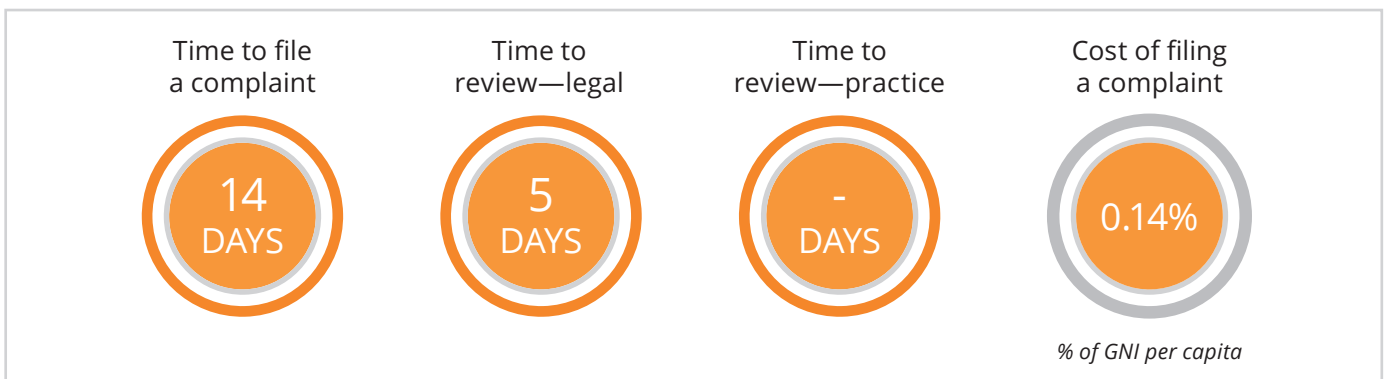
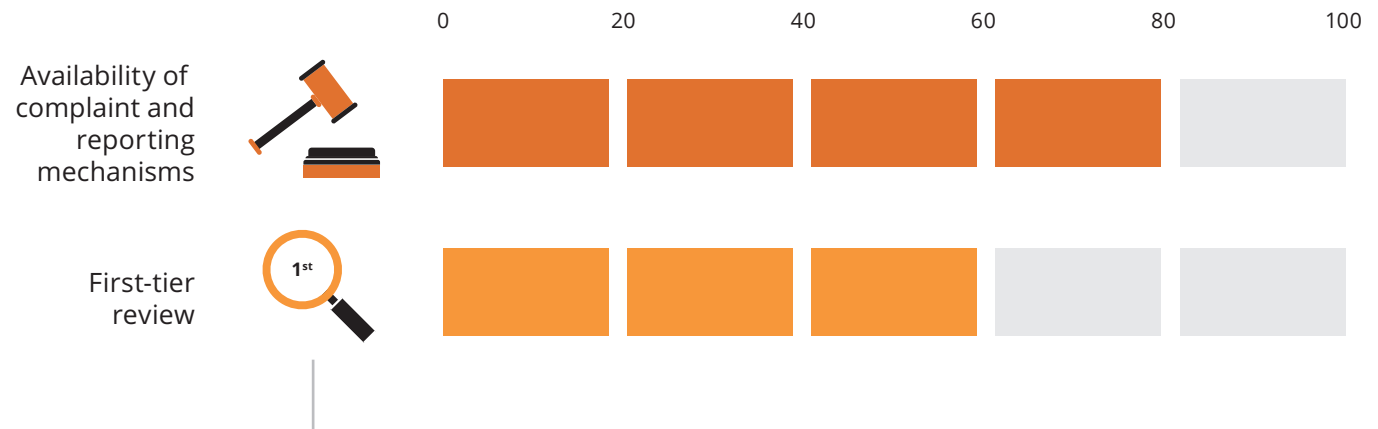
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Sub-Saharan Africa

The procurement life cycle



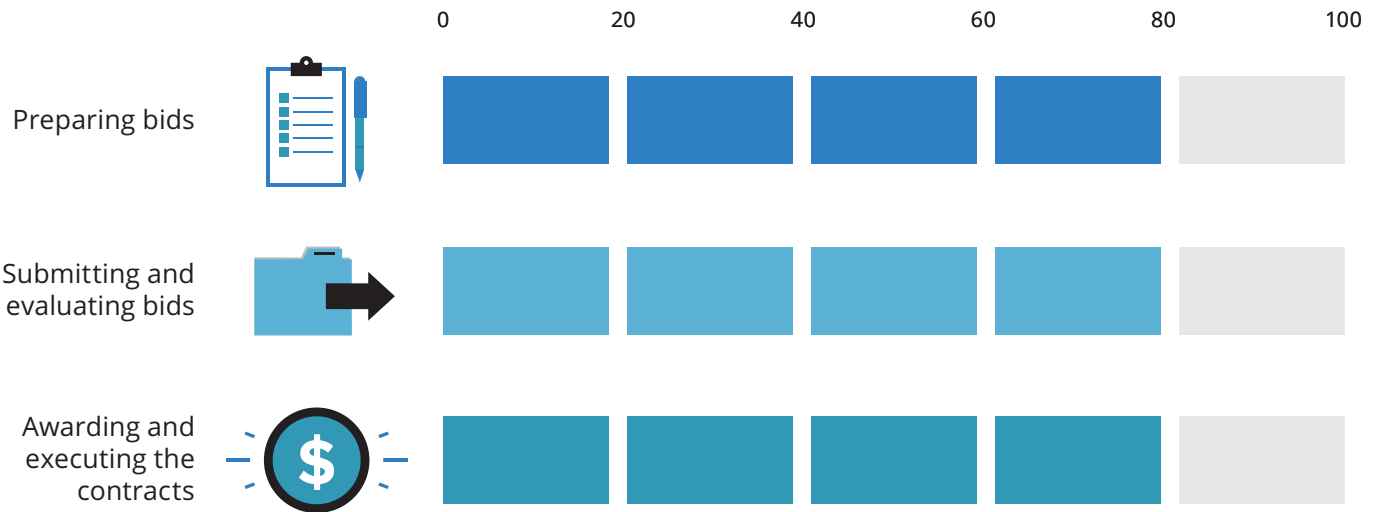
Complaint and reporting mechanisms



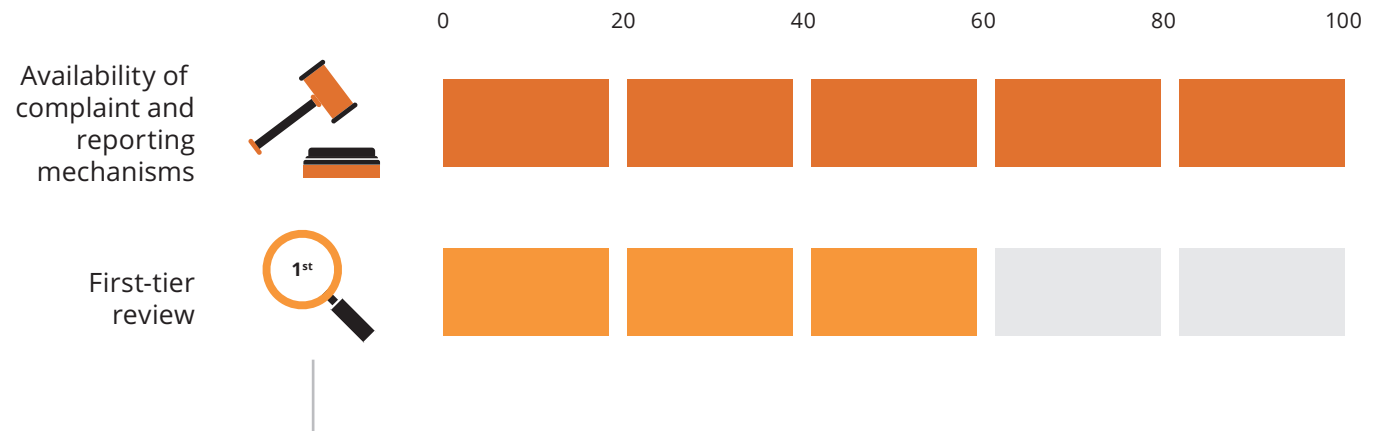
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High-income OECD

The procurement life cycle



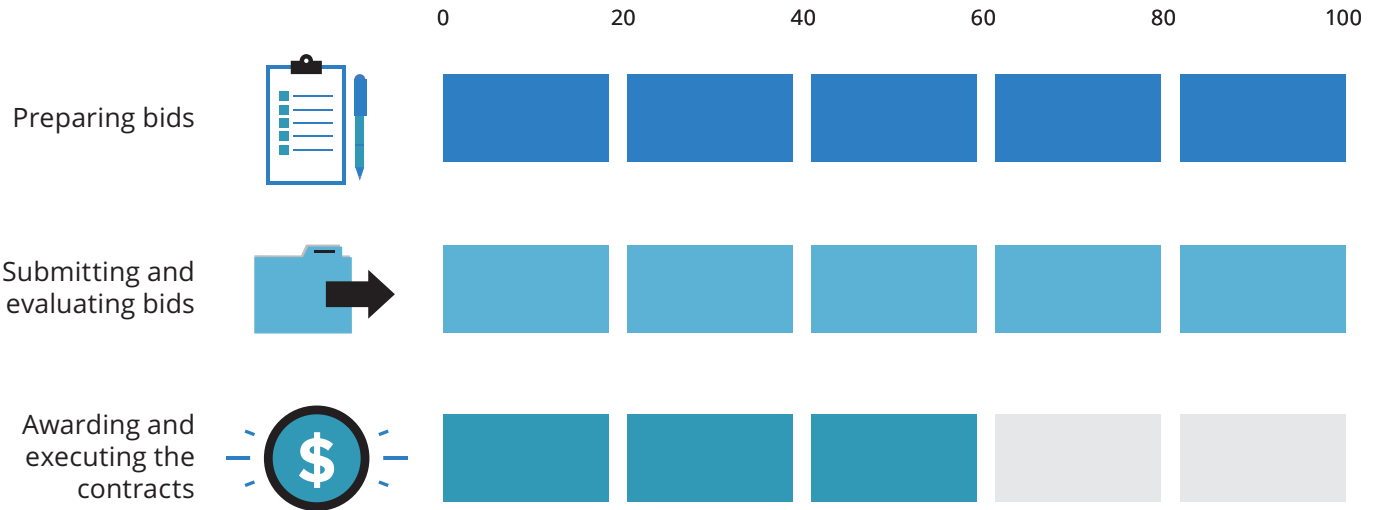
Complaint and reporting mechanisms



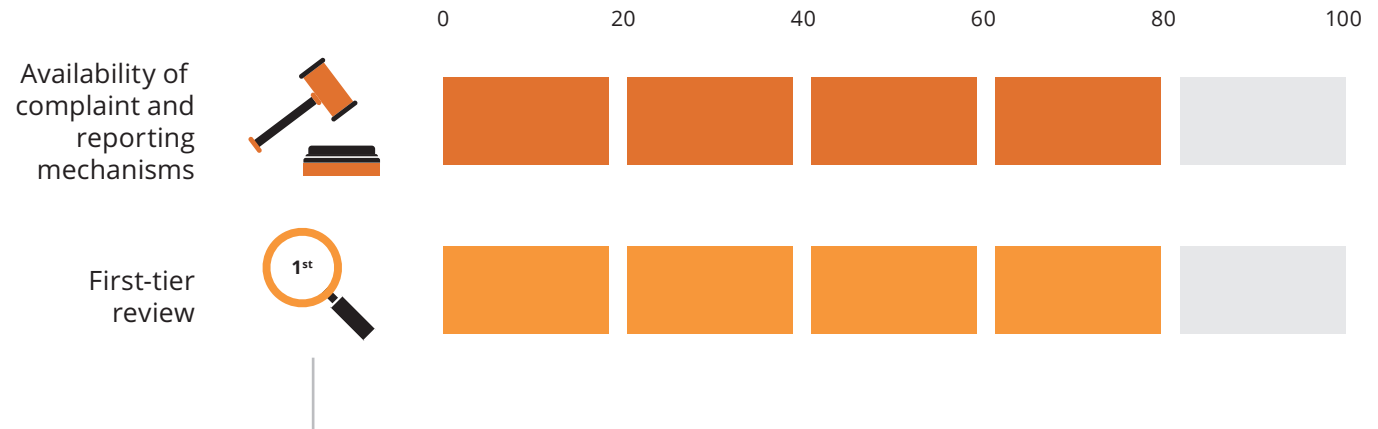
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High-income OECD

The procurement life cycle



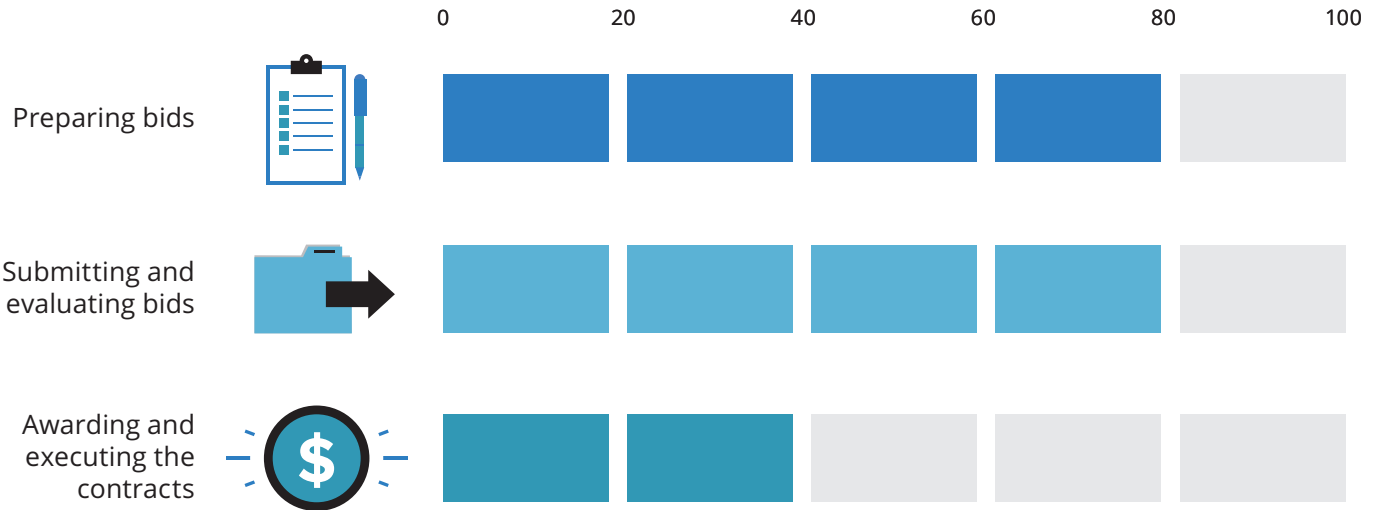
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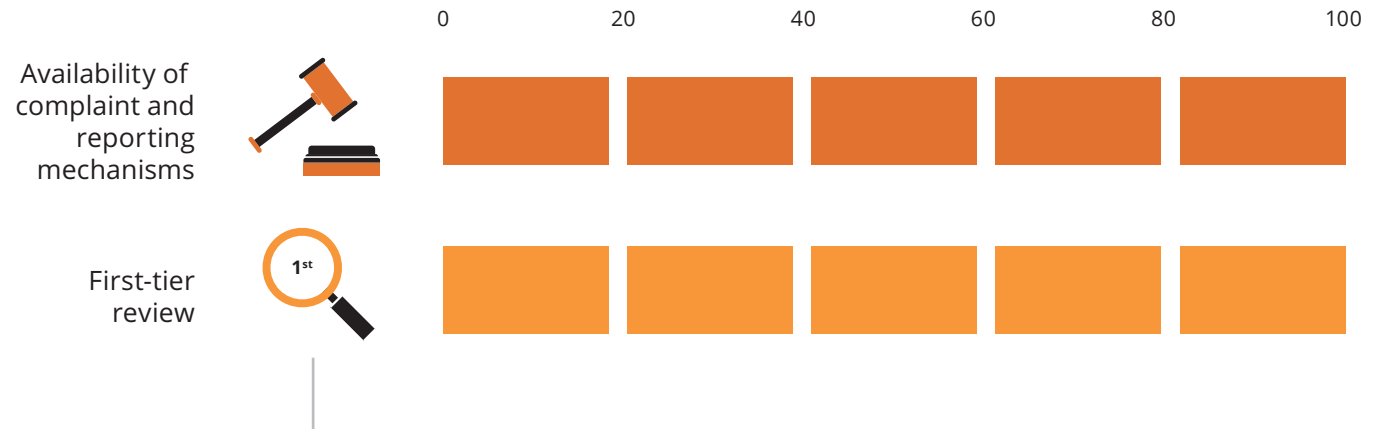
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Latin America and the Caribbean

The procurement life cycle



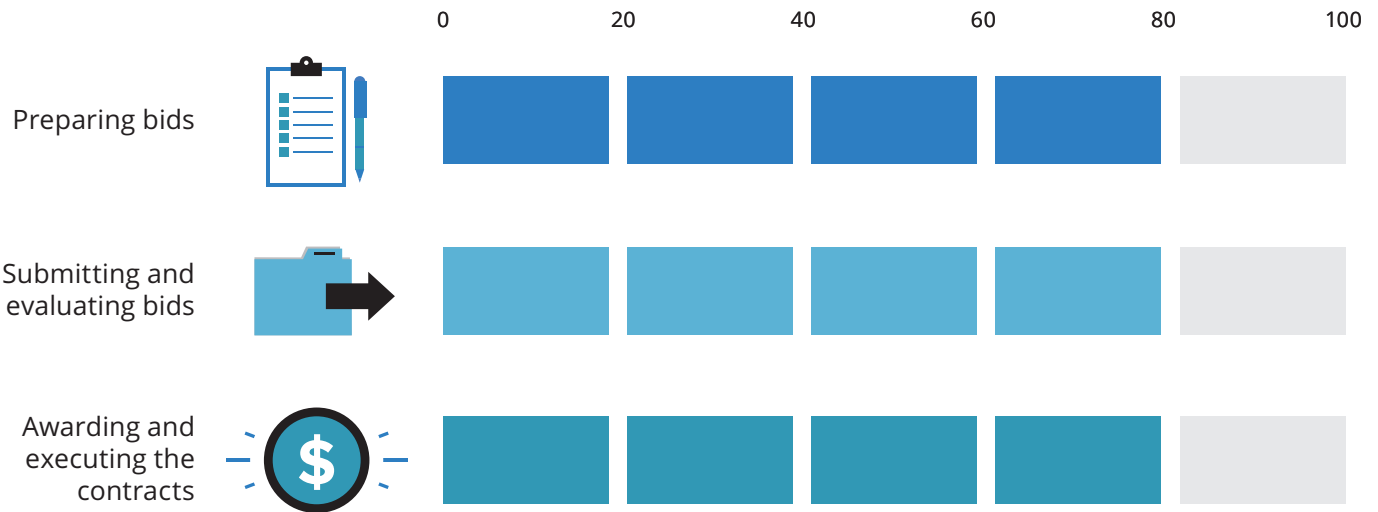
Complaint and reporting mechanisms



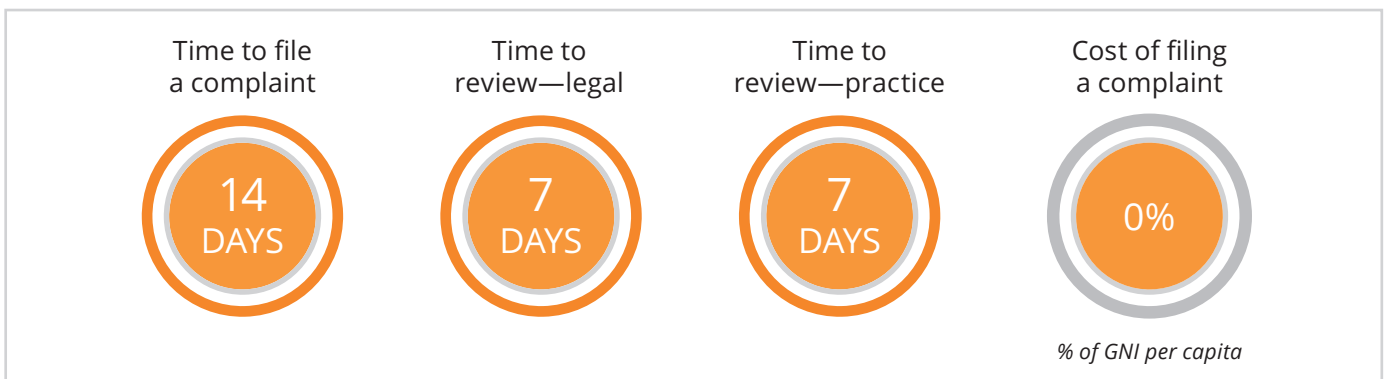
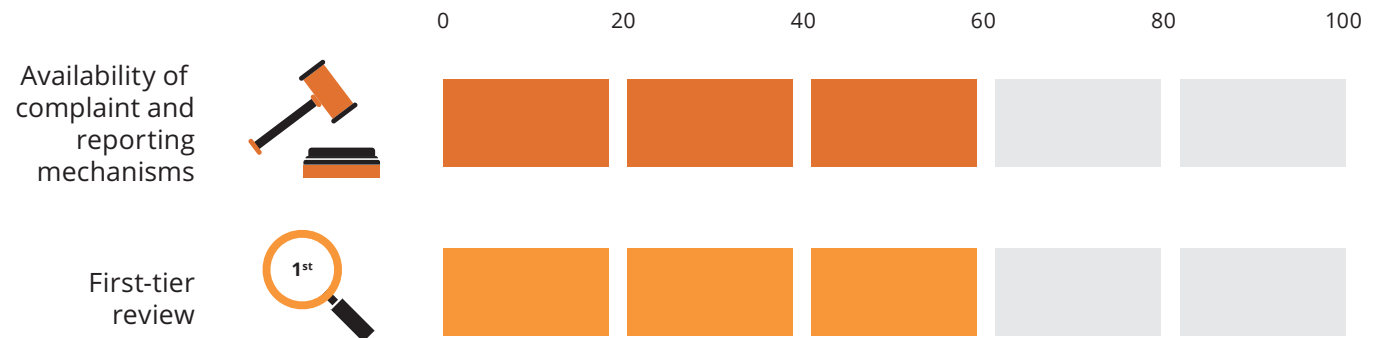
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Sub-Saharan Africa

The procurement life cycle



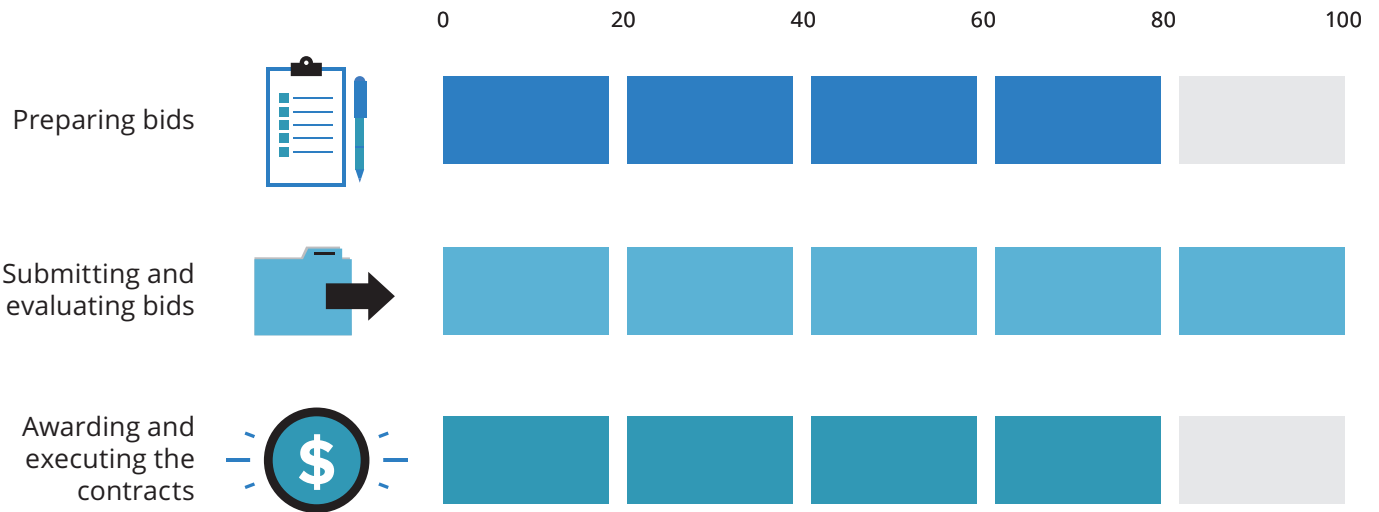
Complaint and reporting mechanisms



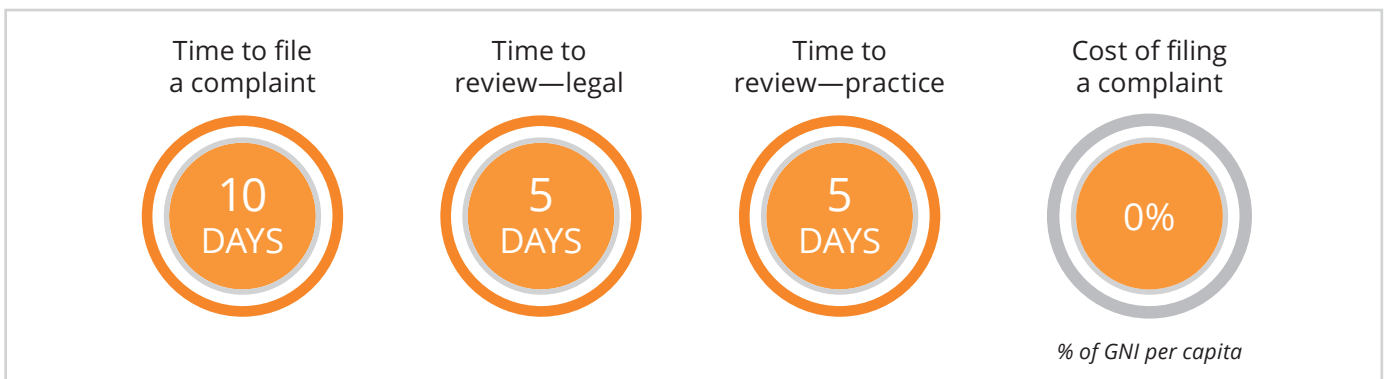
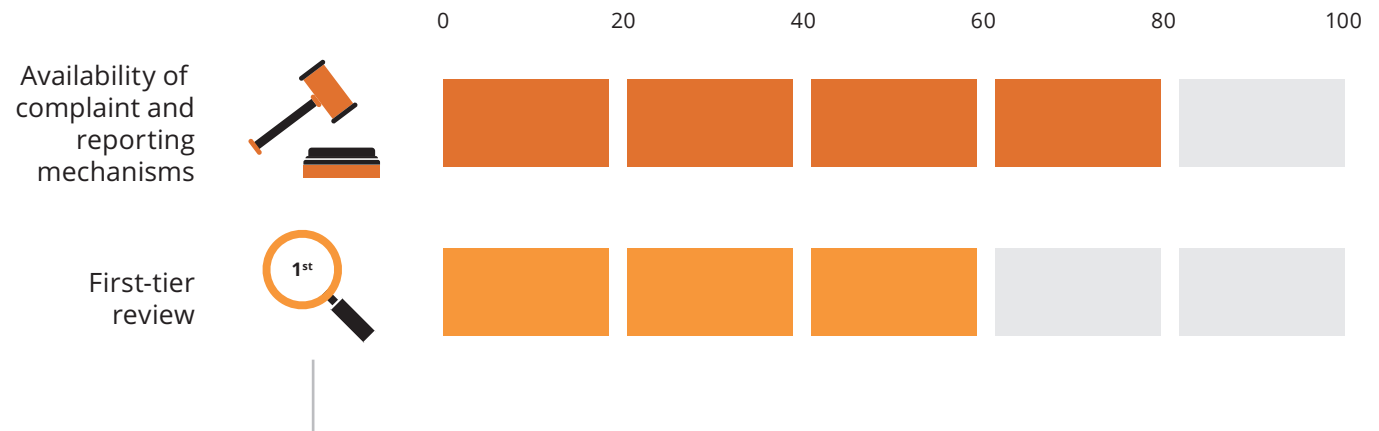
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Sub-Saharan Africa

The procurement life cycle



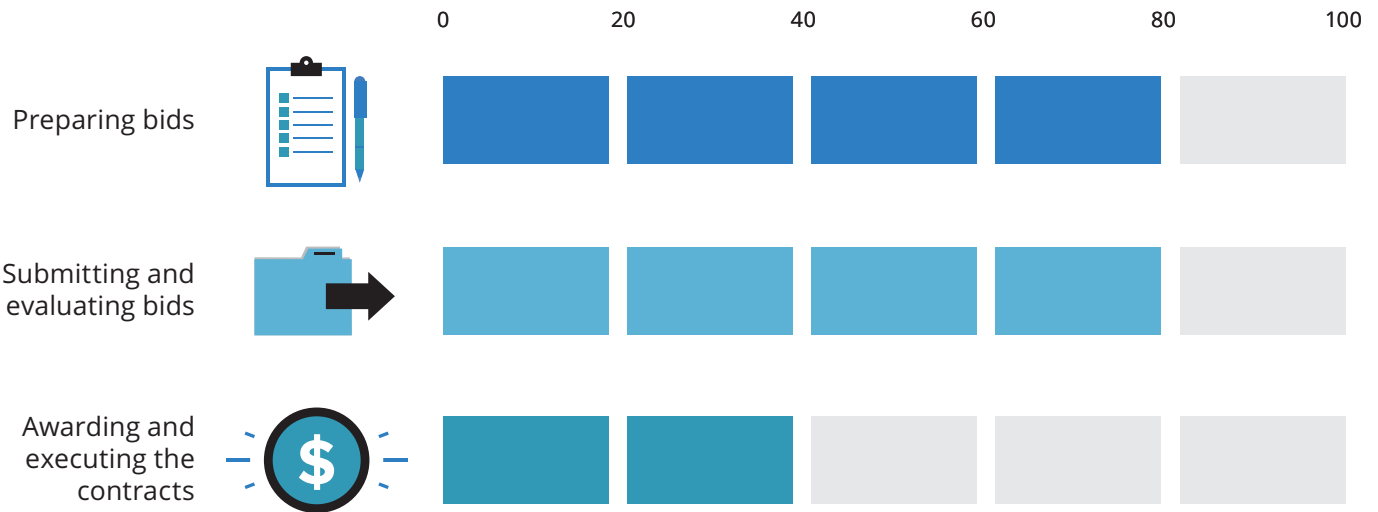
Complaint and reporting mechanisms



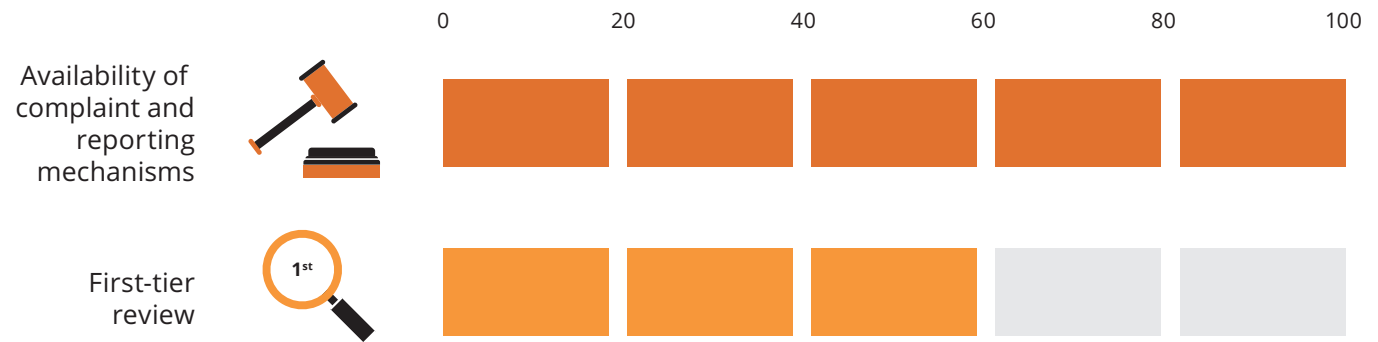
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Latin America and the Caribbean

The procurement life cycle



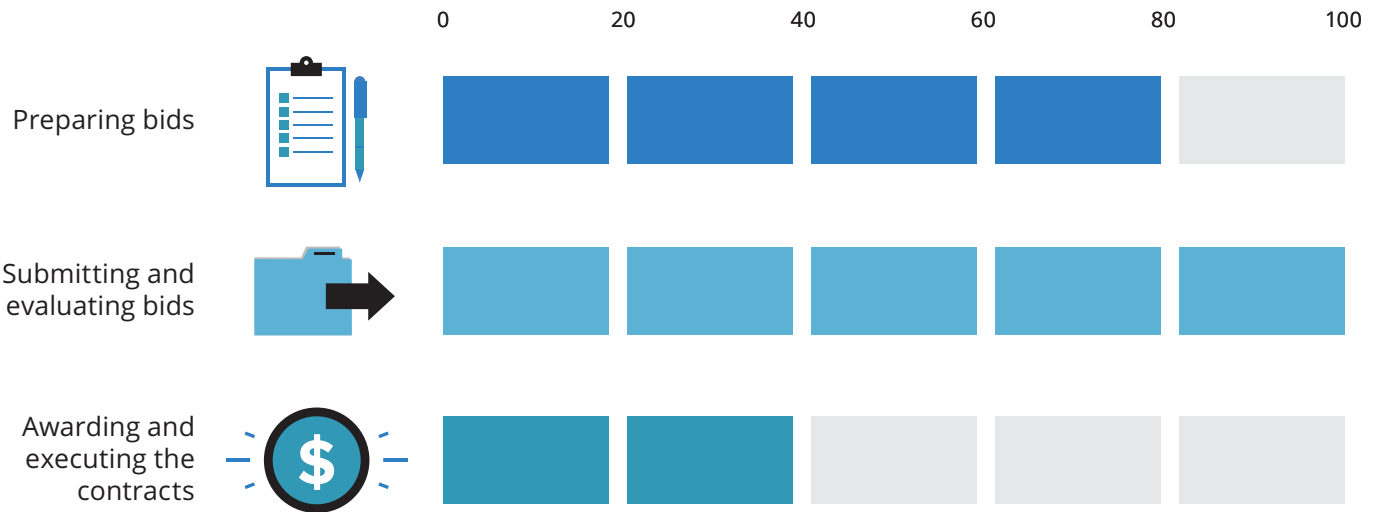
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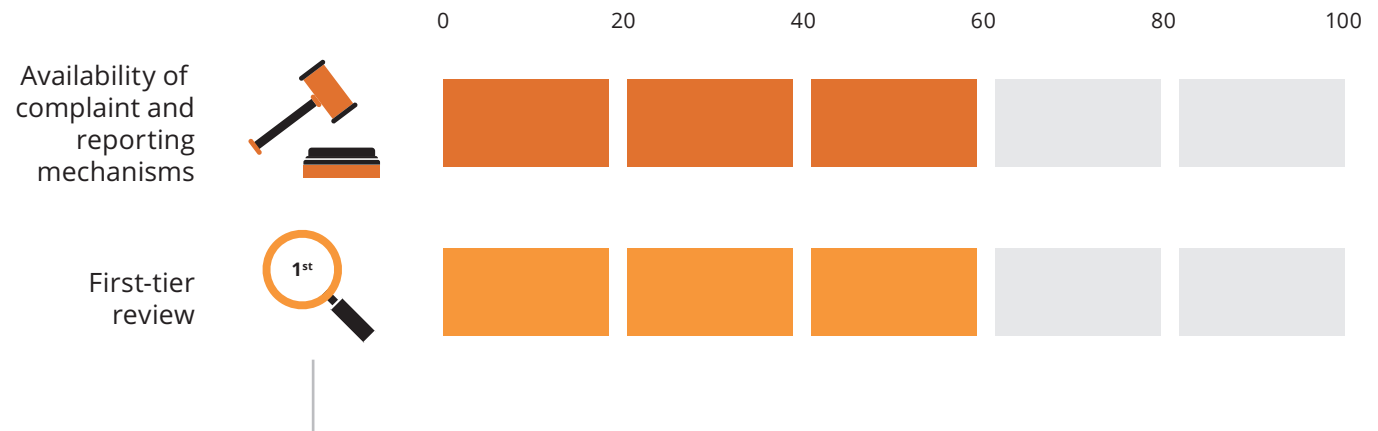
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Middle East and North Africa

The procurement life cycle



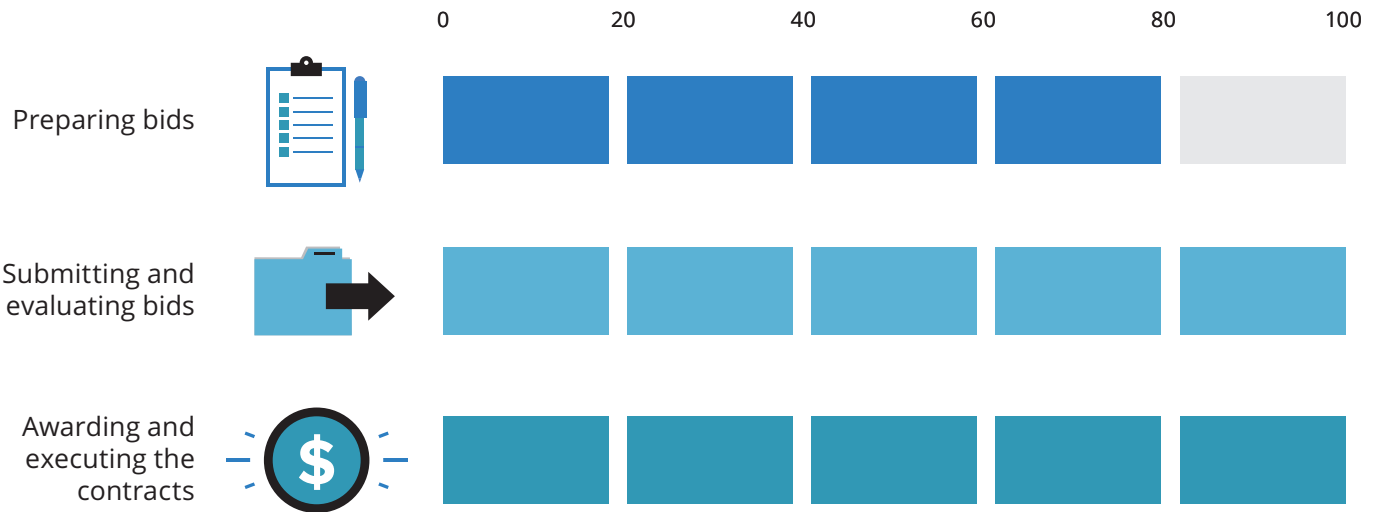
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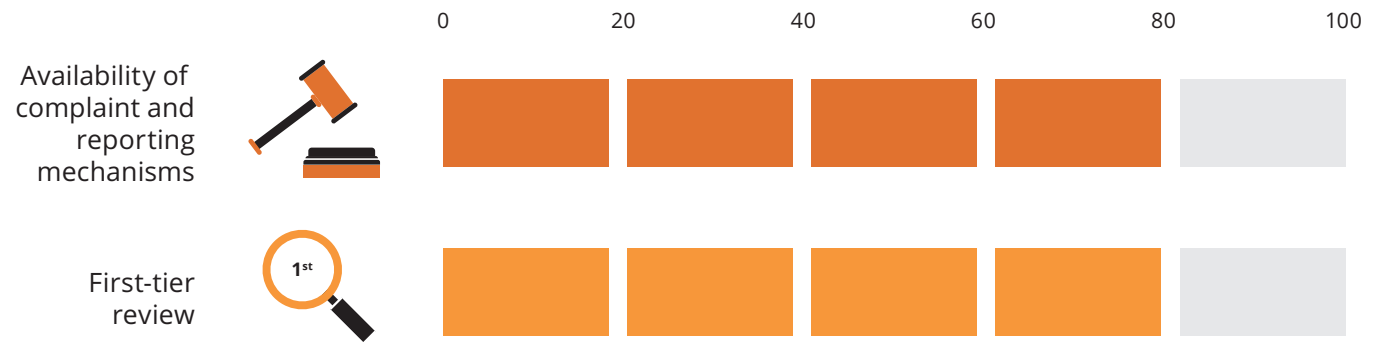
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High-income OECD

The procurement life cycle



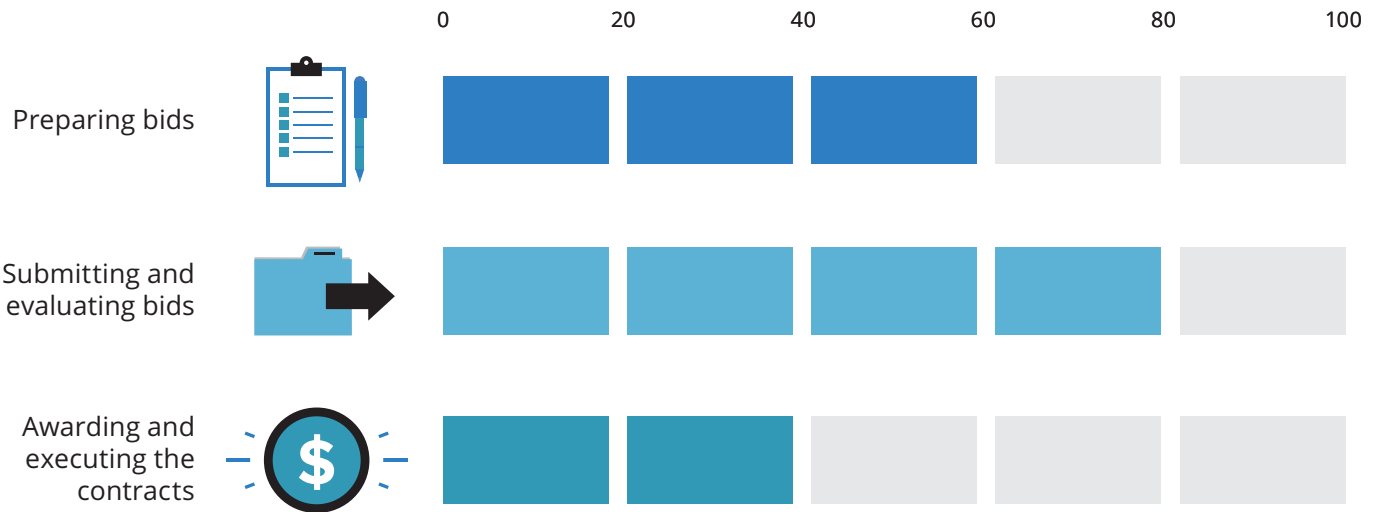
Complaint and reporting mechanisms



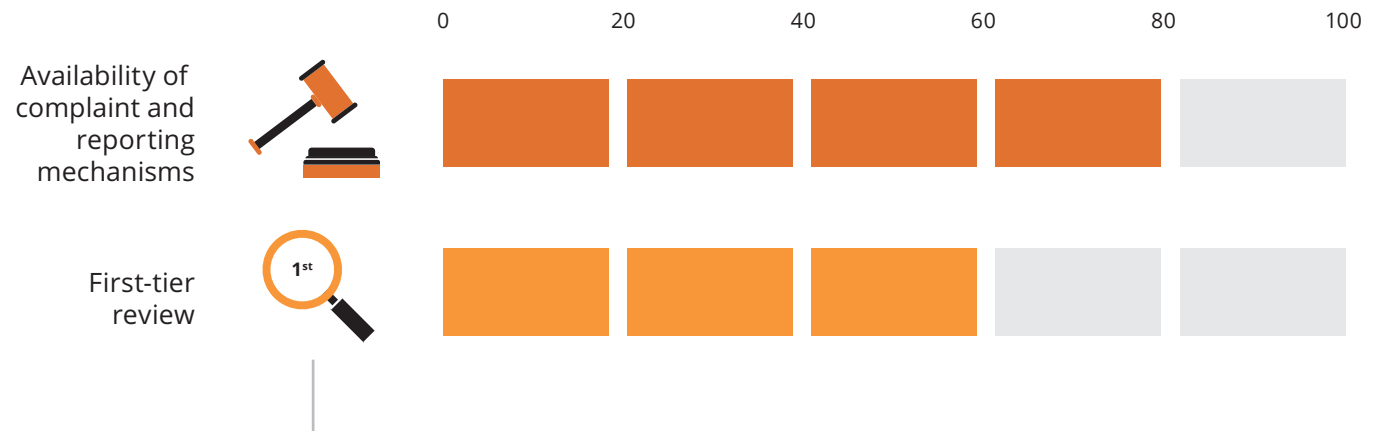
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Sub-Saharan Africa

The procurement life cycle



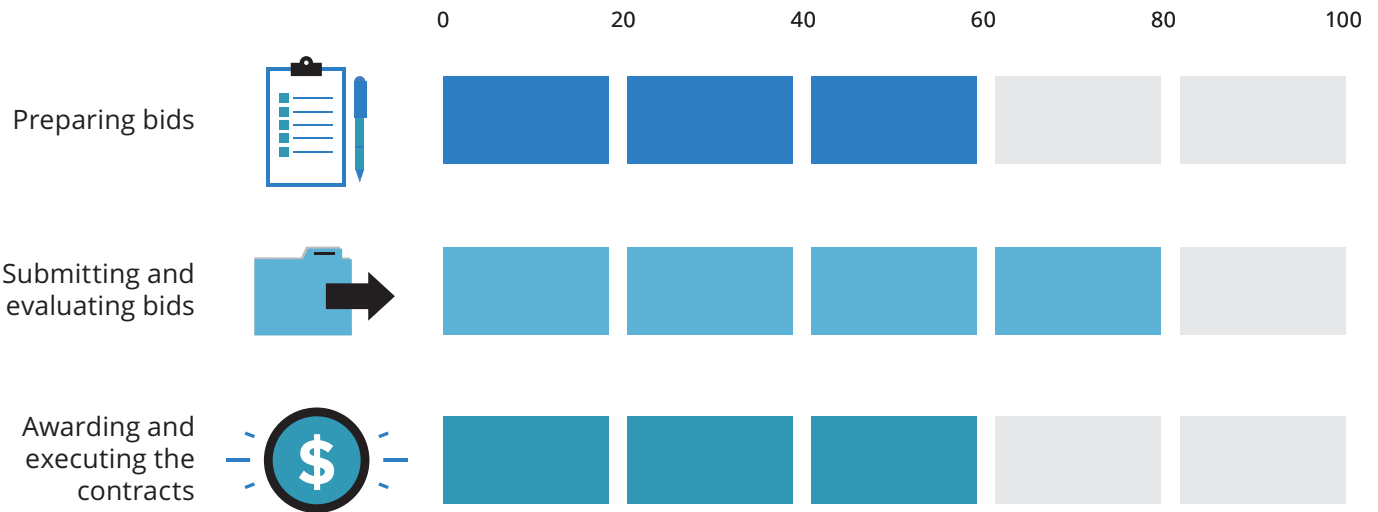
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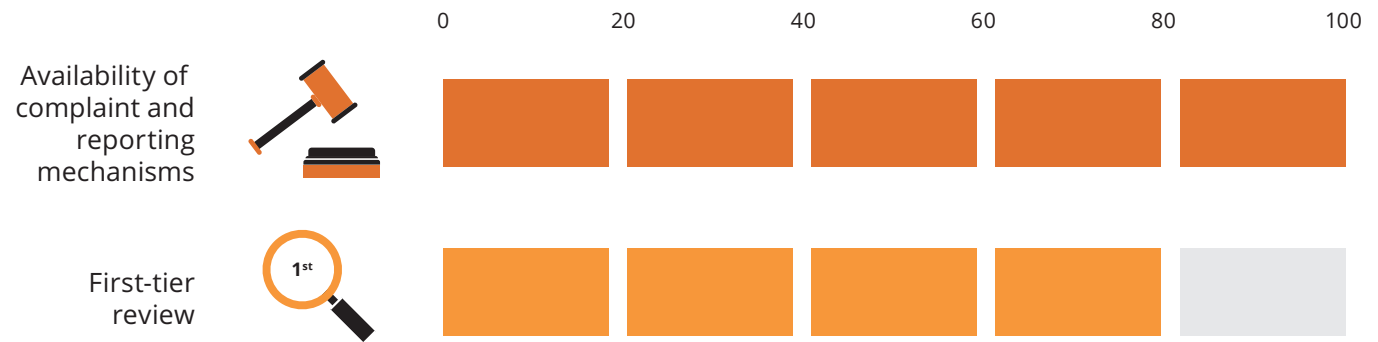
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Sub-Saharan Africa

The procurement life cycle



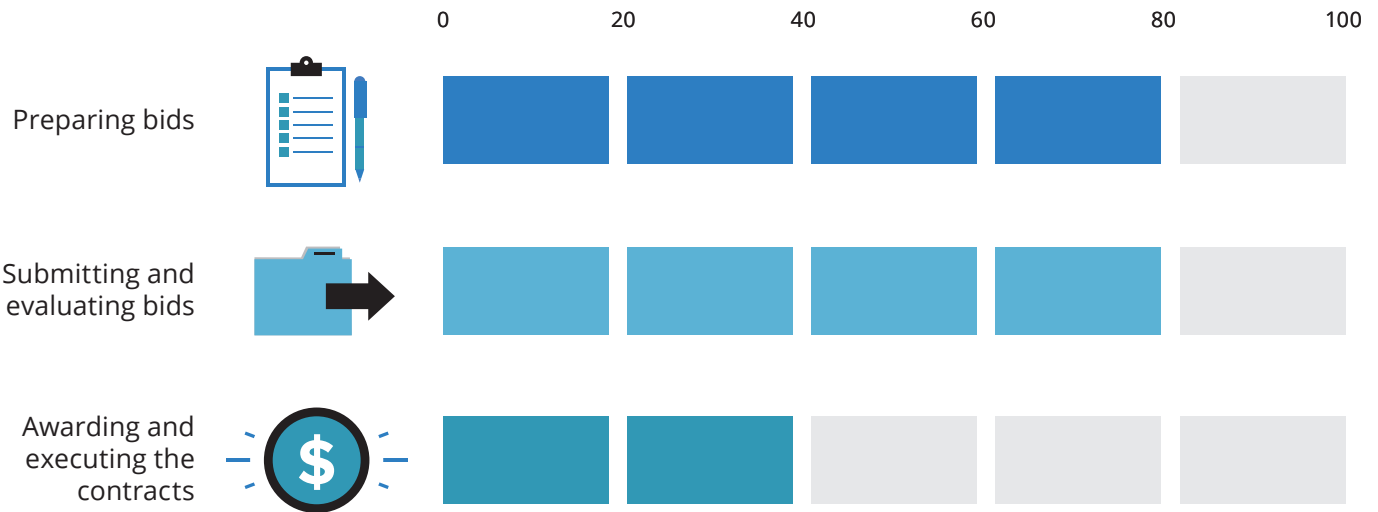
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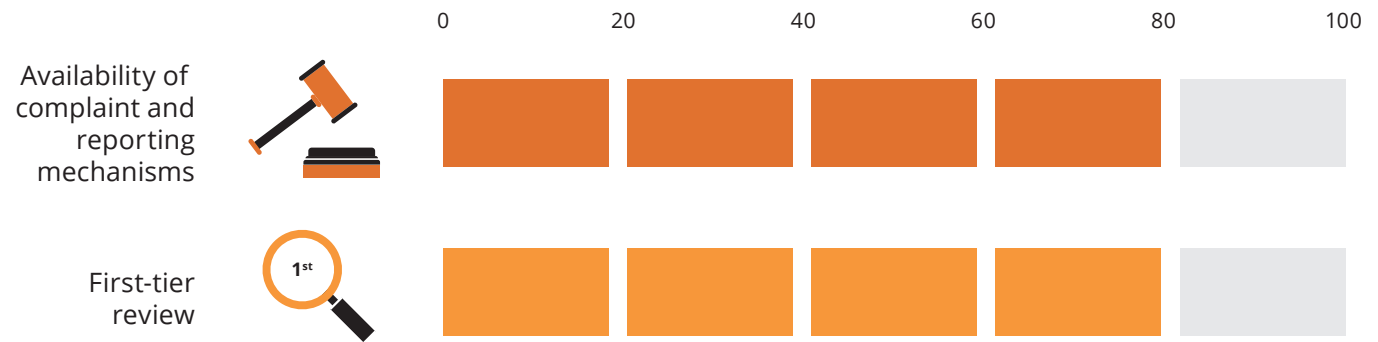
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Latin America and the Caribbean

The procurement life cycle



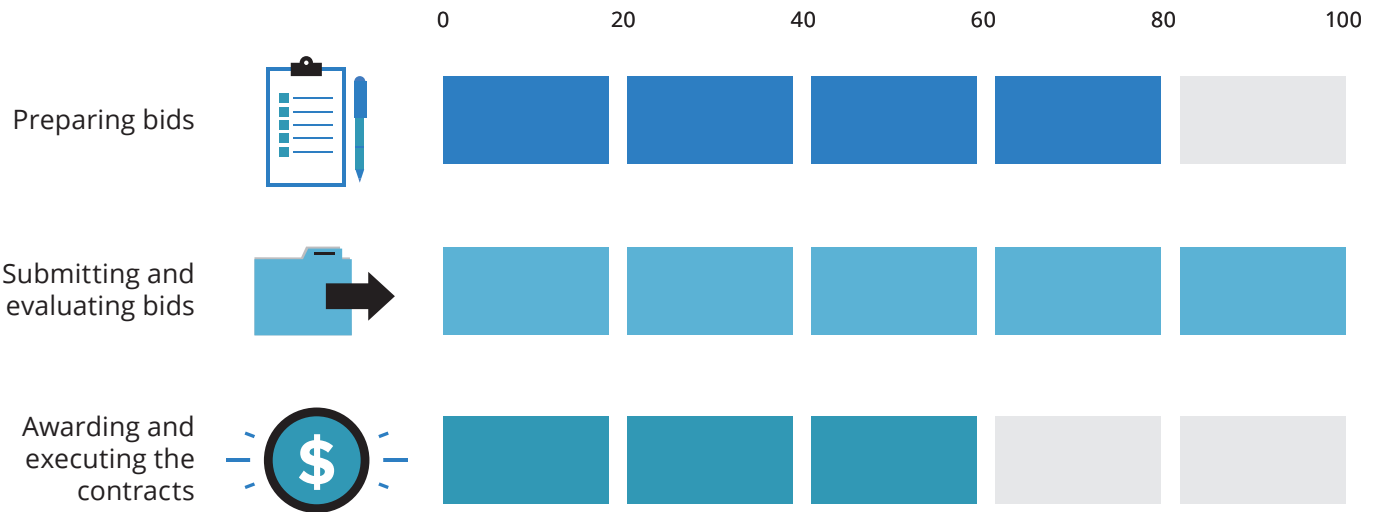
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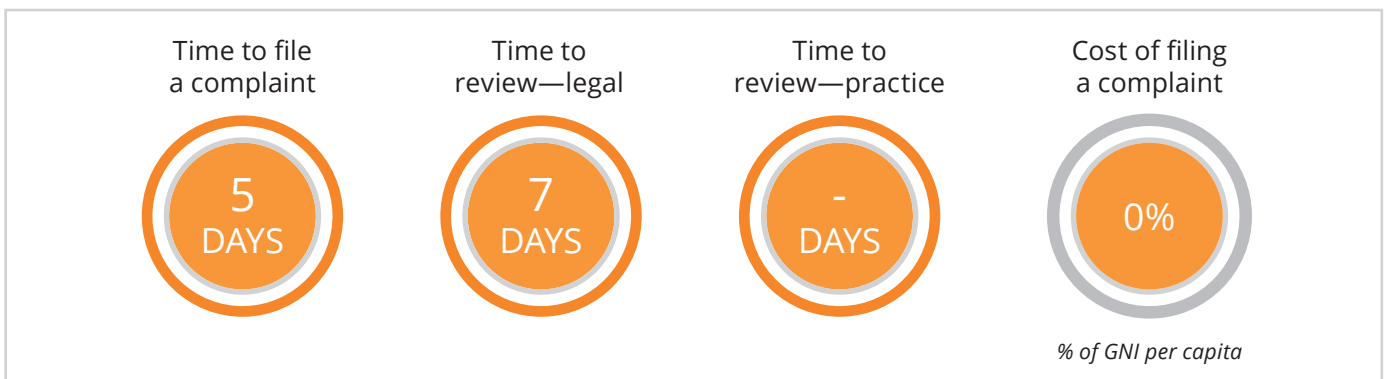
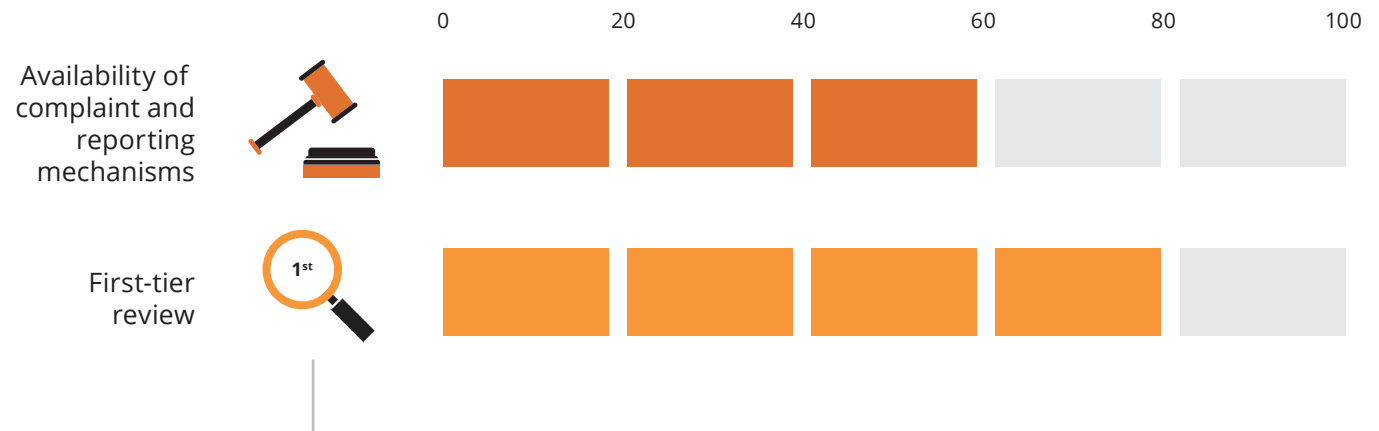
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Latin America and the Caribbean

The procurement life cycle



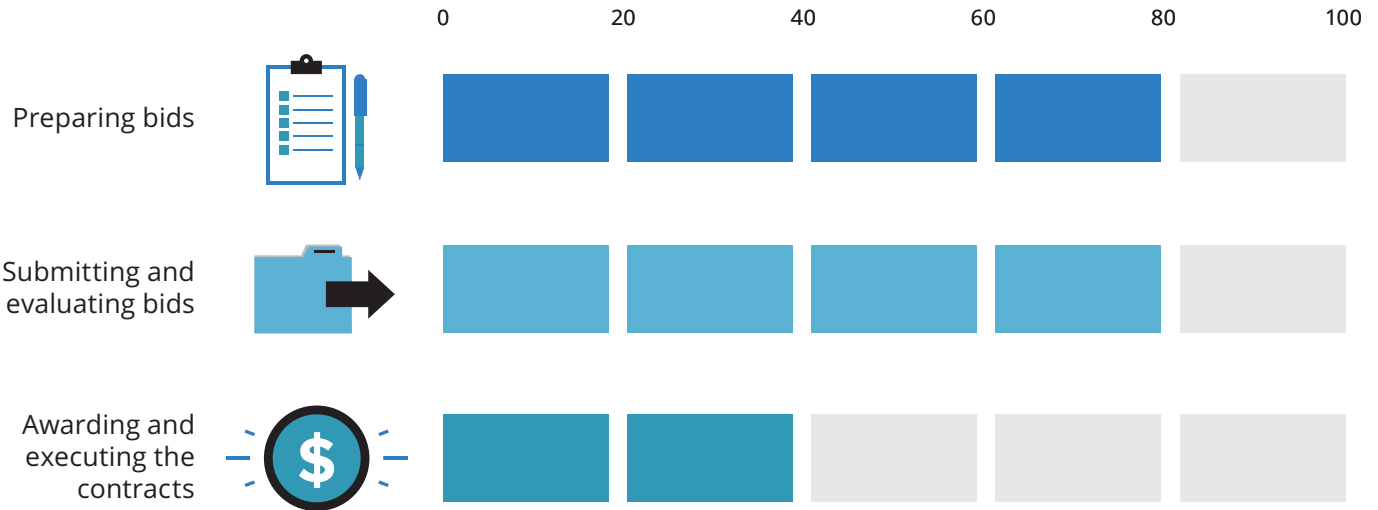
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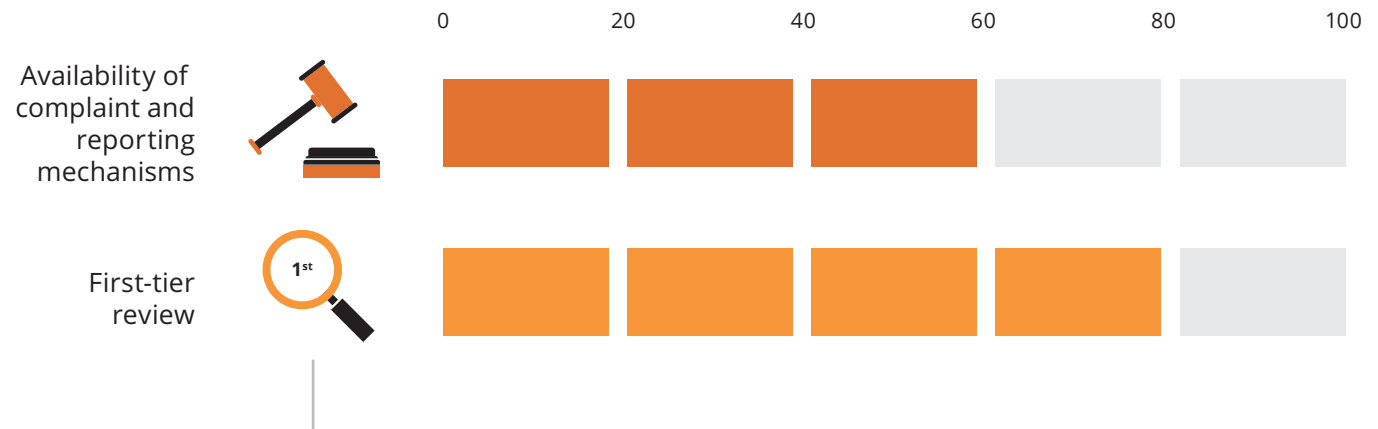
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Latin America and the Caribbean

The procurement life cycle



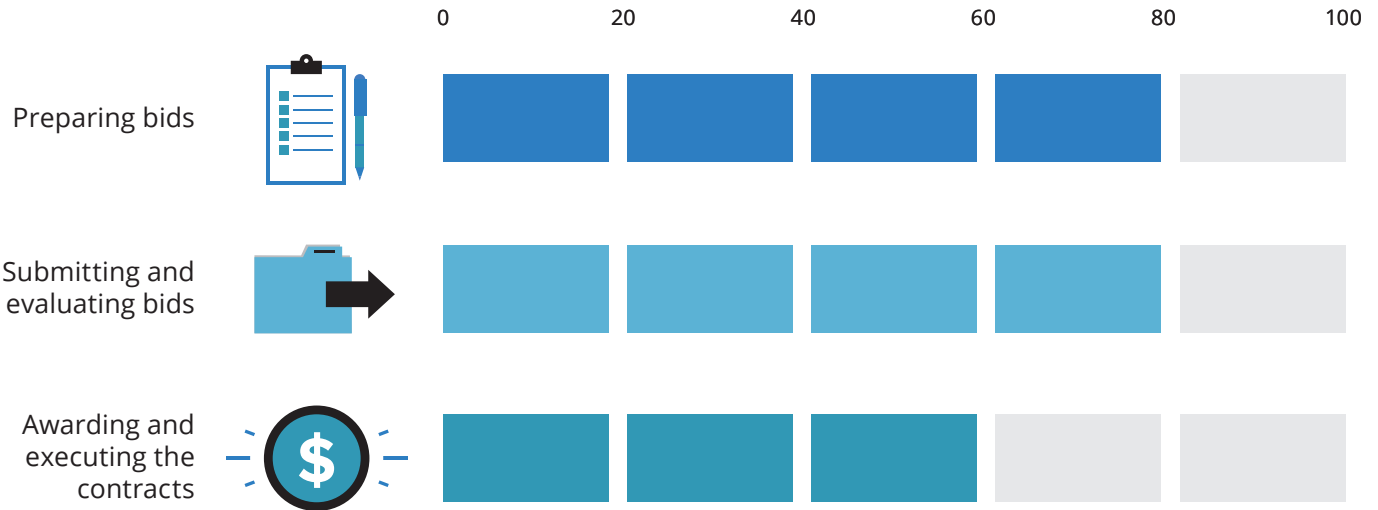
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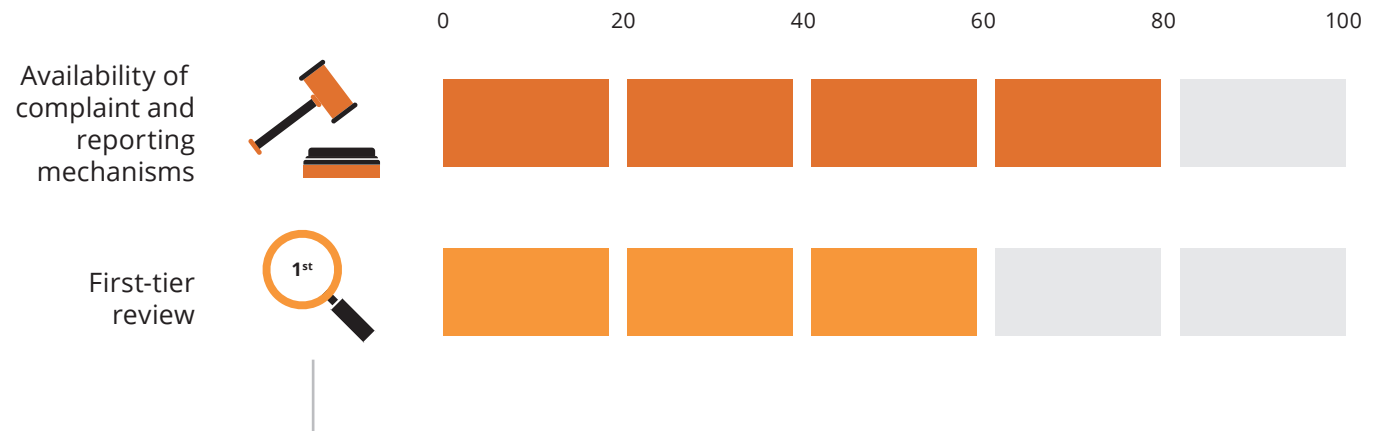
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East Asia and Pacific

The procurement life cycle



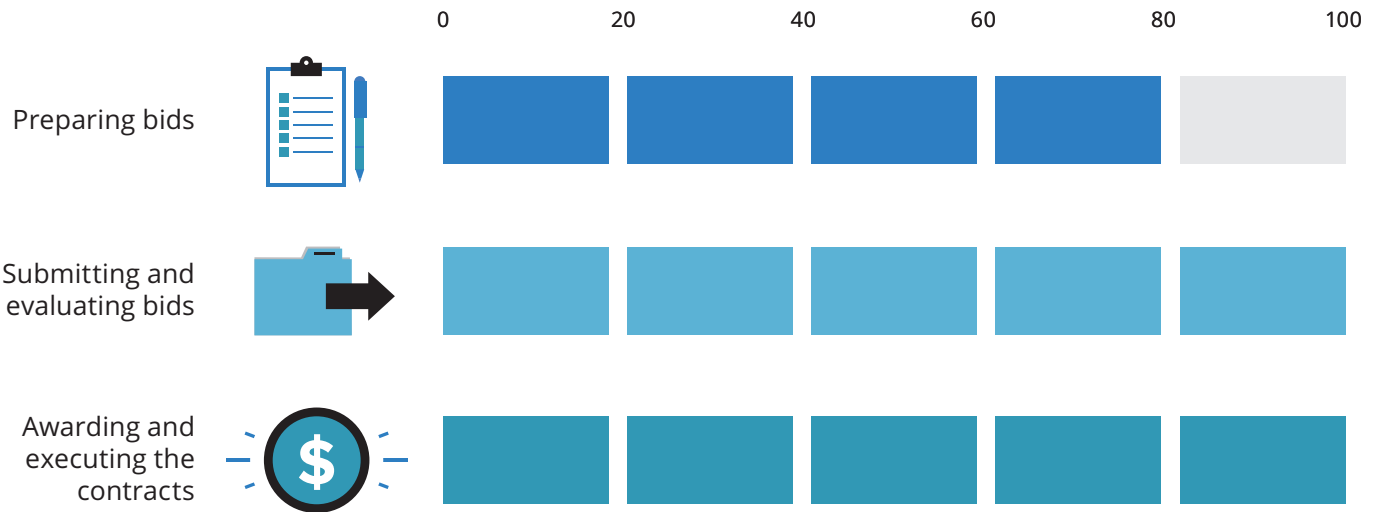
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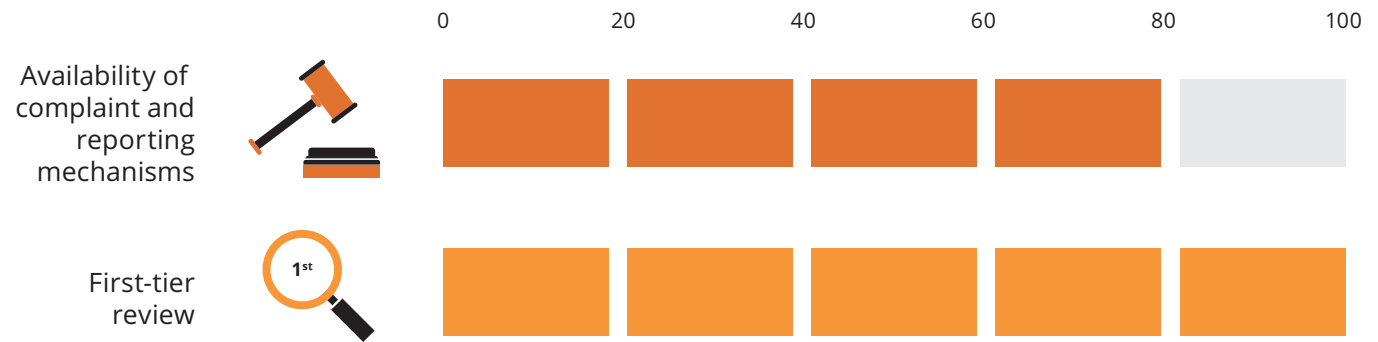
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High-income OECD

The procurement life cycle



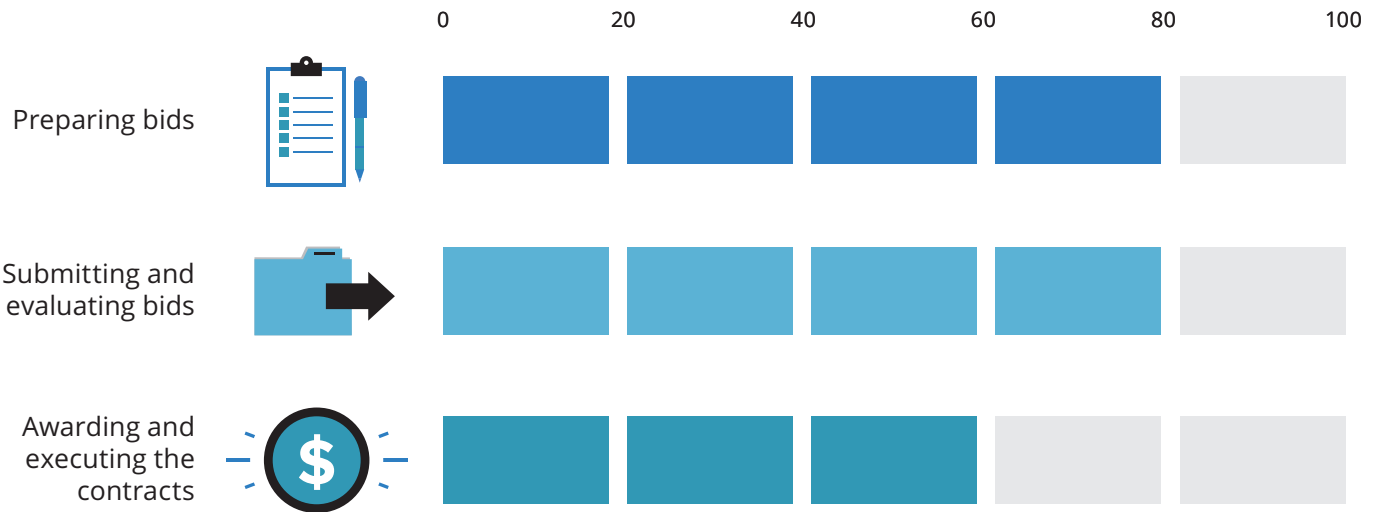
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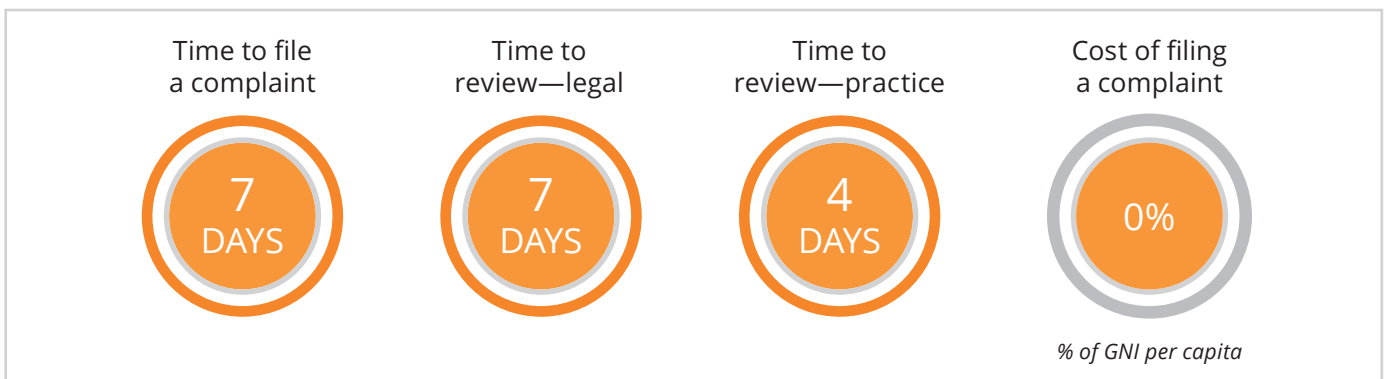
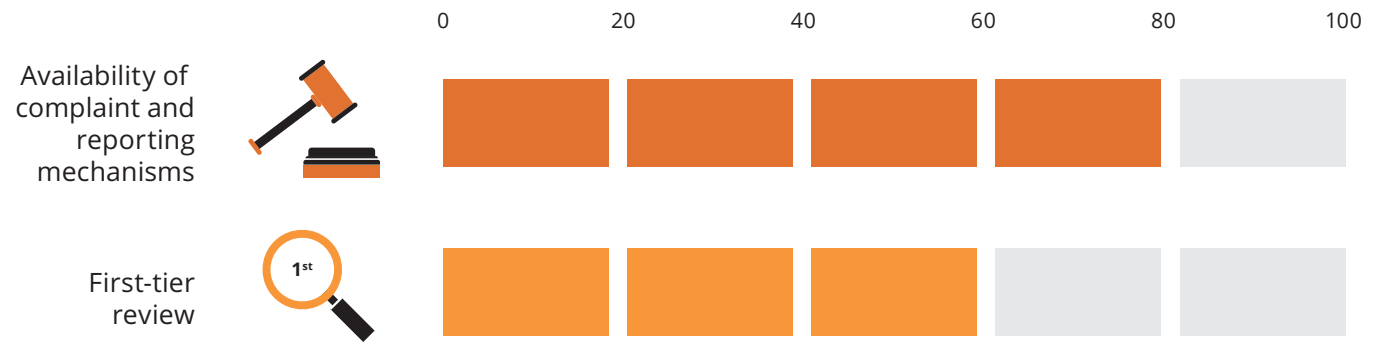
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East Asia and Pacific

The procurement life cycle



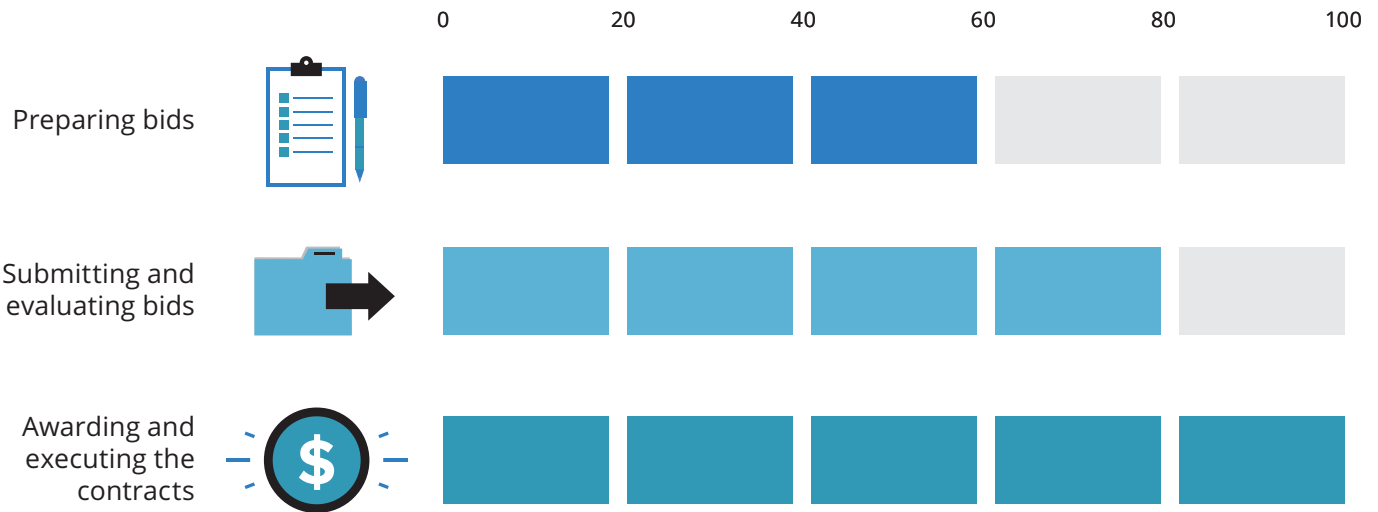
Complaint and reporting mechanisms



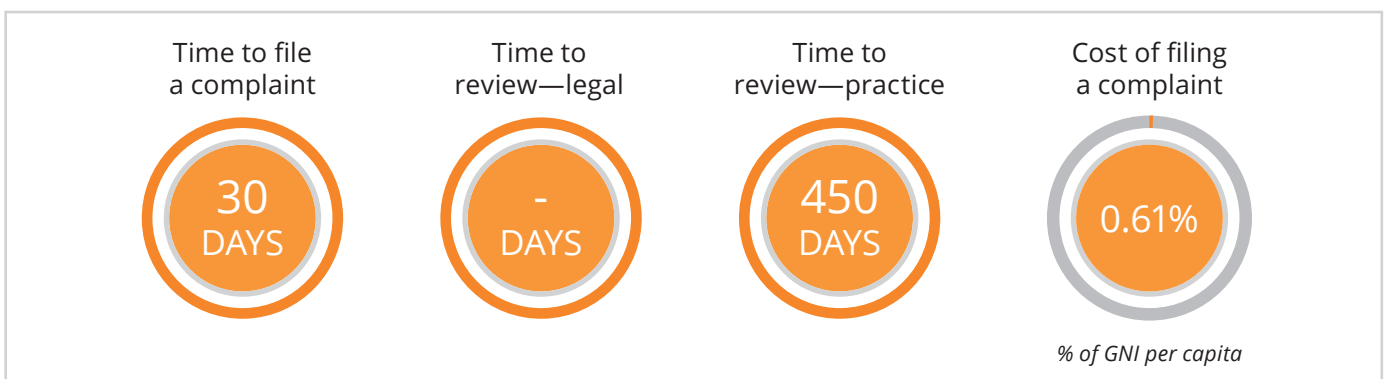
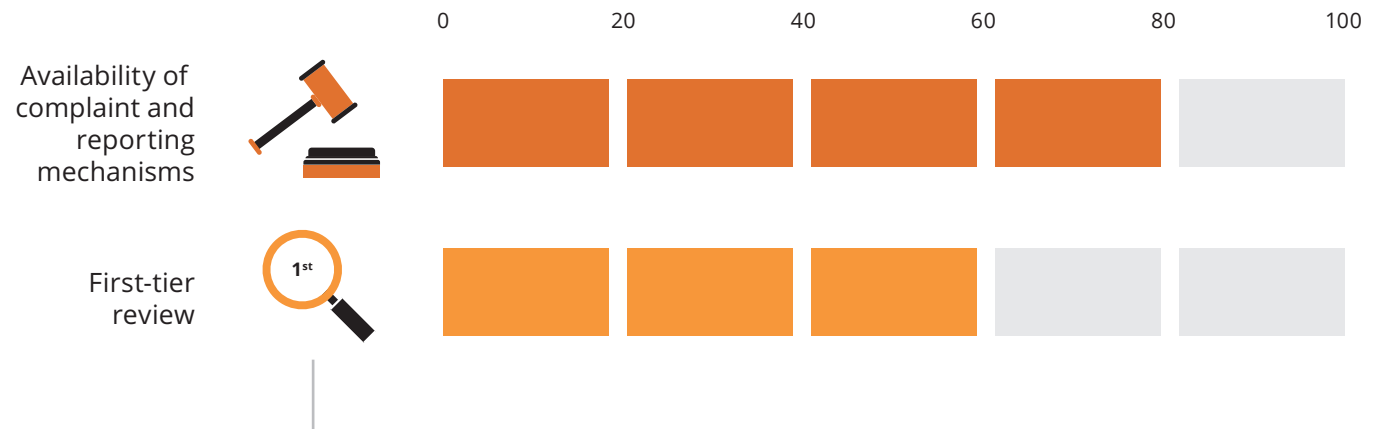
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High-income OECD

The procurement life cycle



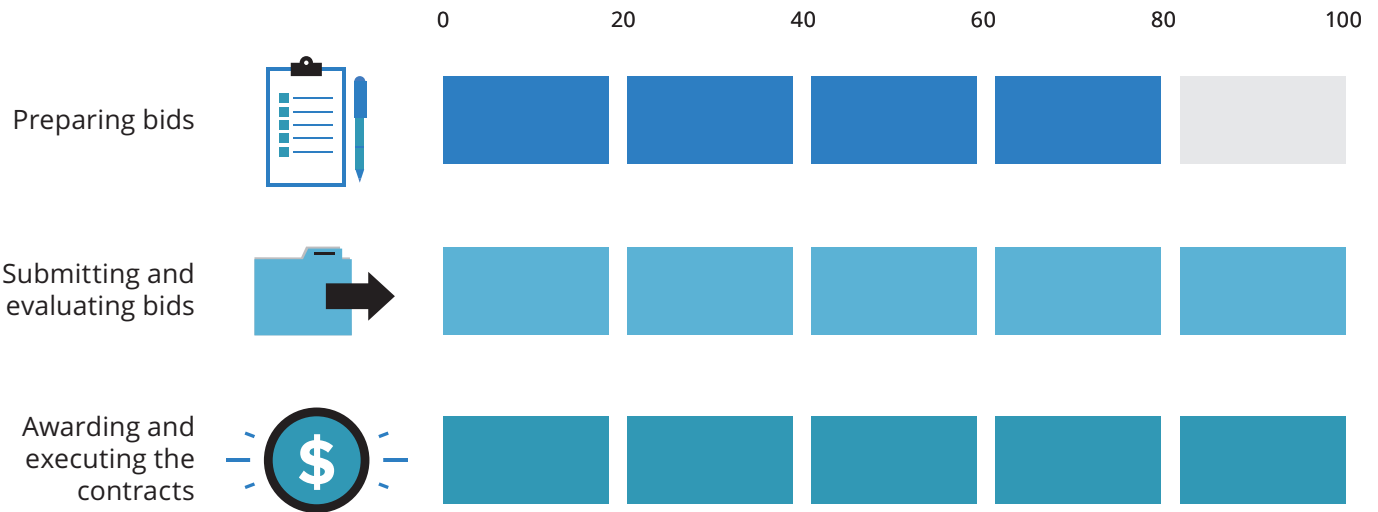
Complaint and reporting mechanisms



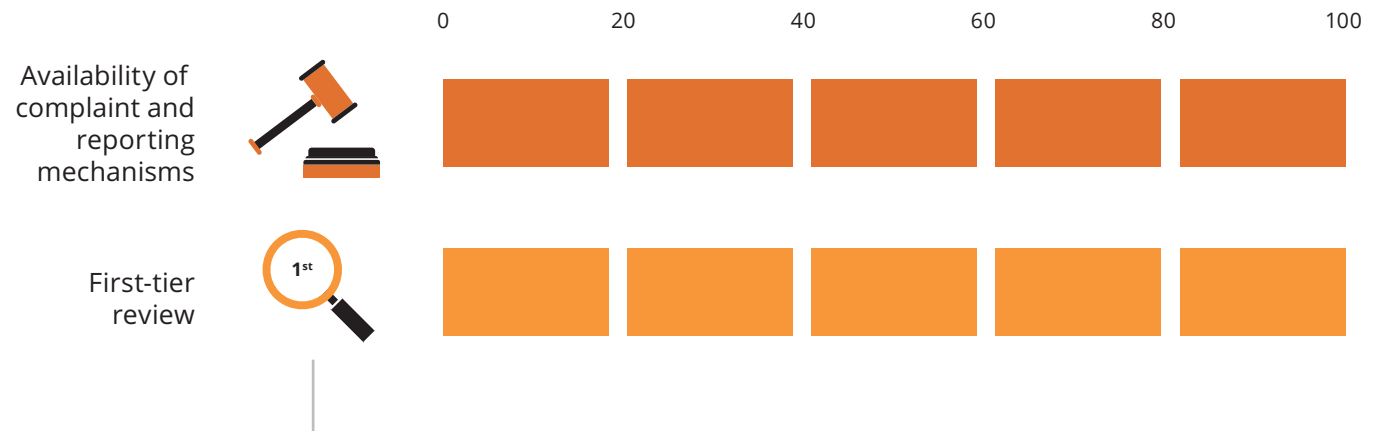
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High-income OECD

The procurement life cycle



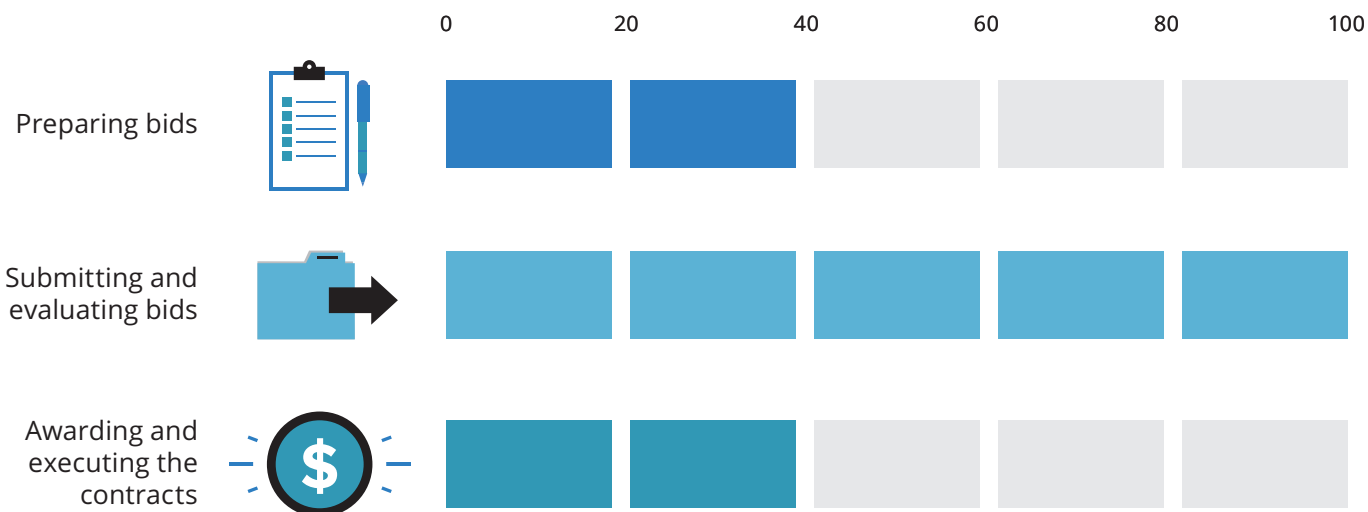
Complaint and reporting mechanisms



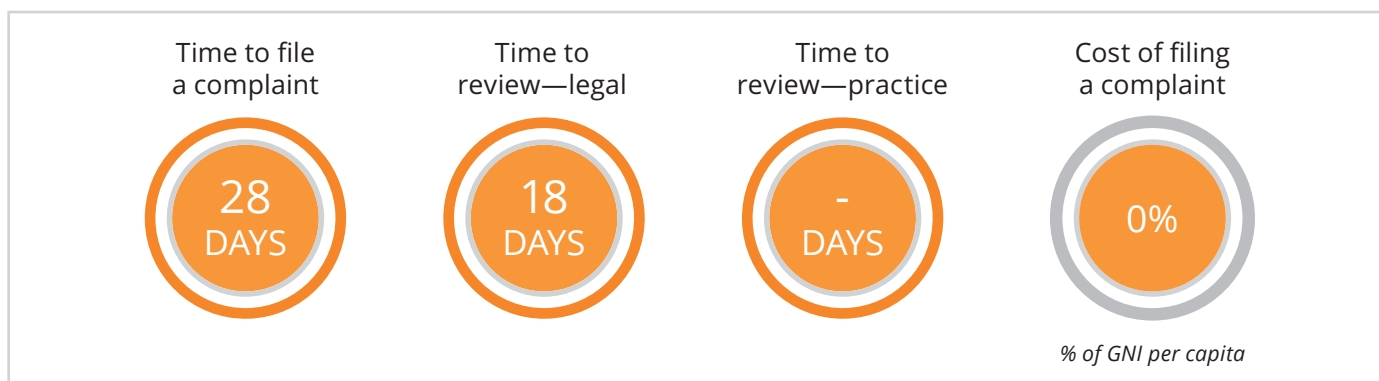
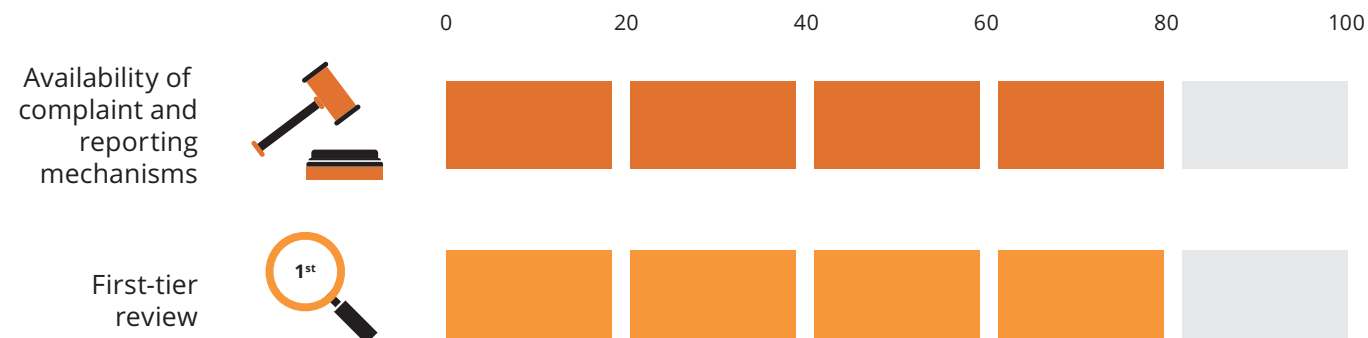
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Latin America and the Caribbean

The procurement life cycle



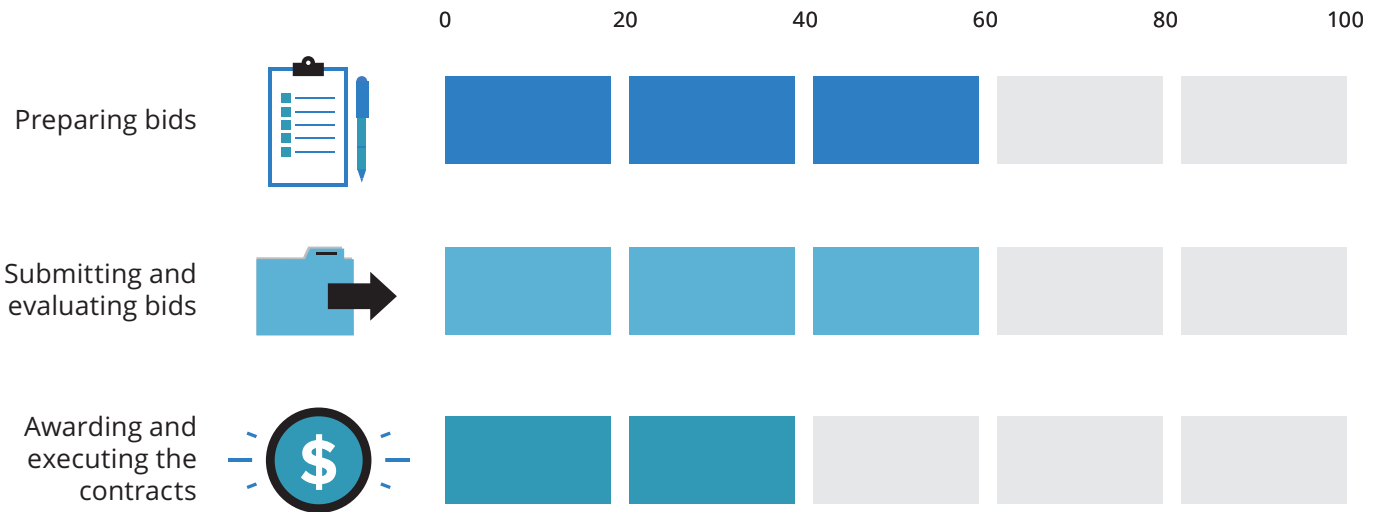
Complaint and reporting mechanisms



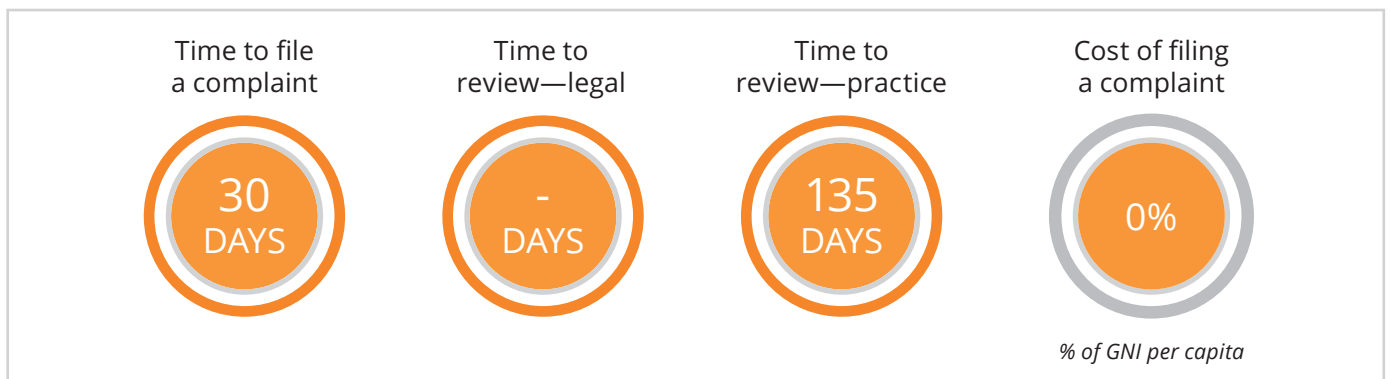
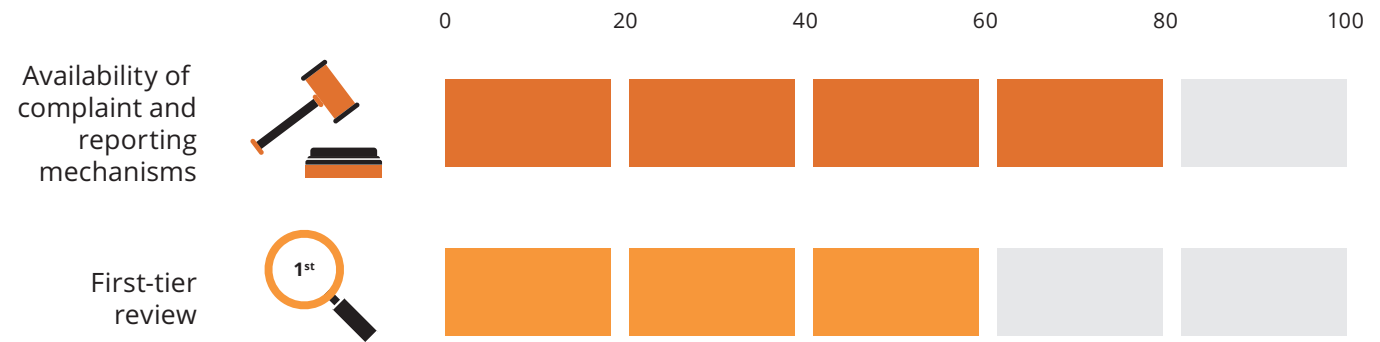
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Middle East and North Africa

The procurement life cycle



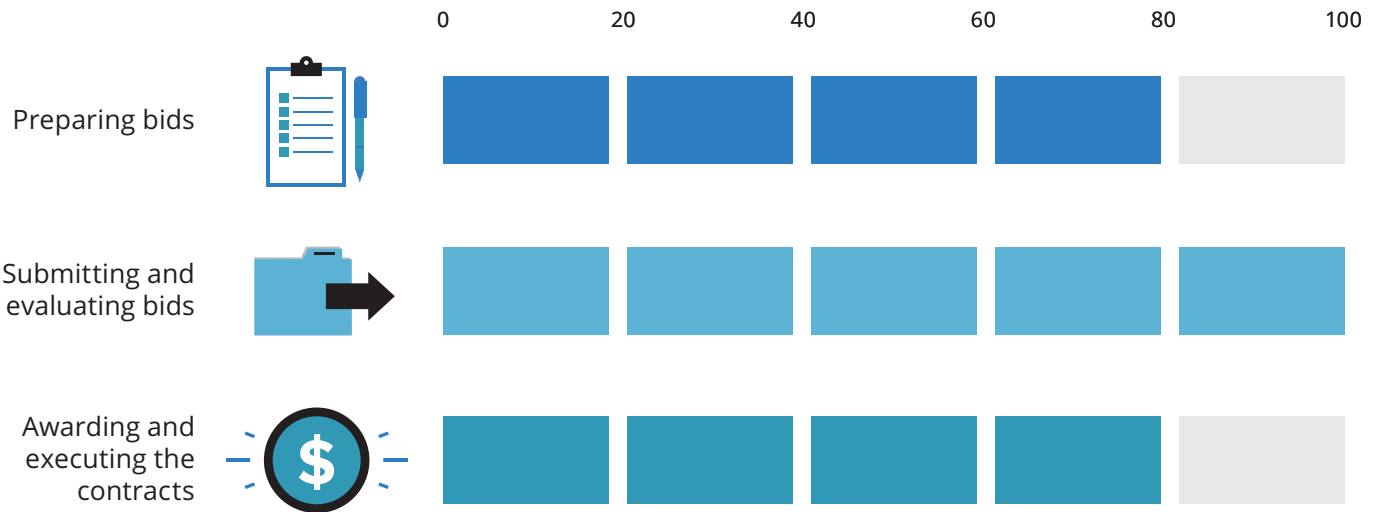
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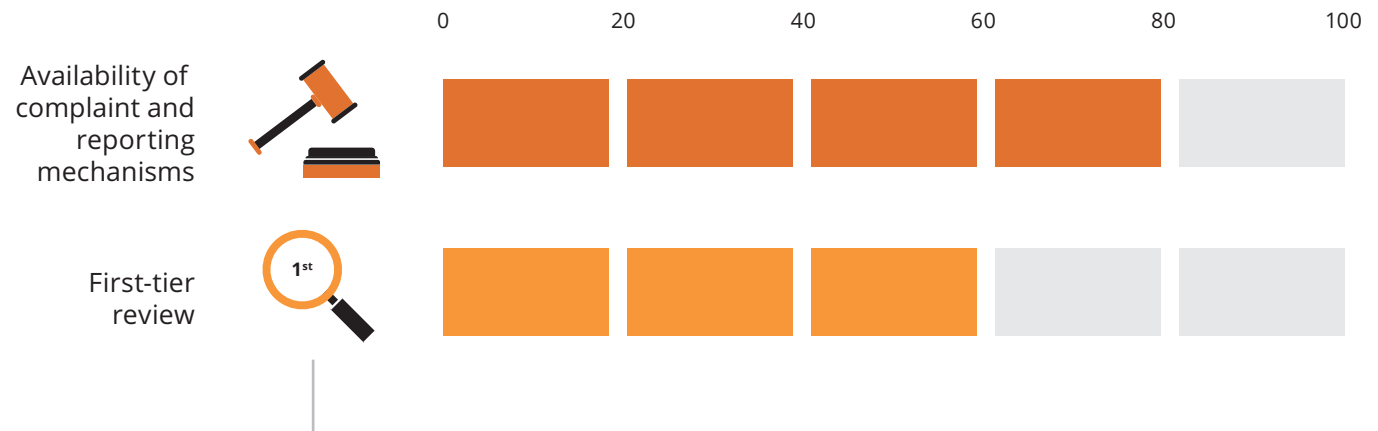
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Sub-Saharan Africa

The procurement life cycle



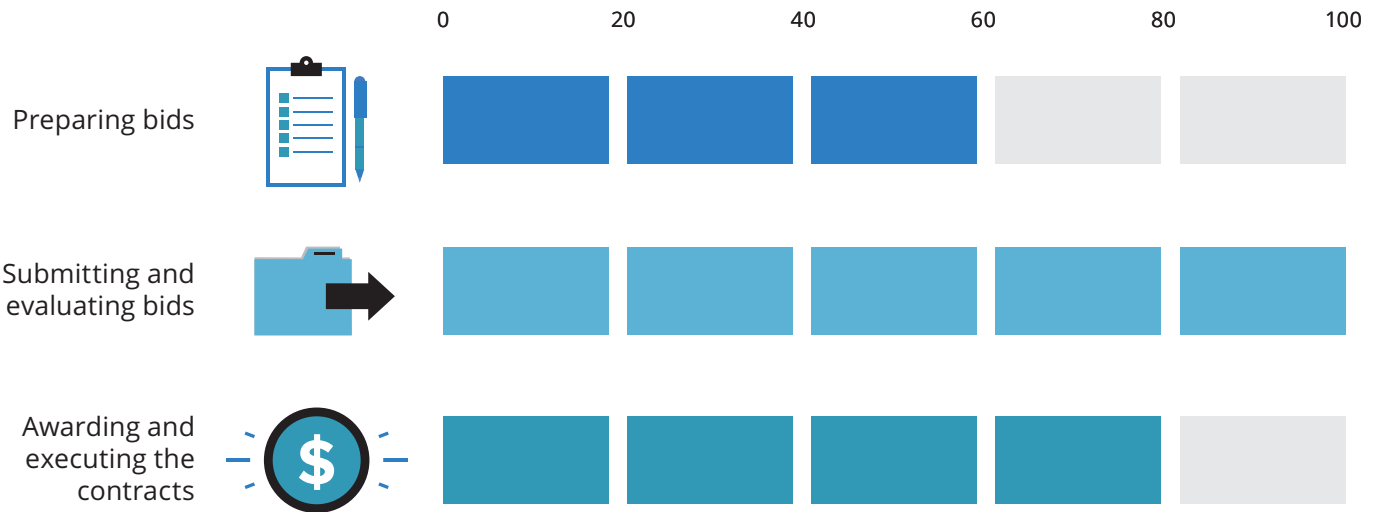
Complaint and reporting mechanisms



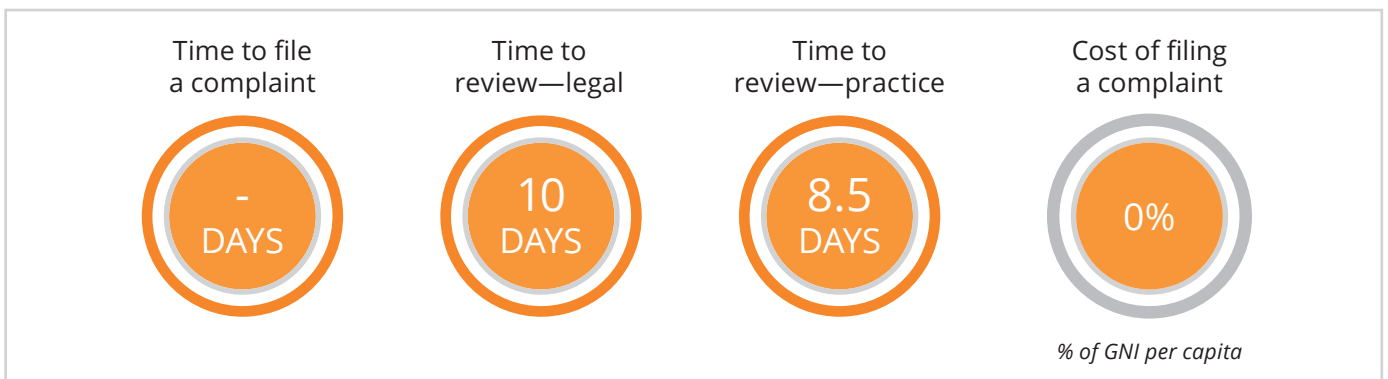
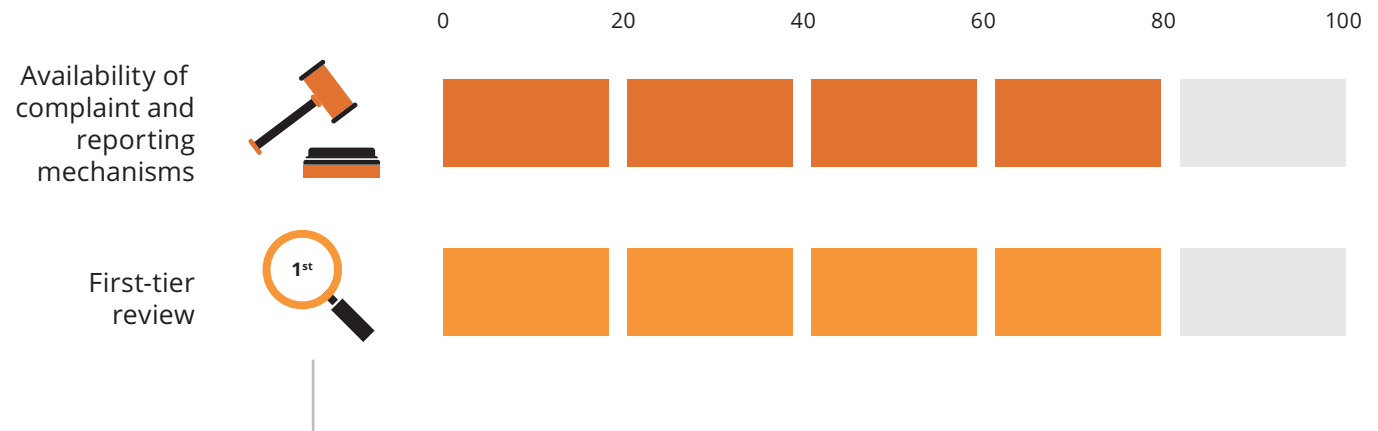
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East Asia and Pacific

The procurement life cycle



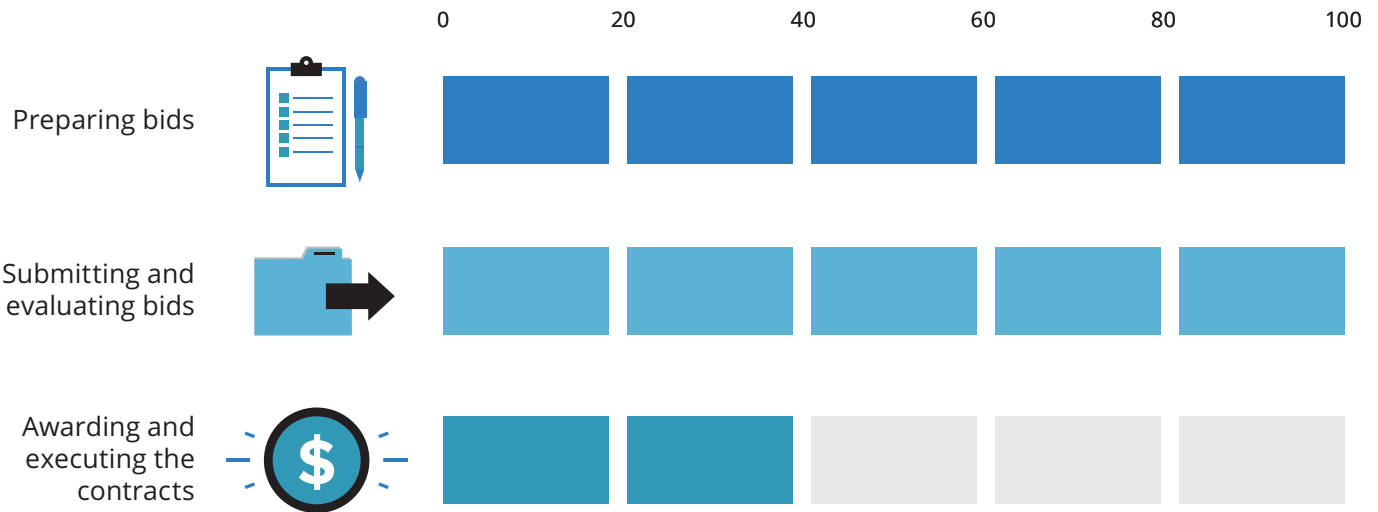
Complaint and reporting mechanisms



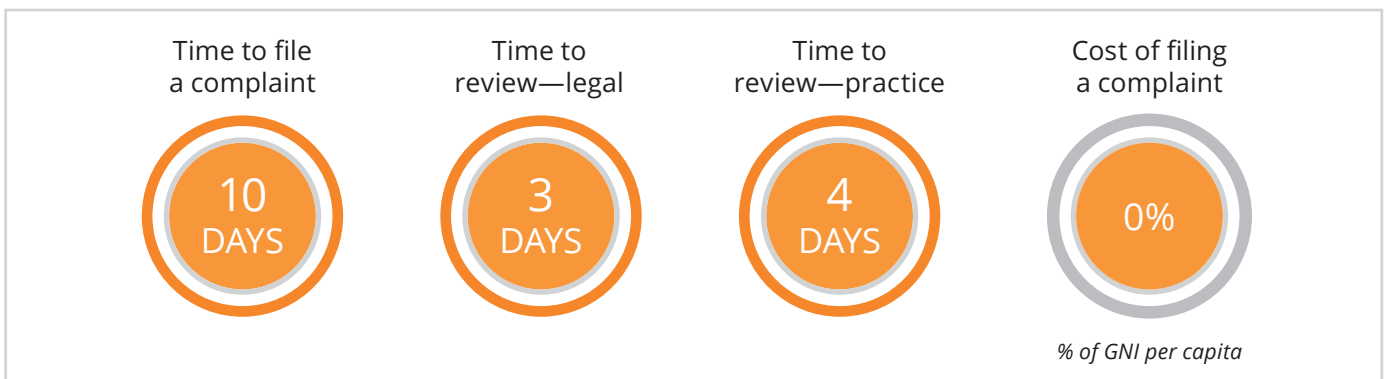
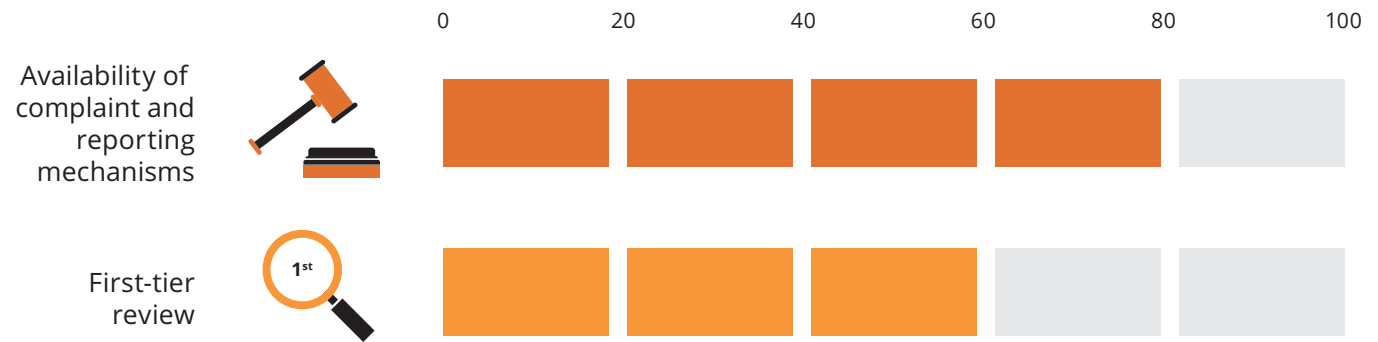
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Europe and Central Asia

The procurement life cycle



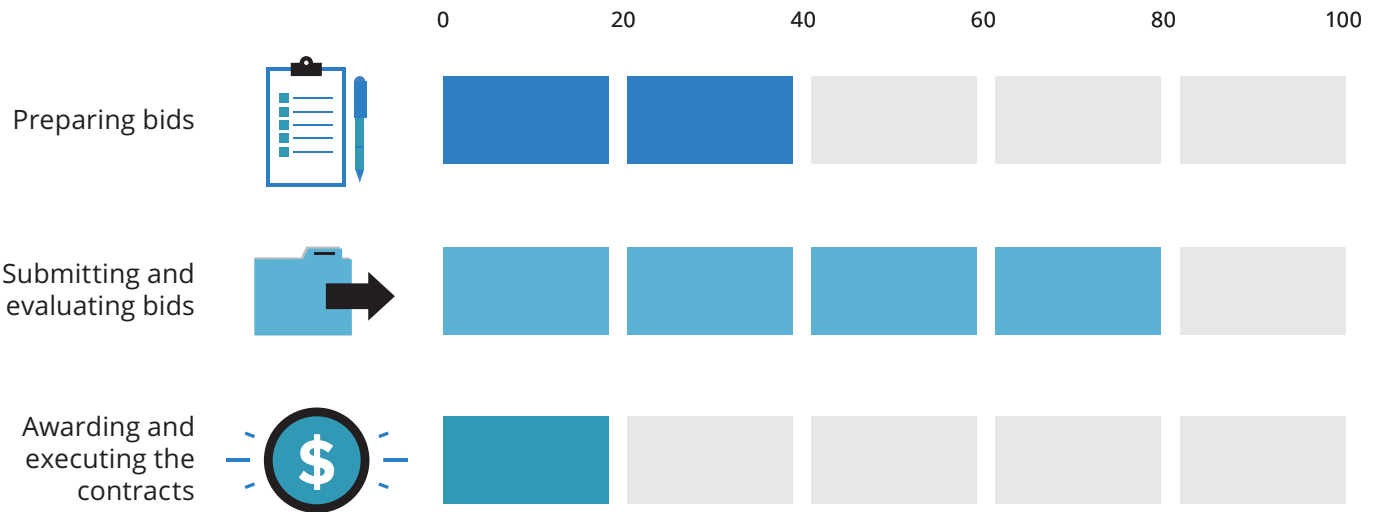
Complaint and reporting mechanisms



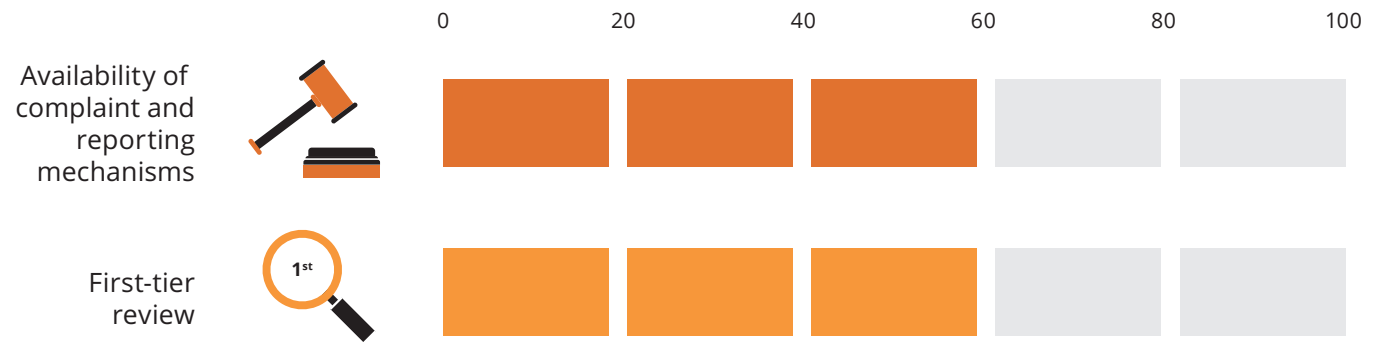
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Middle East and North Africa

The procurement life cycle



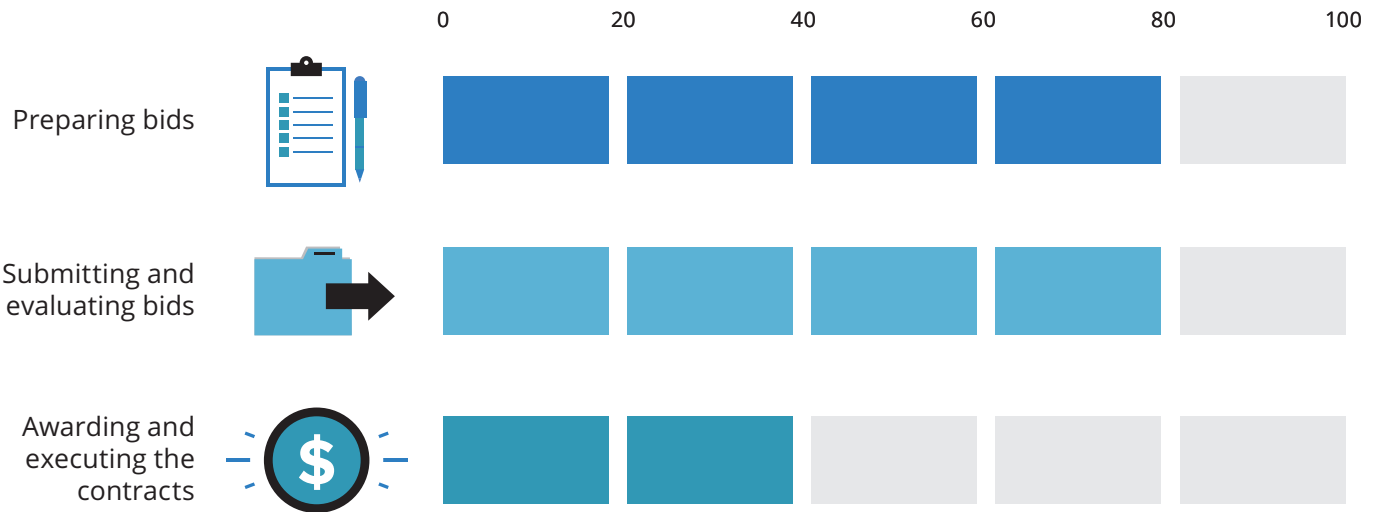
Complaint and reporting mechanisms



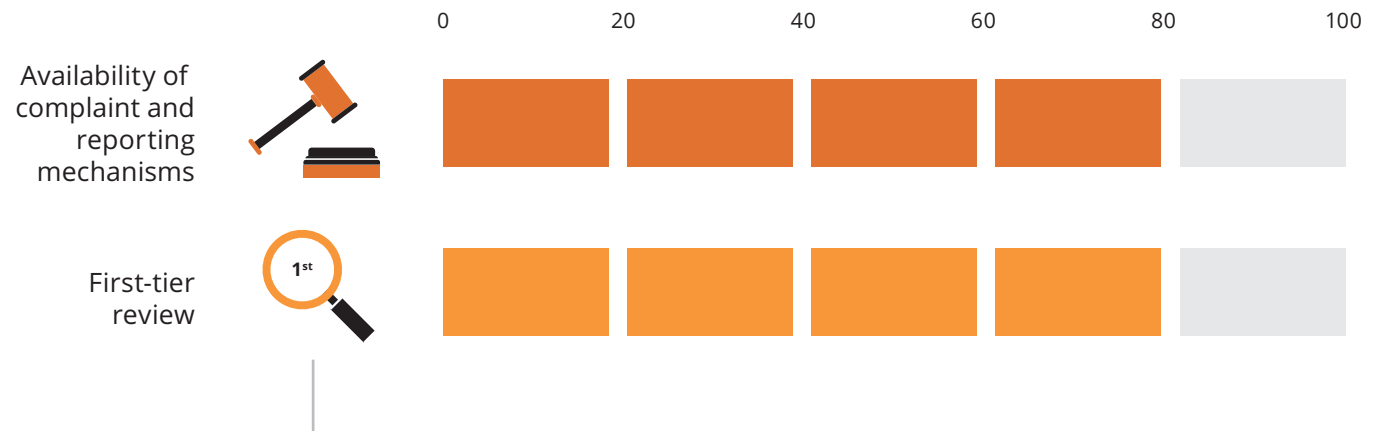
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East Asia and Pacific

The procurement life cycle



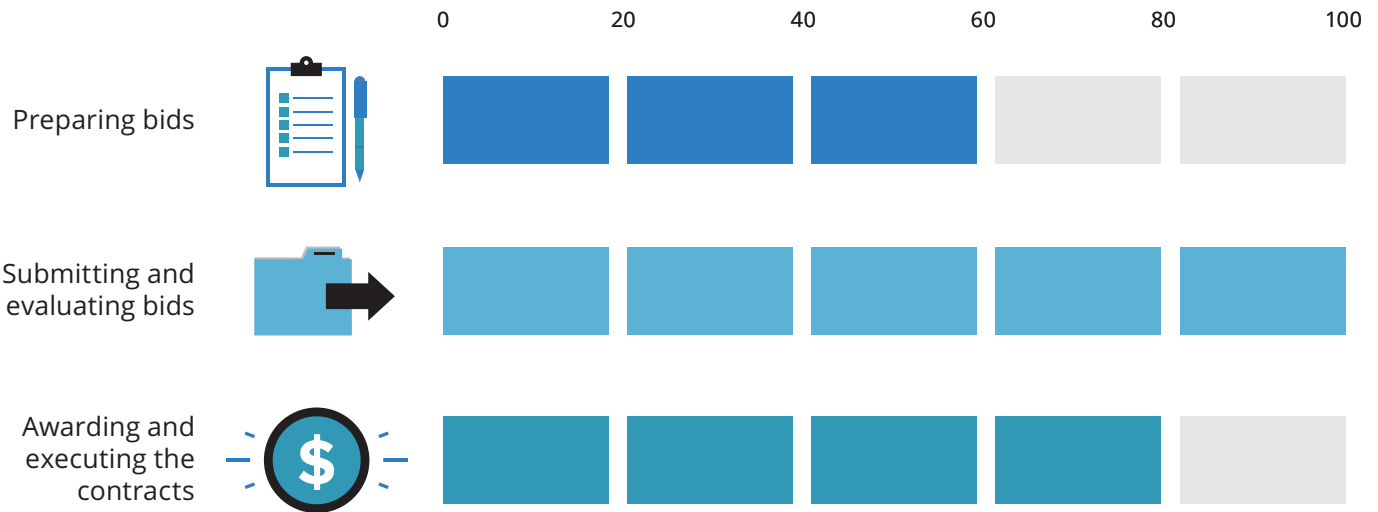
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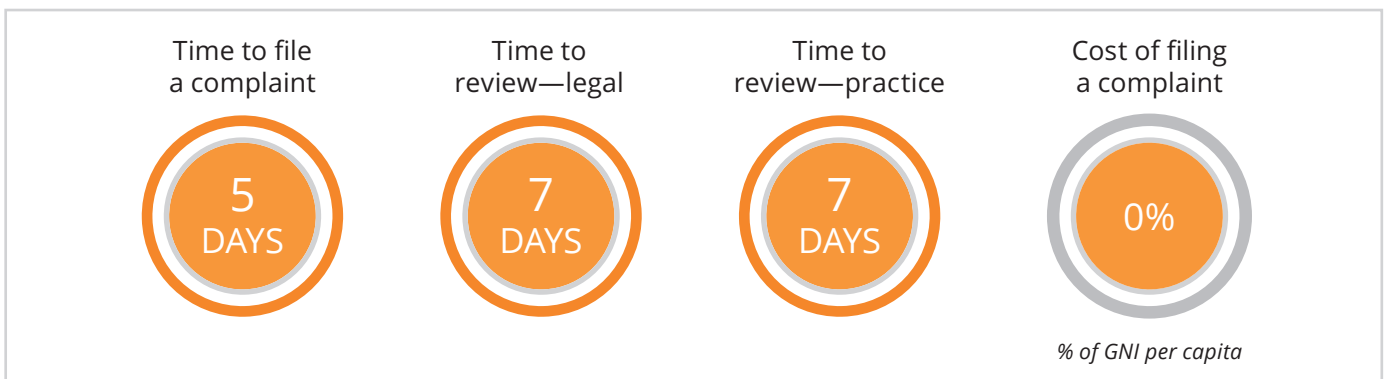
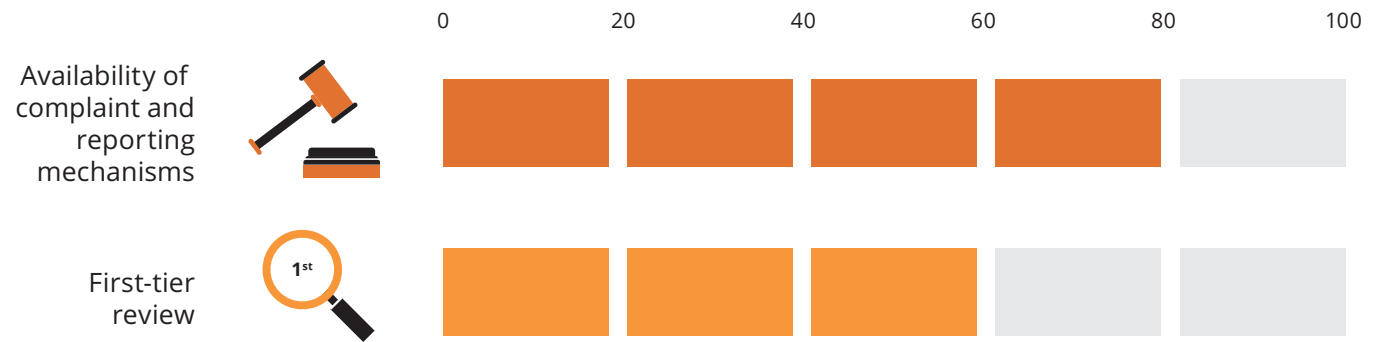
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Sub-Saharan Africa

The procurement life cycle



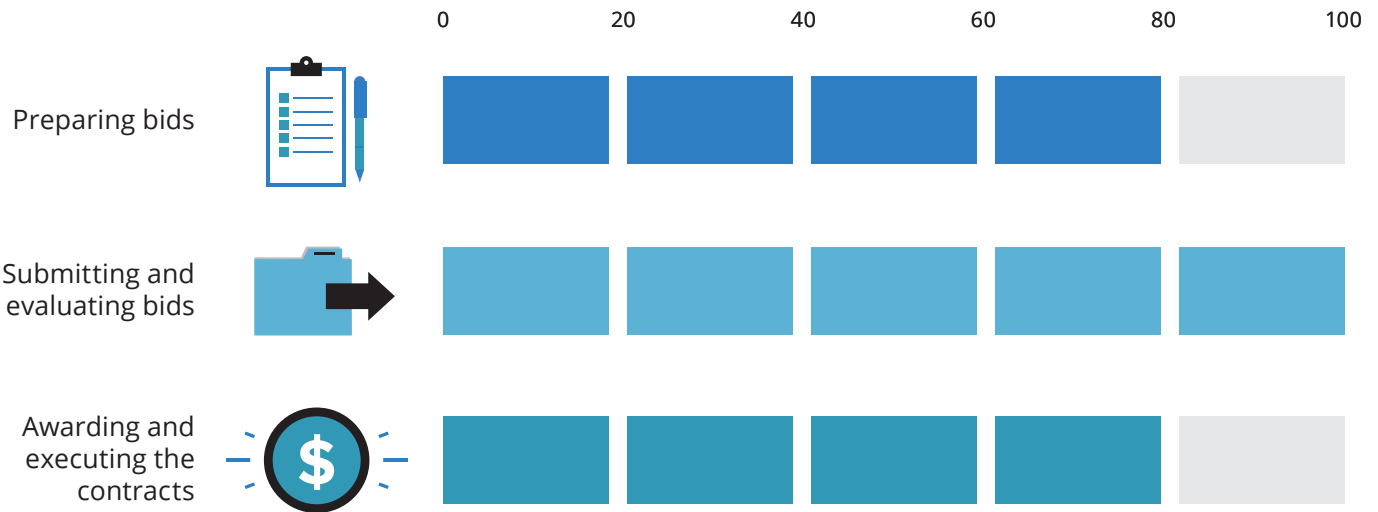
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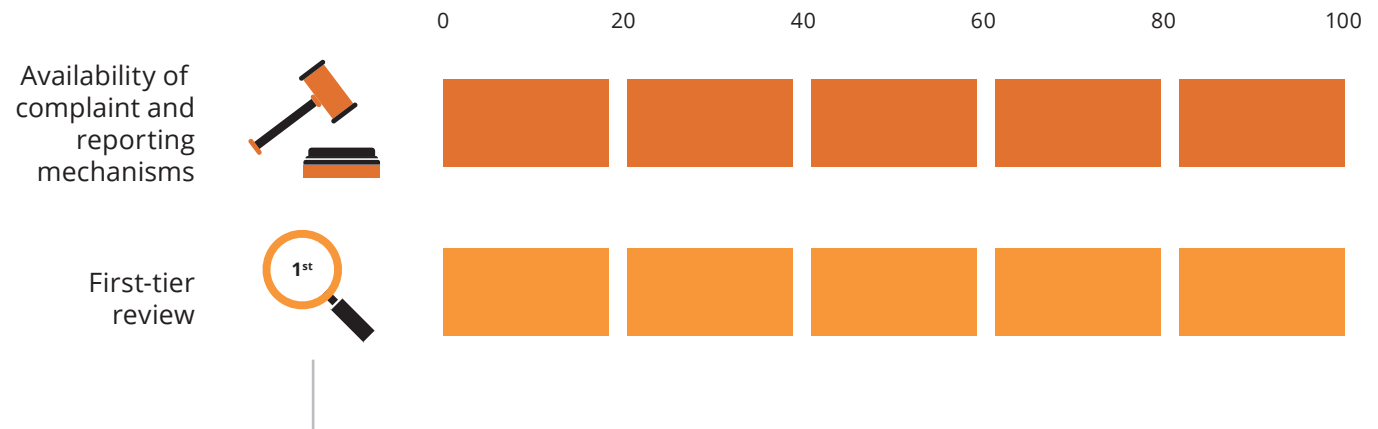
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Latin America and the Caribbean

The procurement life cycle



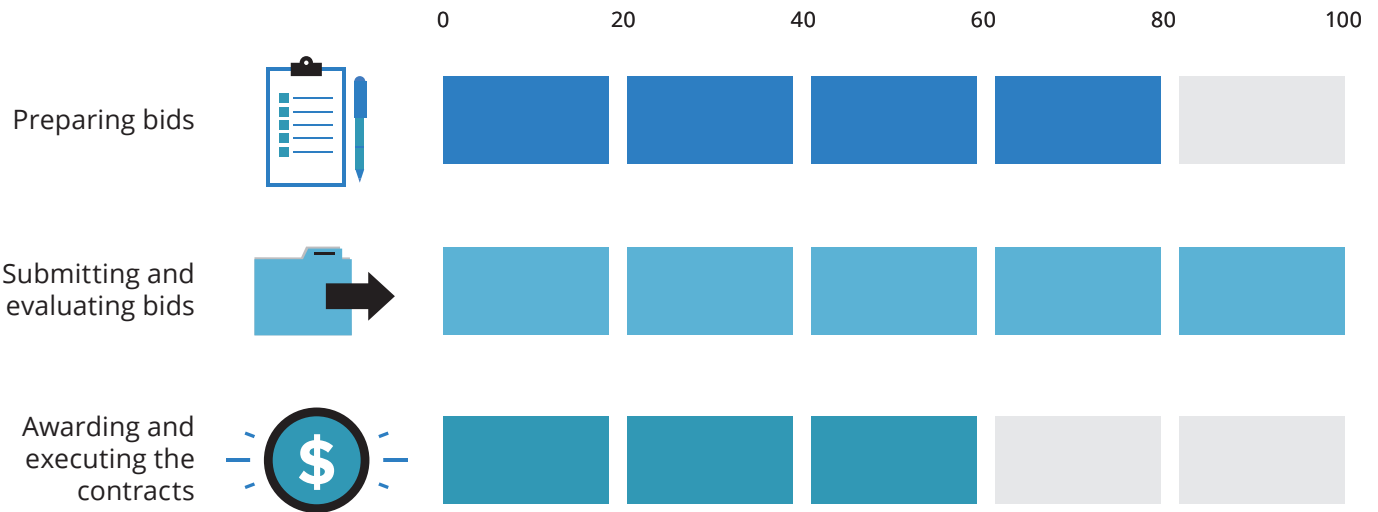
Complaint and reporting mechanisms



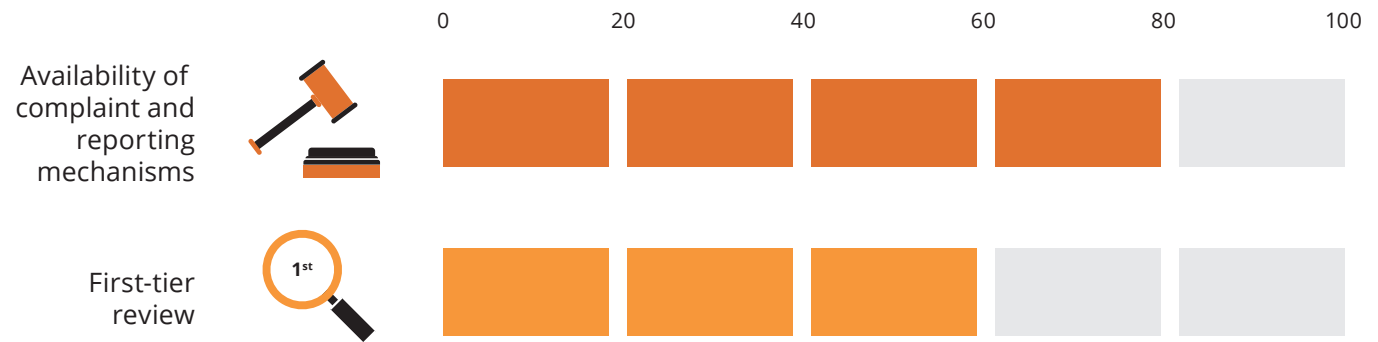
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Europe and Central Asia

The procurement life cycle



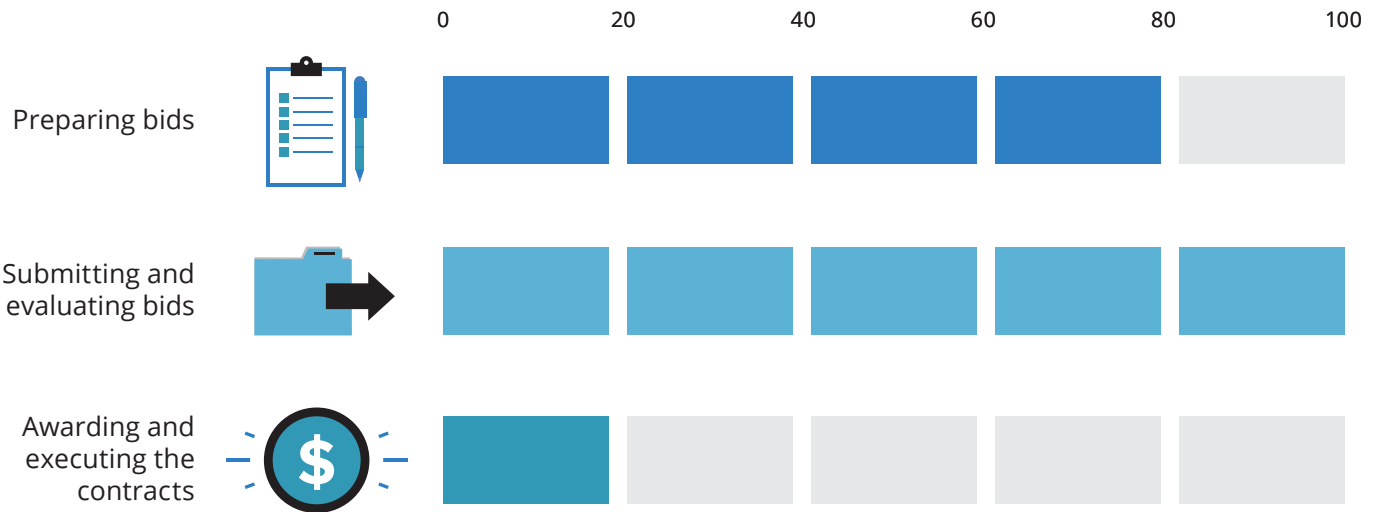
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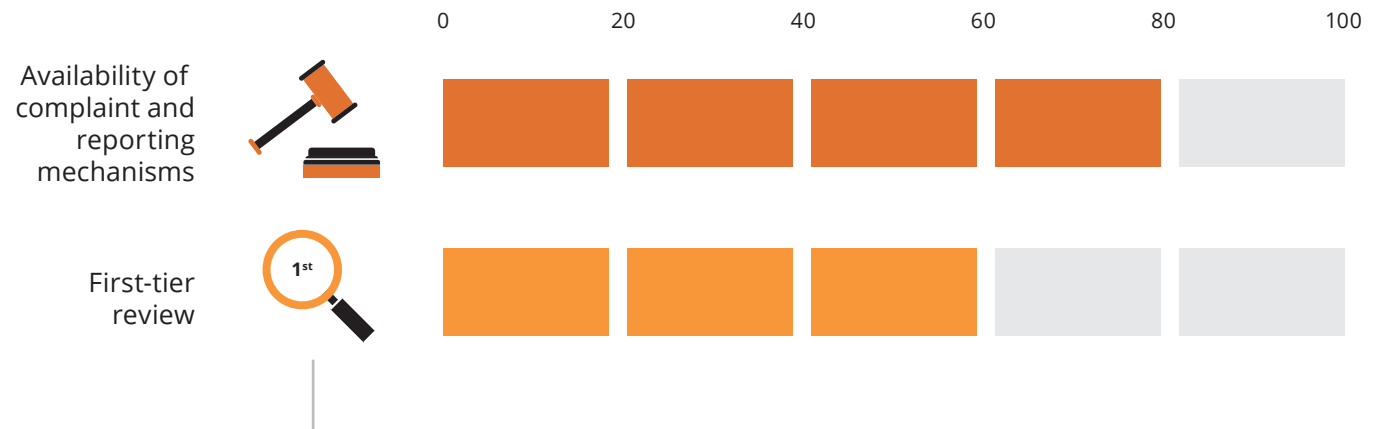
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East Asia and Pacific

The procurement life cycle



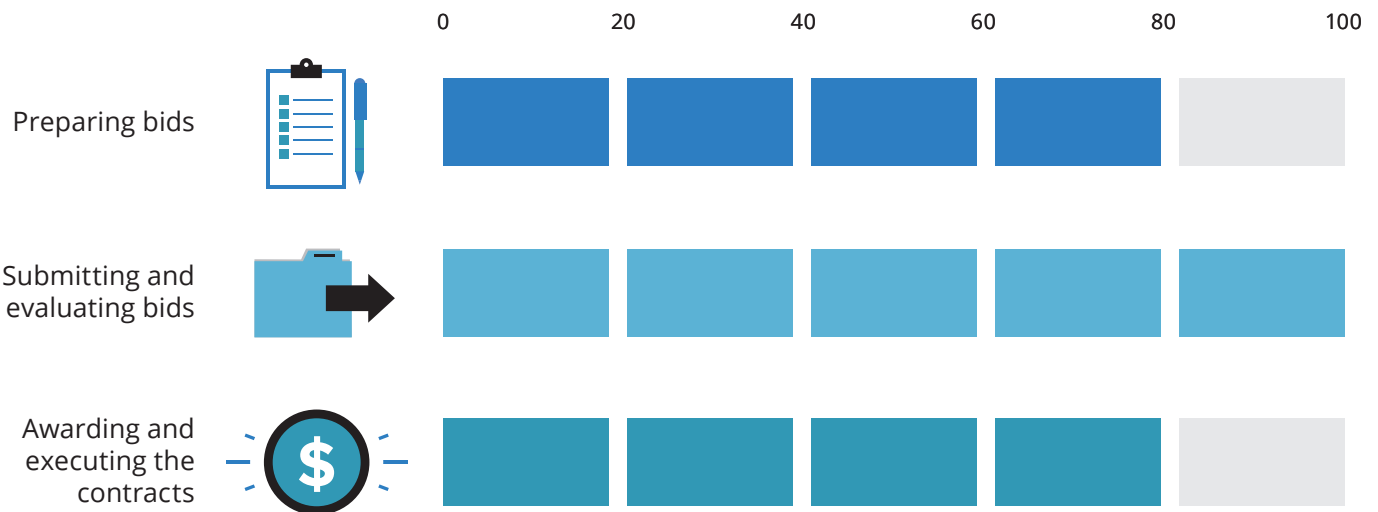
Complaint and reporting mechanisms



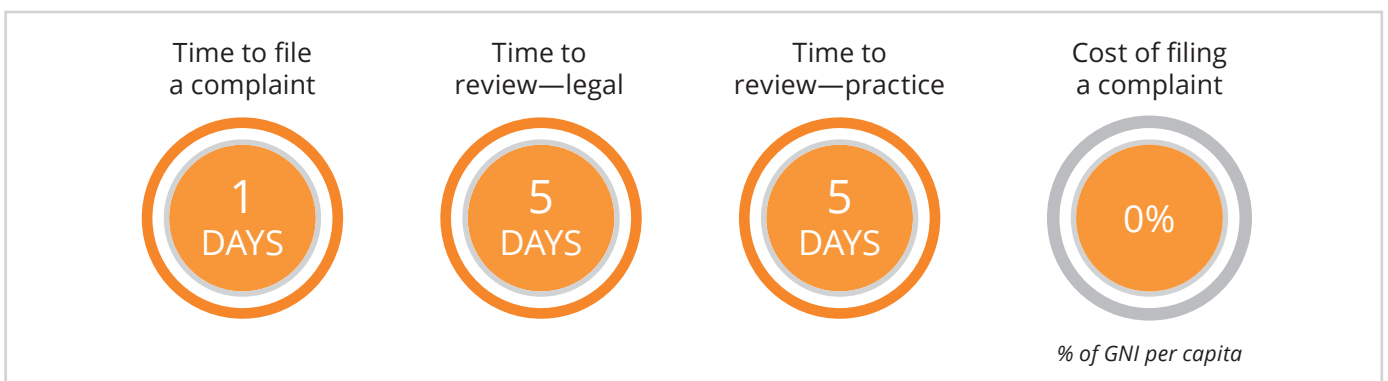
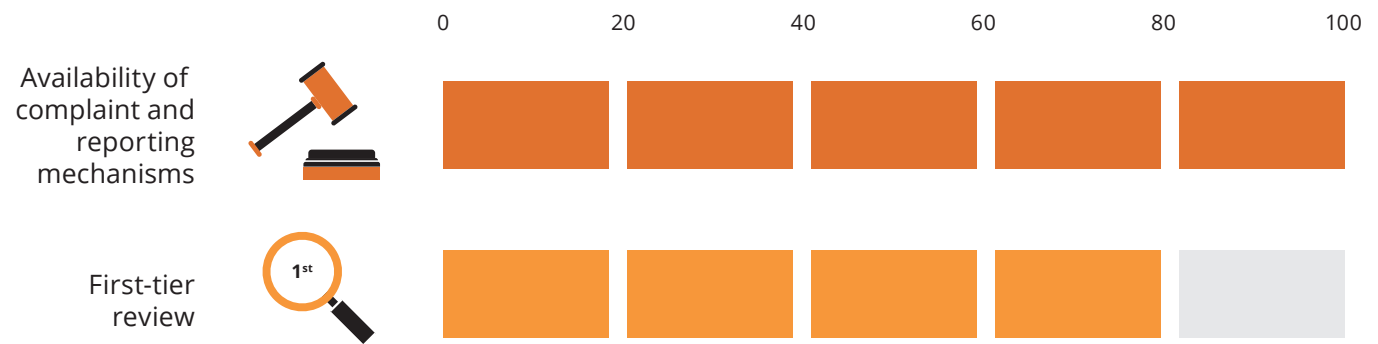
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Middle East and North Africa

The procurement life cycle



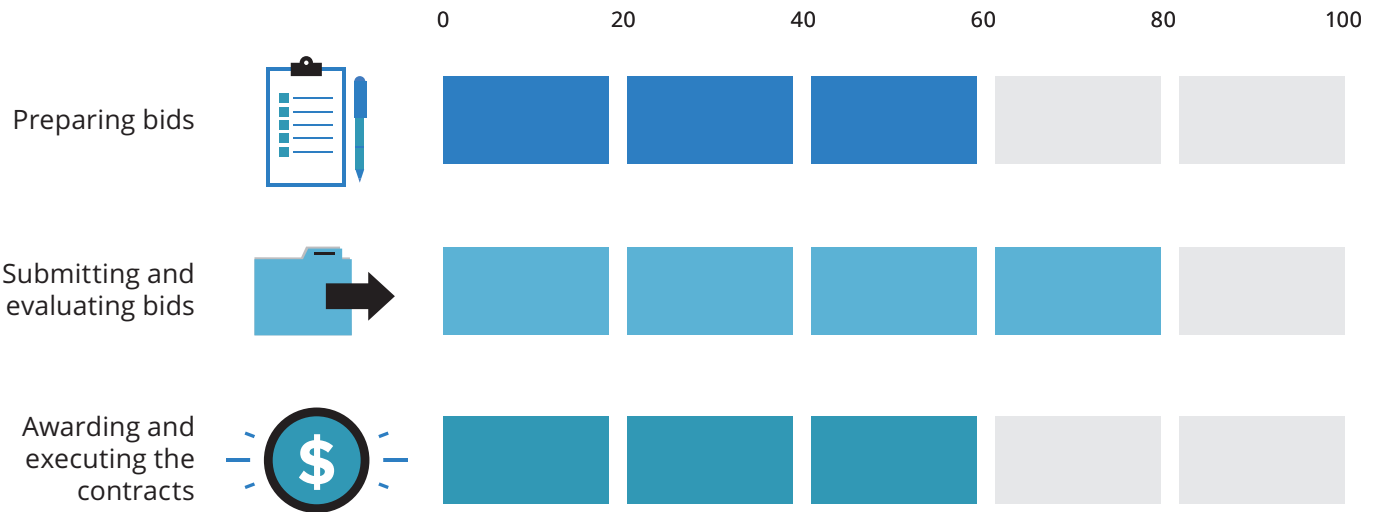
Complaint and reporting mechanisms



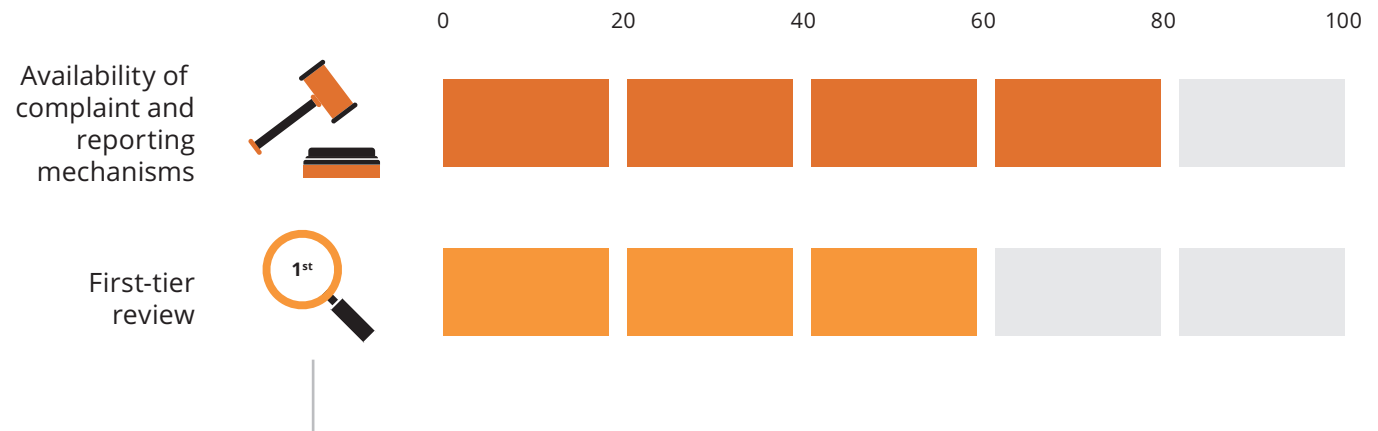
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Sub-Saharan Africa

The procurement life cycle



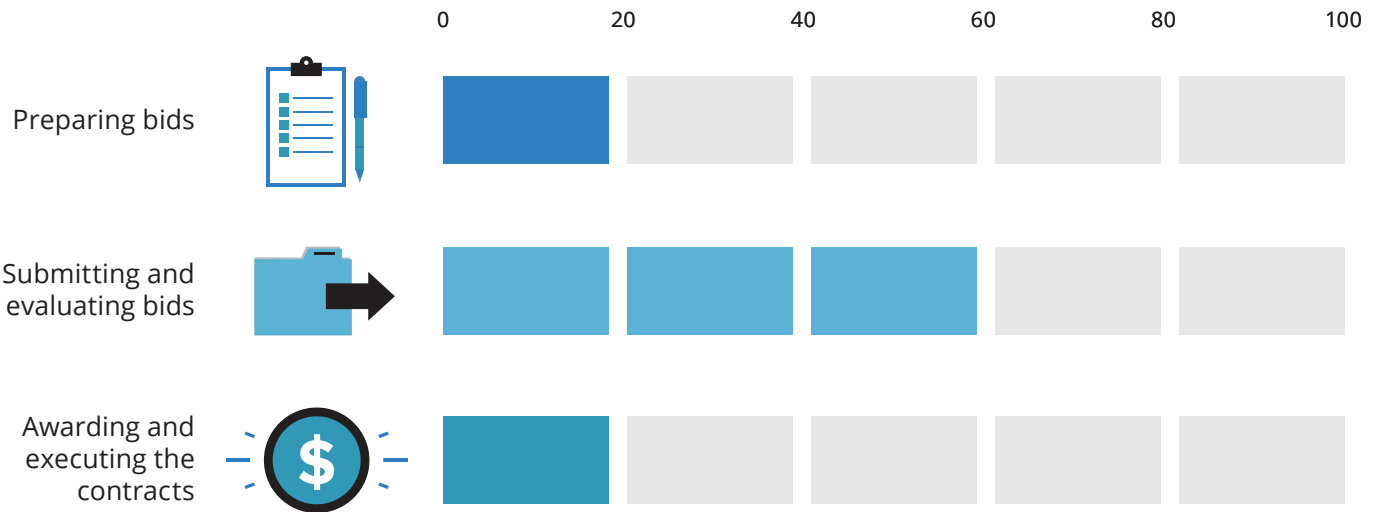
Complaint and reporting mechanisms



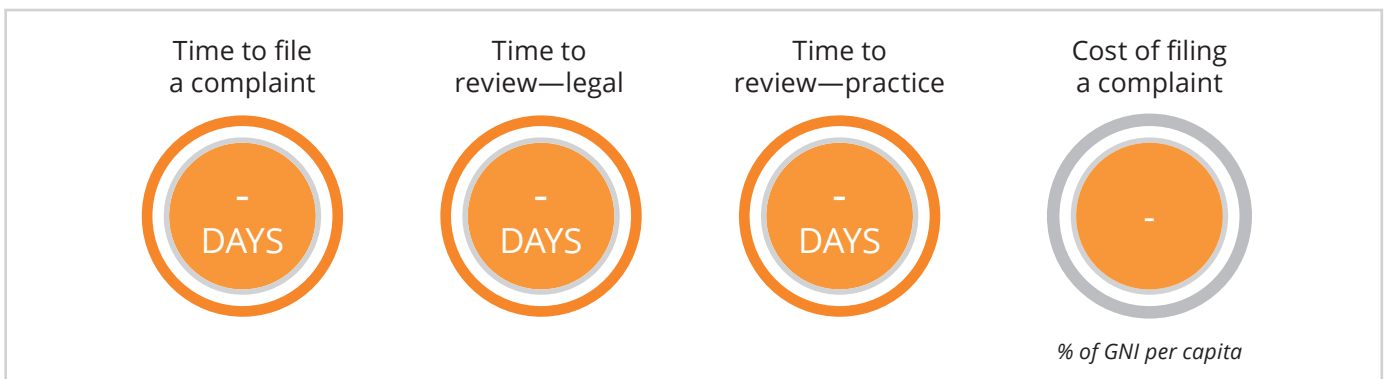
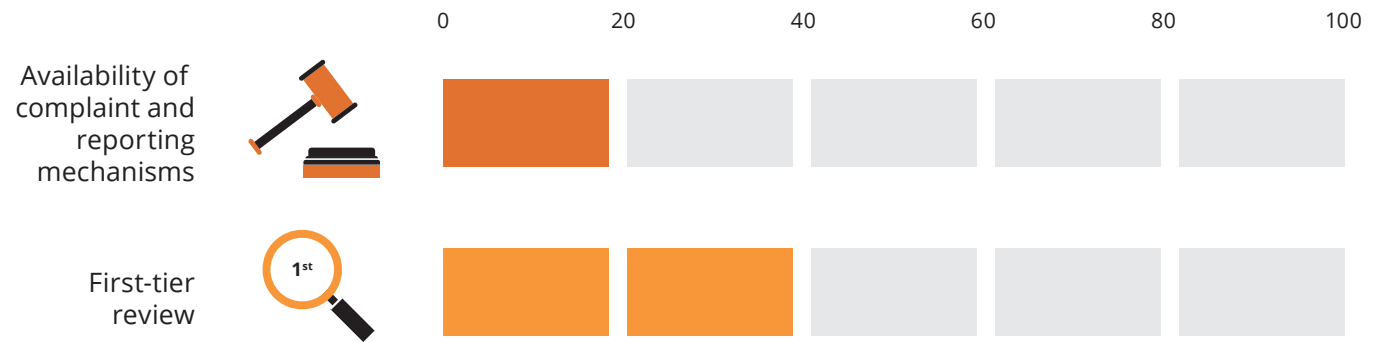
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East Asia and Pacific

The procurement life cycle



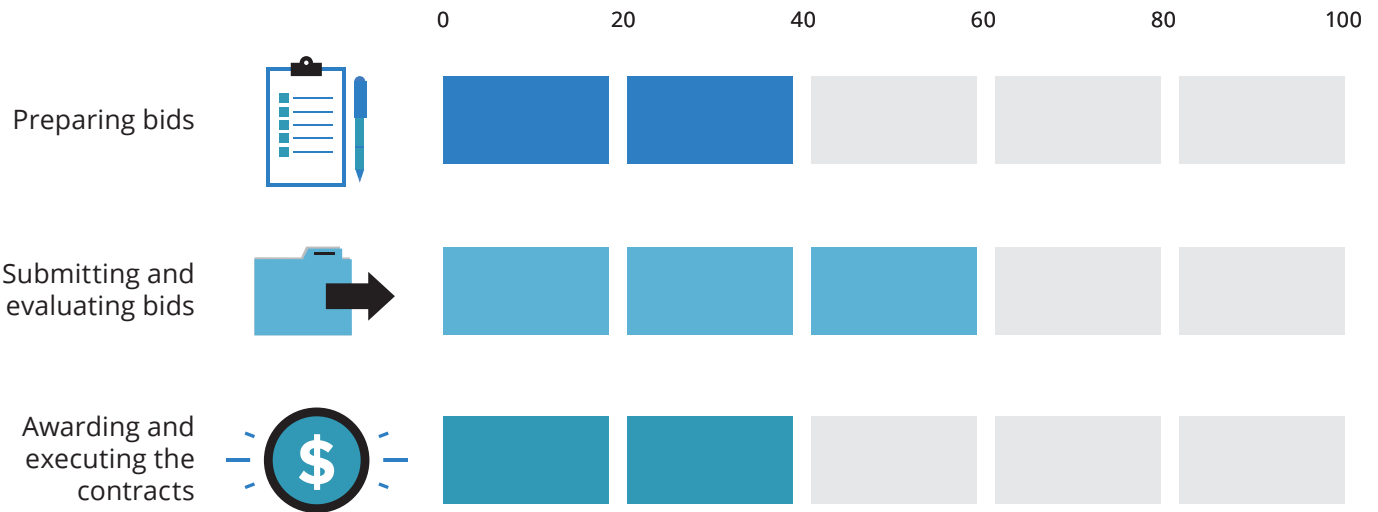
Complaint and reporting mechanisms



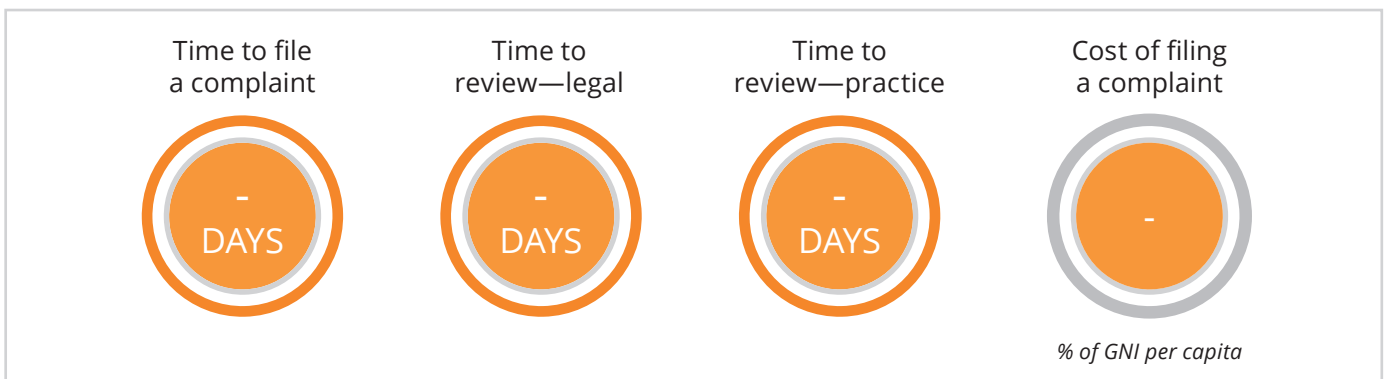
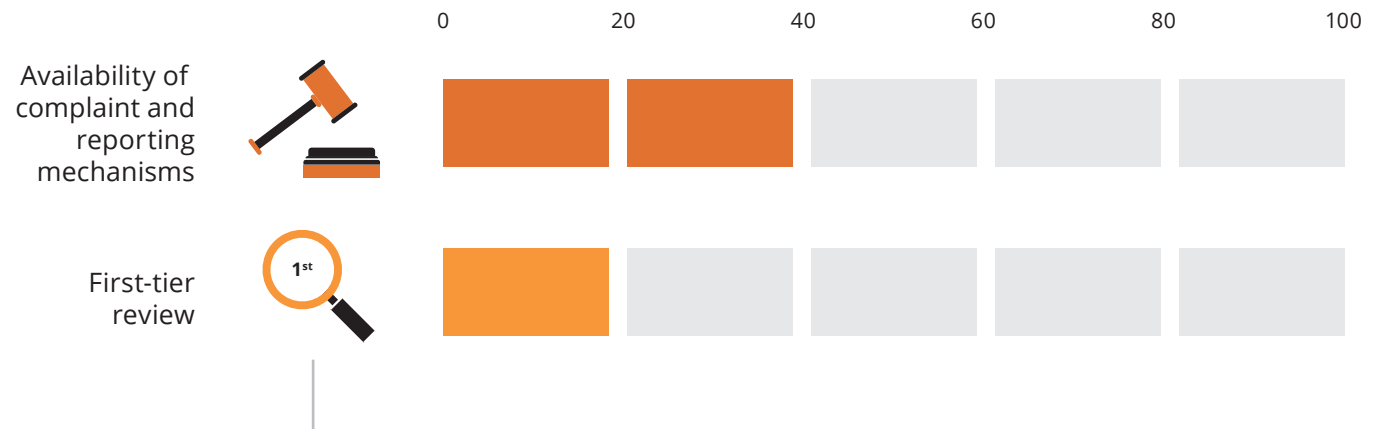
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Sub-Saharan Africa

The procurement life cycle



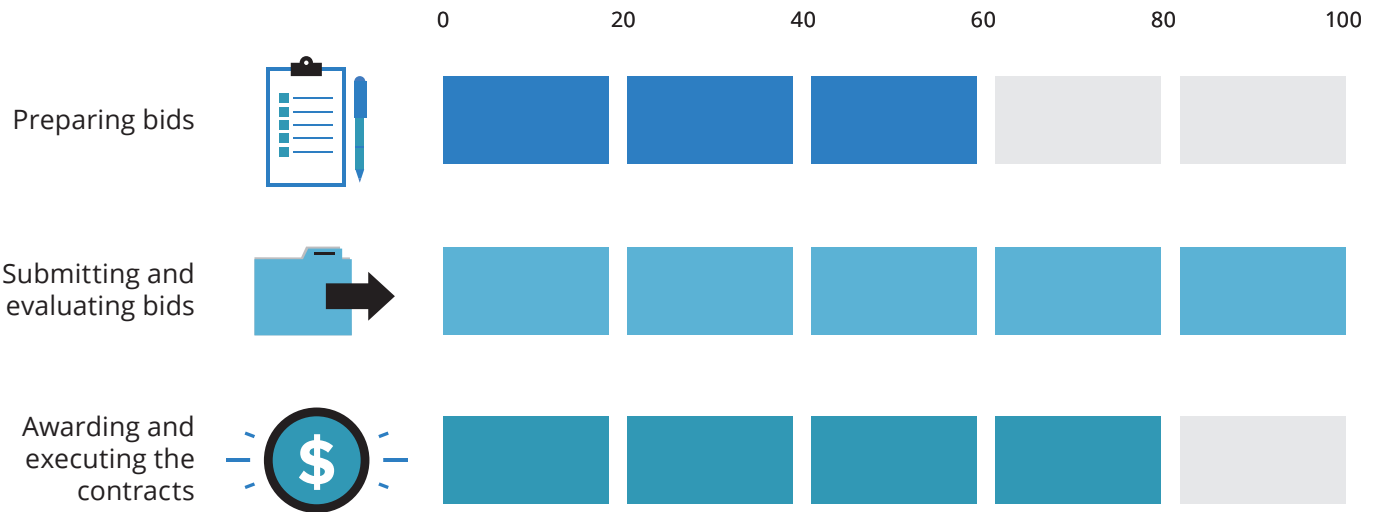
Complaint and reporting mechanisms



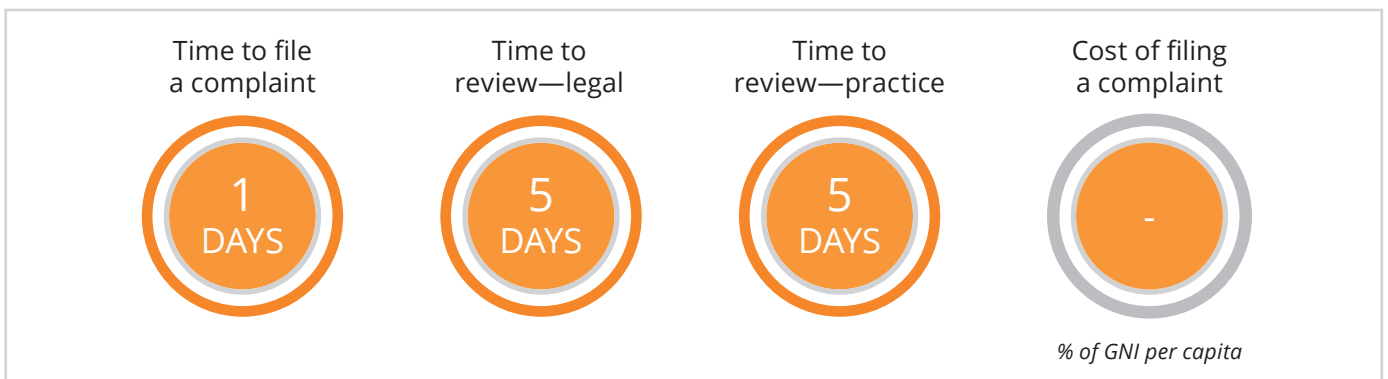
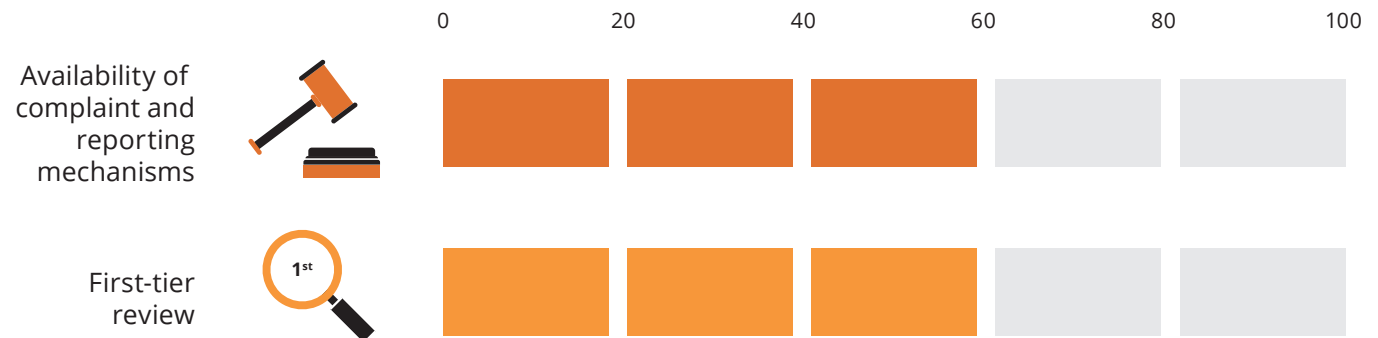
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South Asia

The procurement life cycle



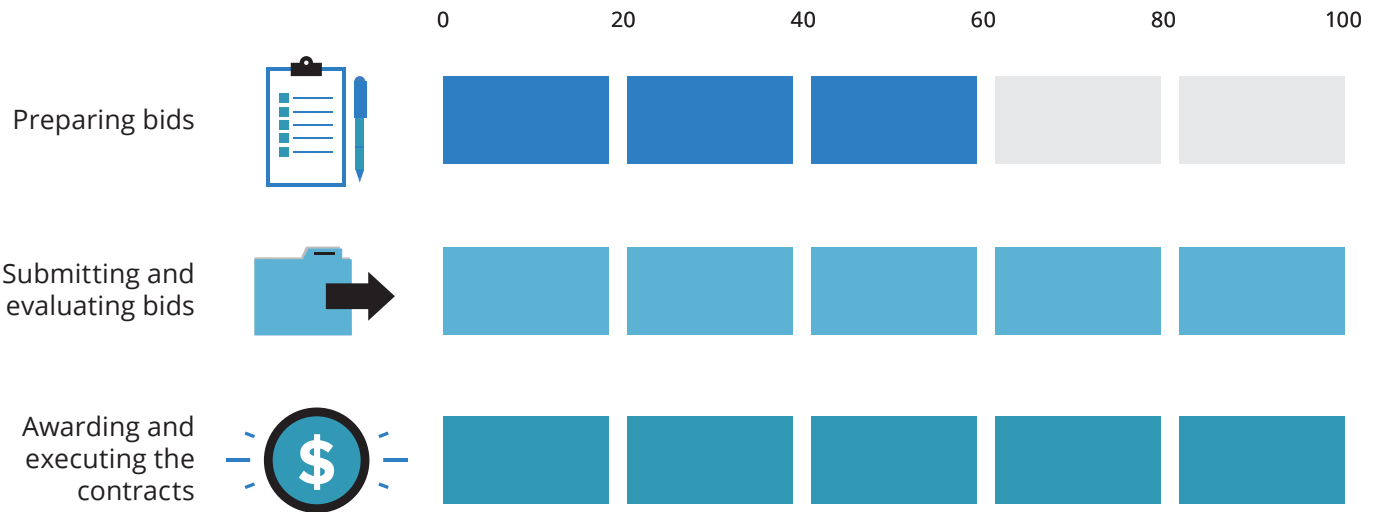
Complaint and reporting mechanisms



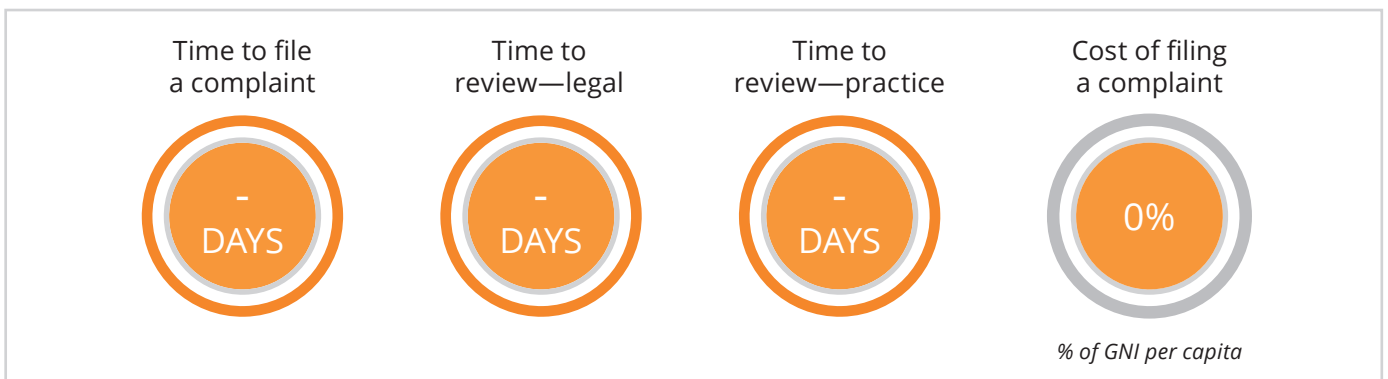
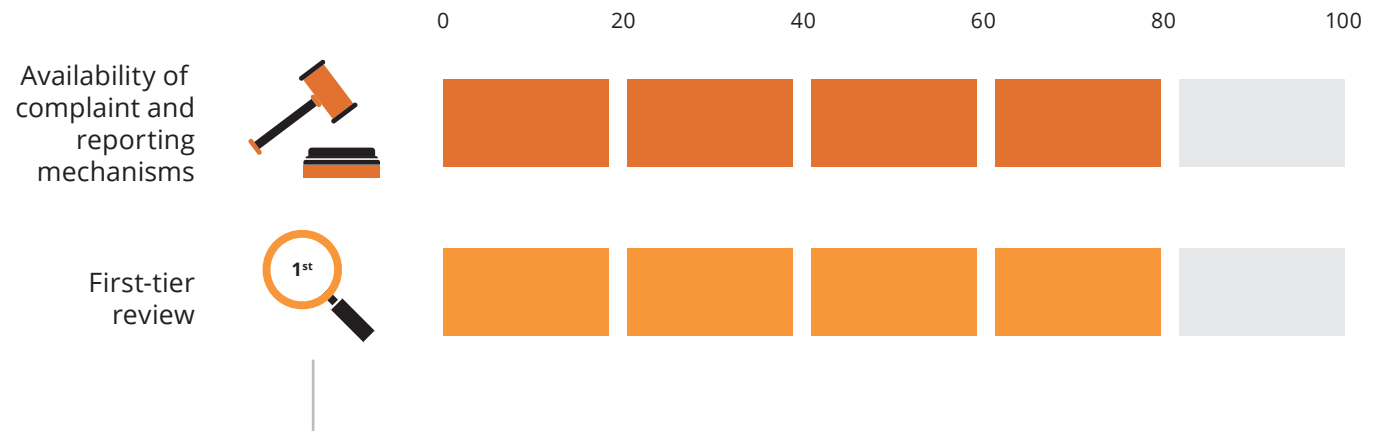
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High-income OECD

The procurement life cycle



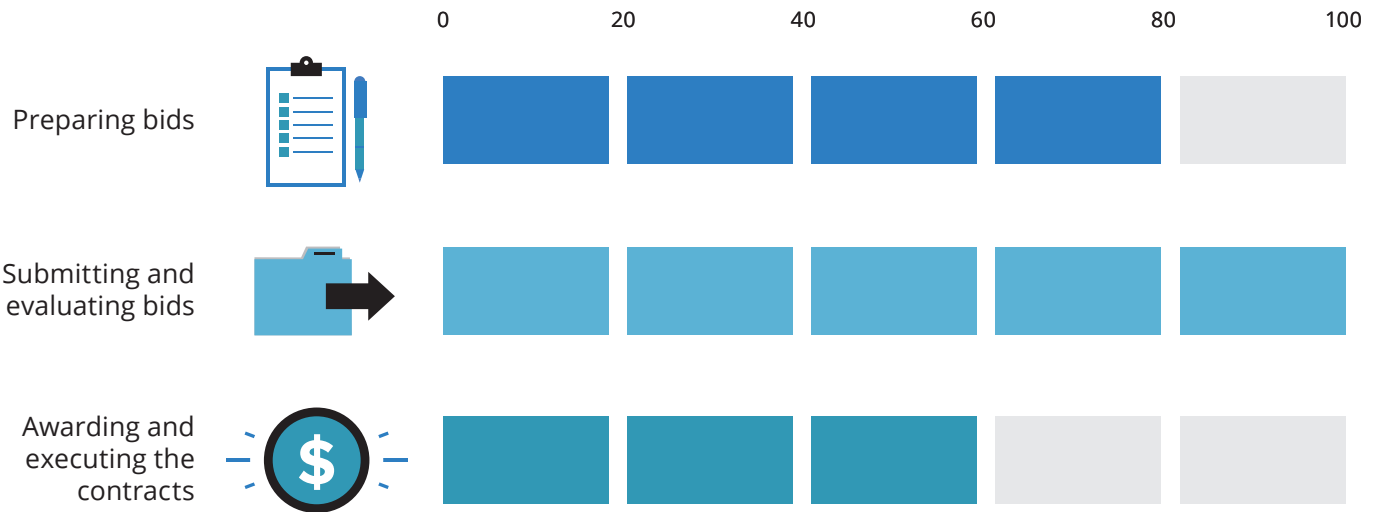
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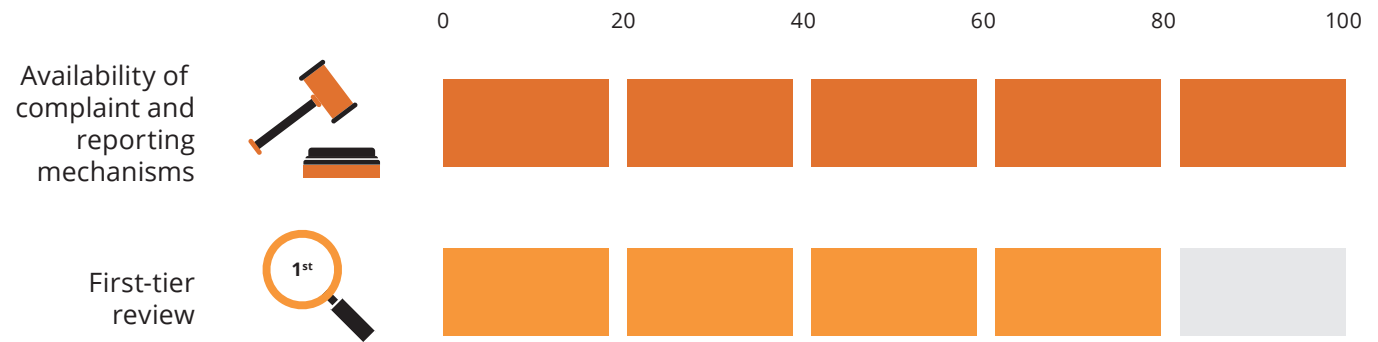
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High-income OECD

The procurement life cycle



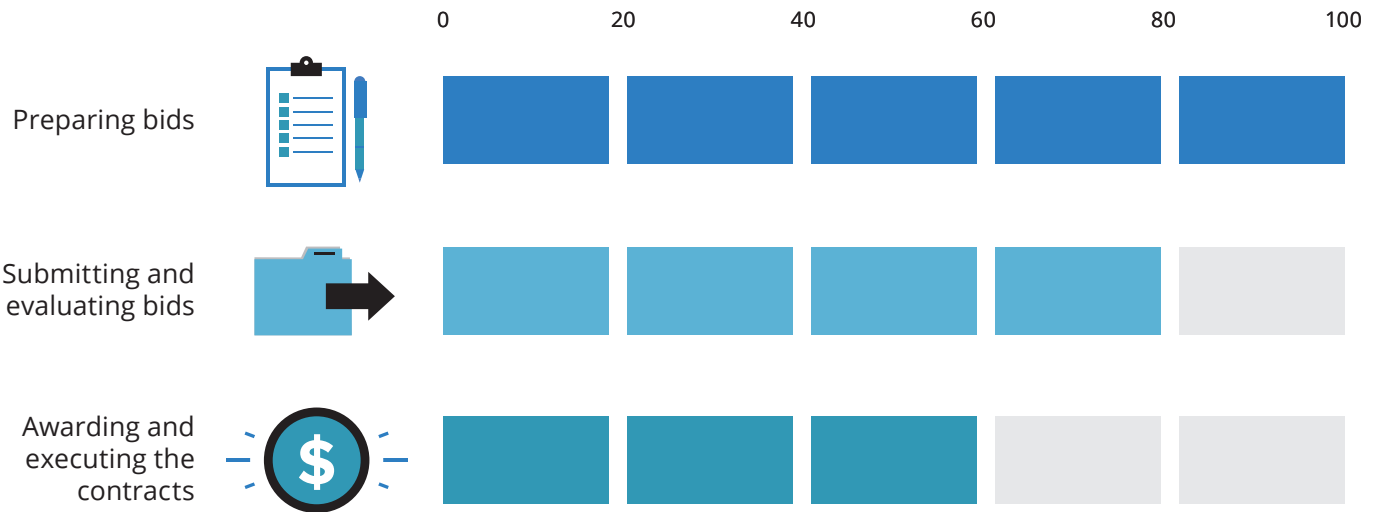
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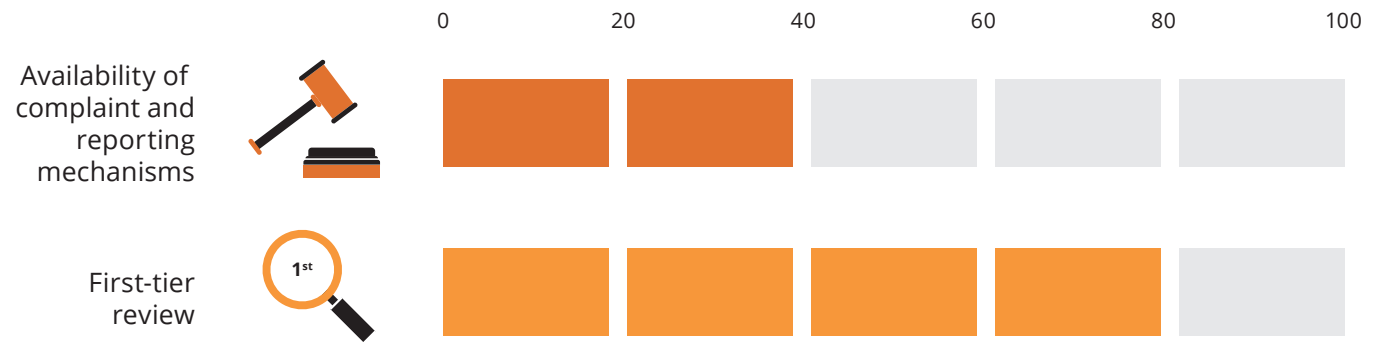
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Latin America and the Caribbean

The procurement life cycle



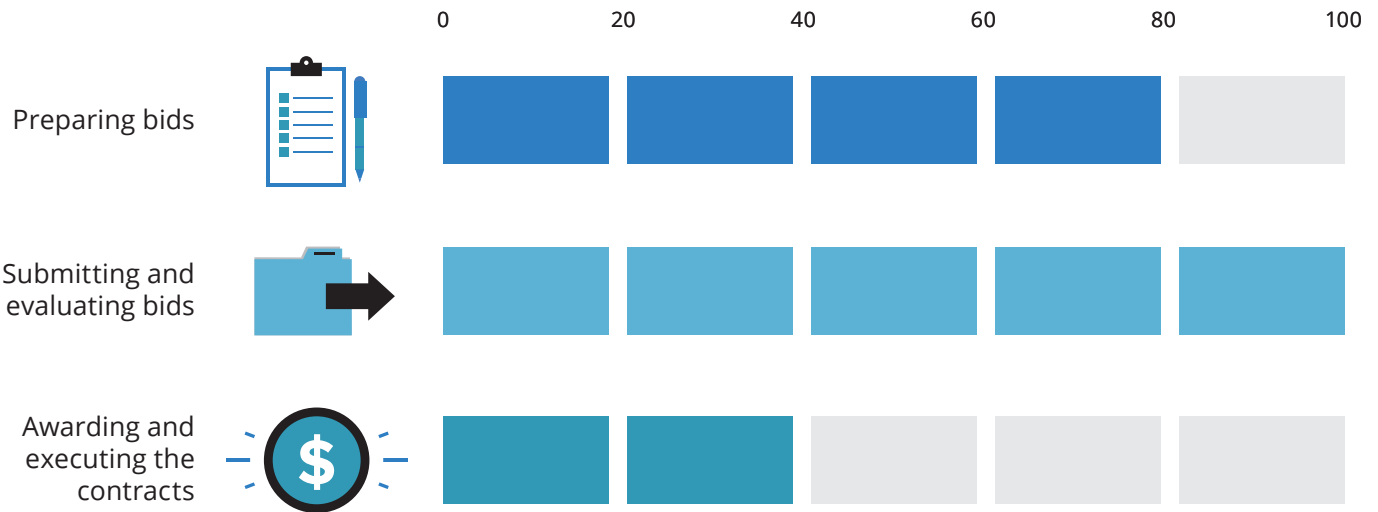
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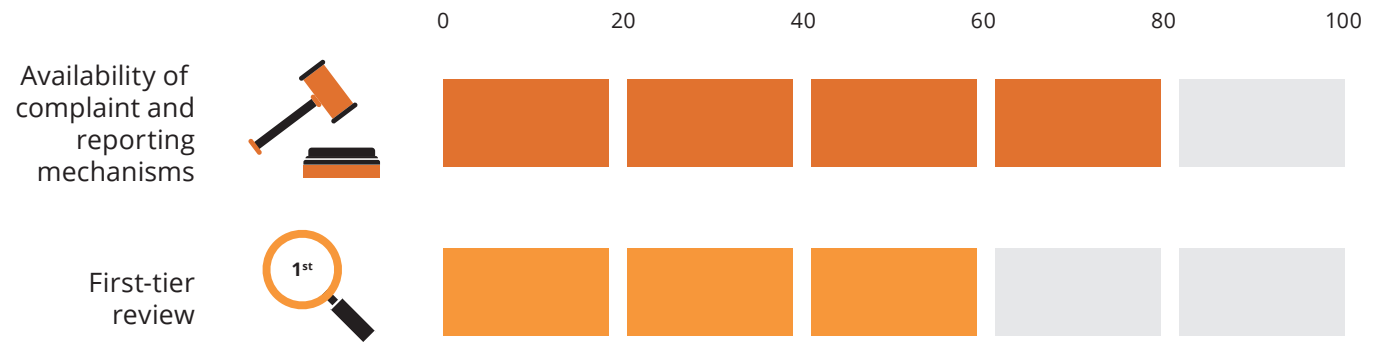
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Sub-Saharan Africa

The procurement life cycle



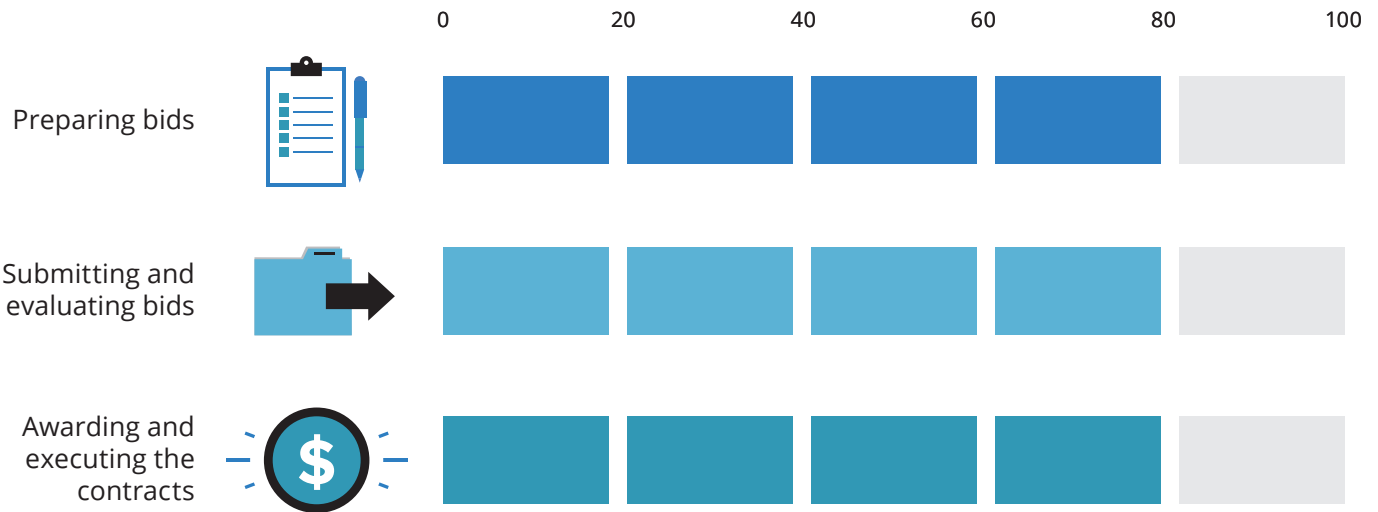
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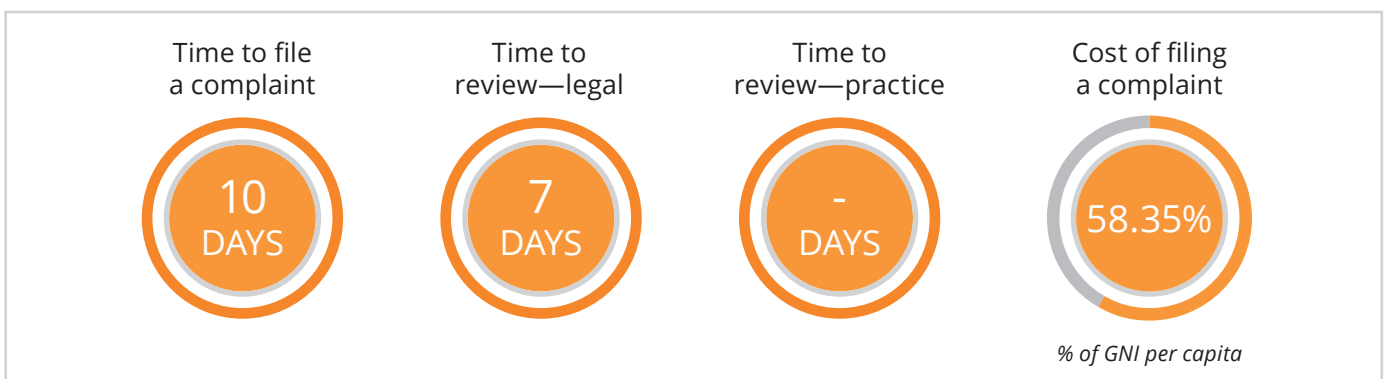
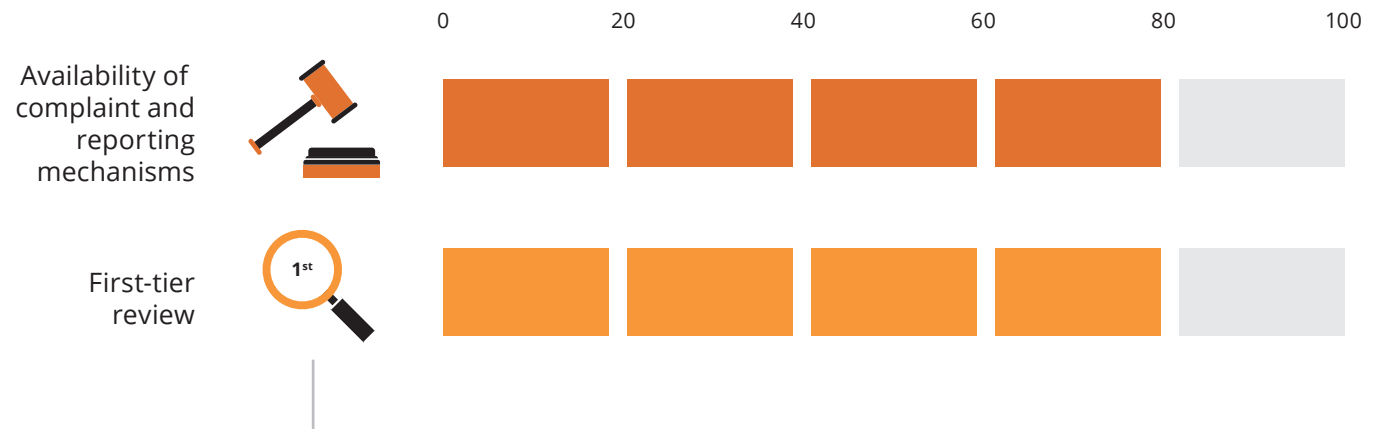
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Latin America and the Caribbean

The procurement life cycle



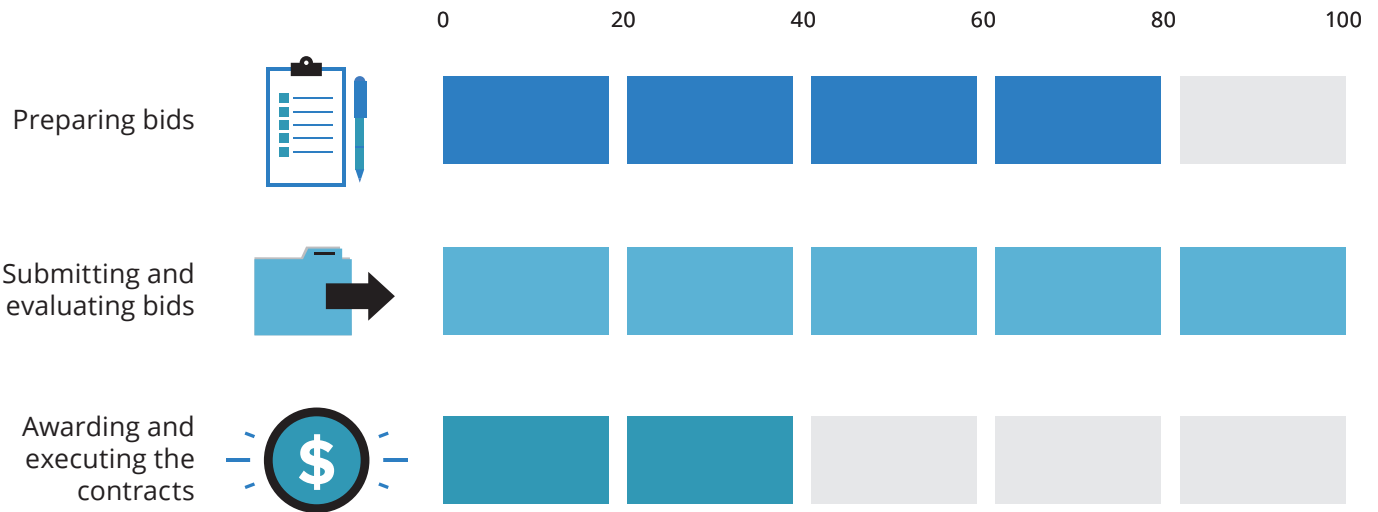
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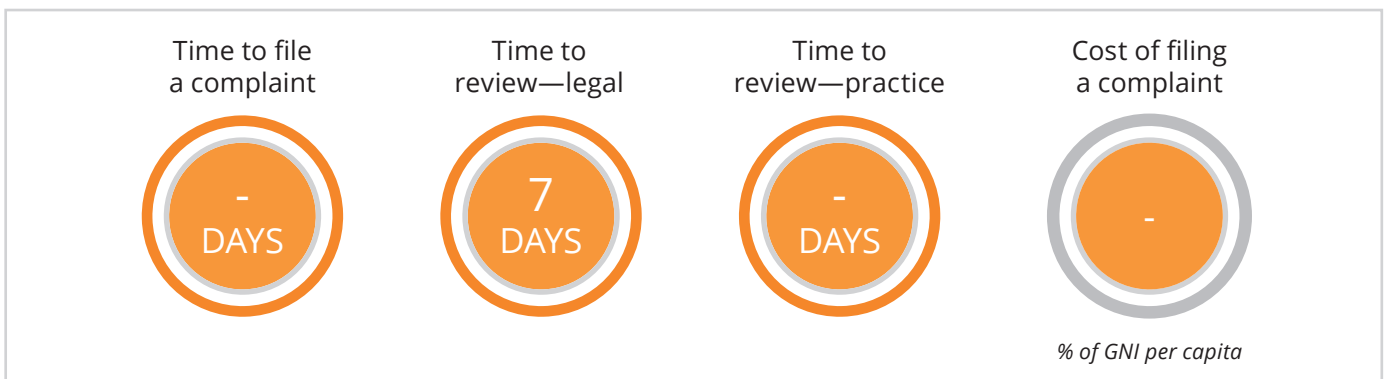
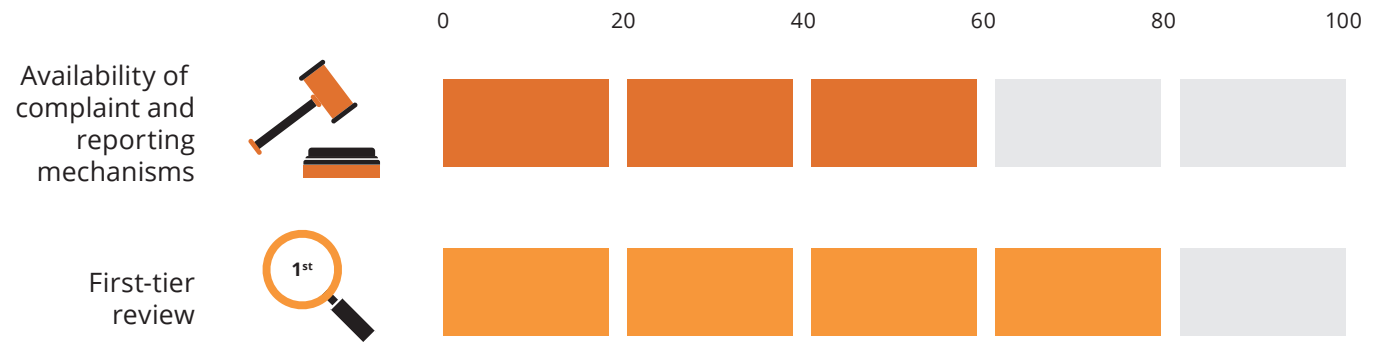
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East Asia and Pacific

The procurement life cycle



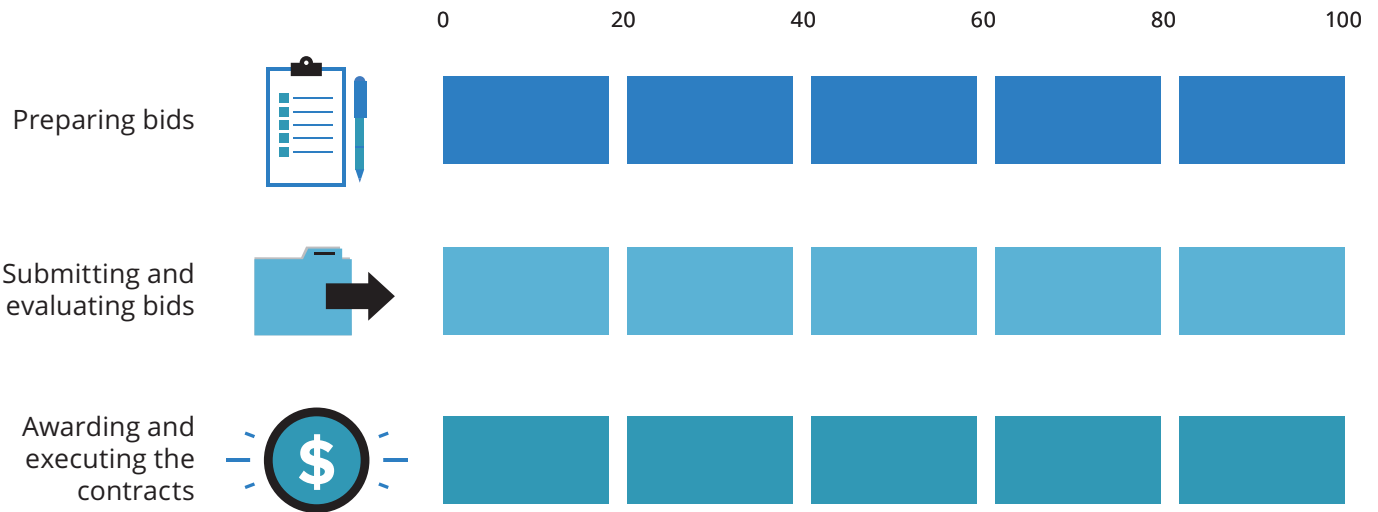
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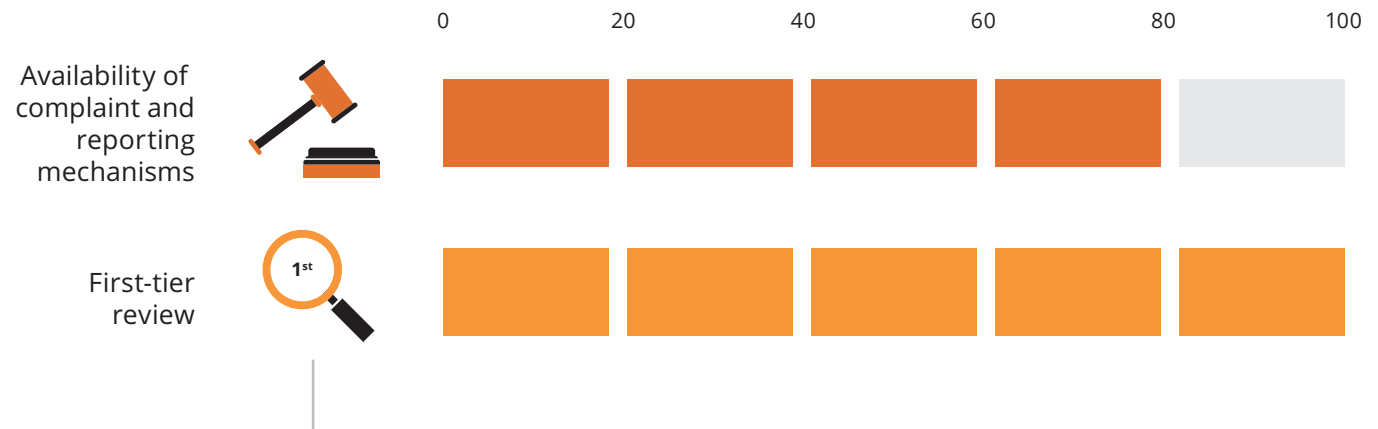
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High-income OECD

The procurement life cycle



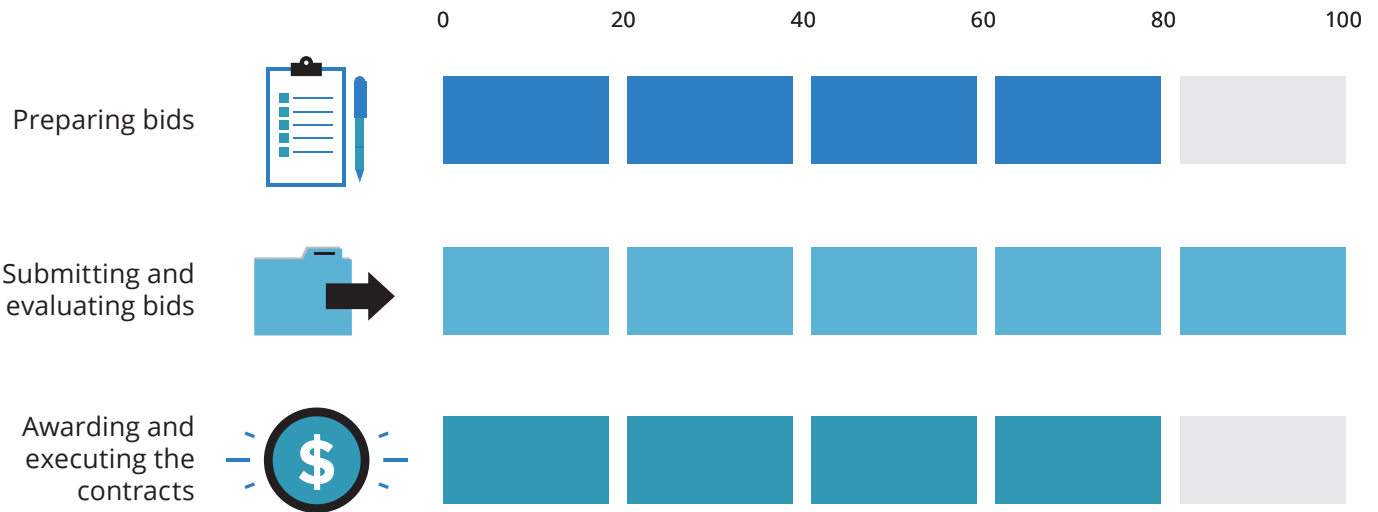
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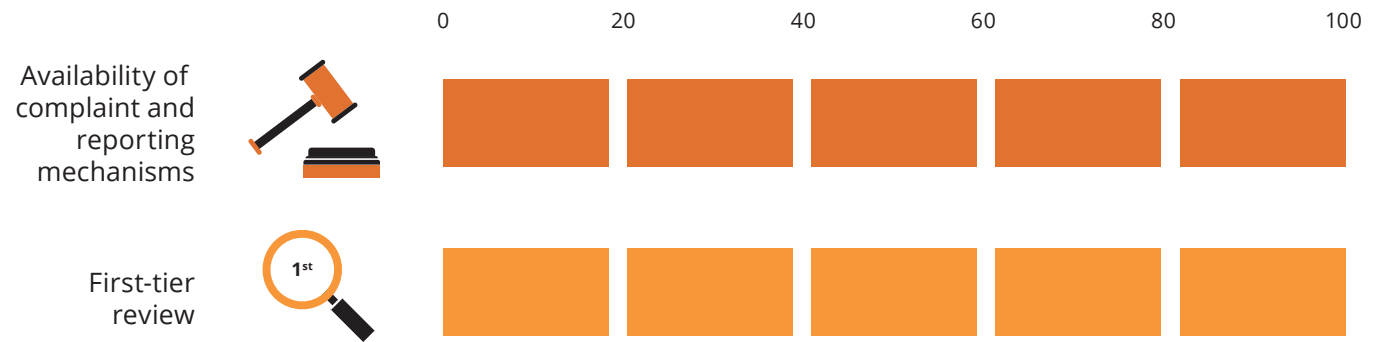
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Europe and Central Asia

The procurement life cycle



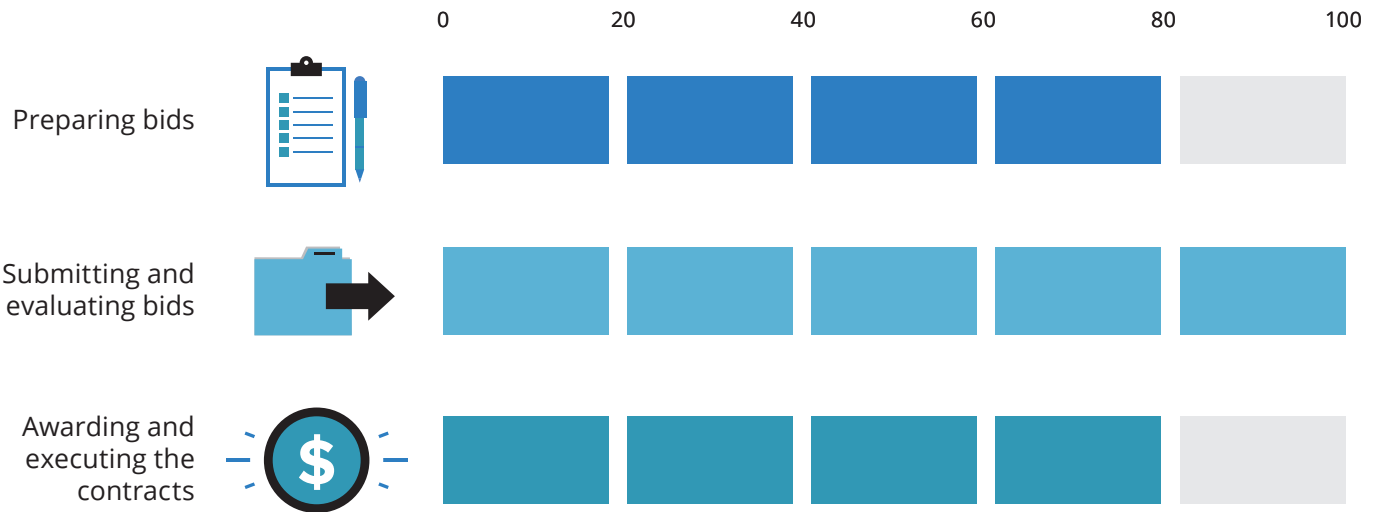
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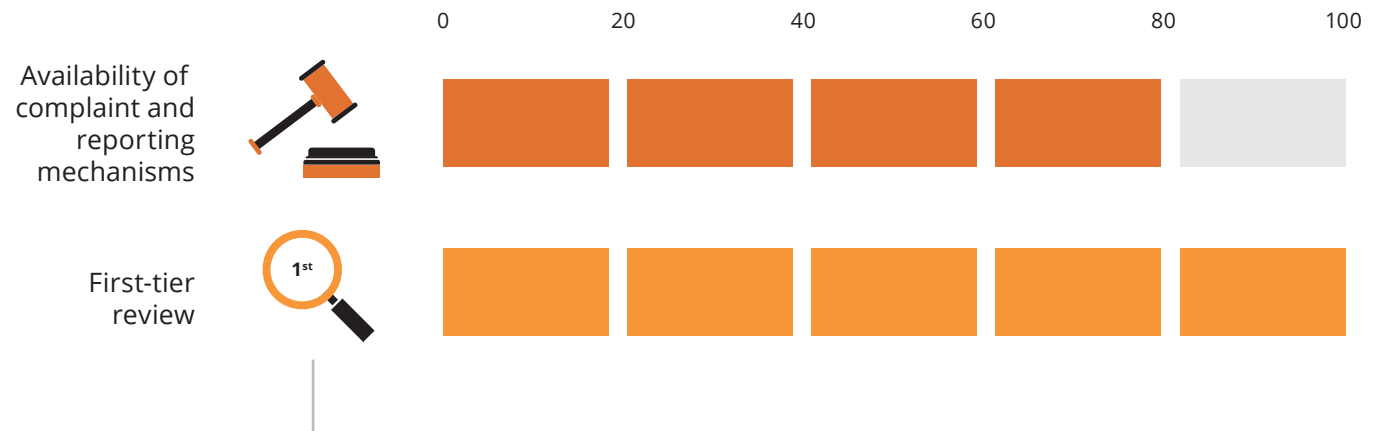
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Europe and Central Asia

The procurement life cycle



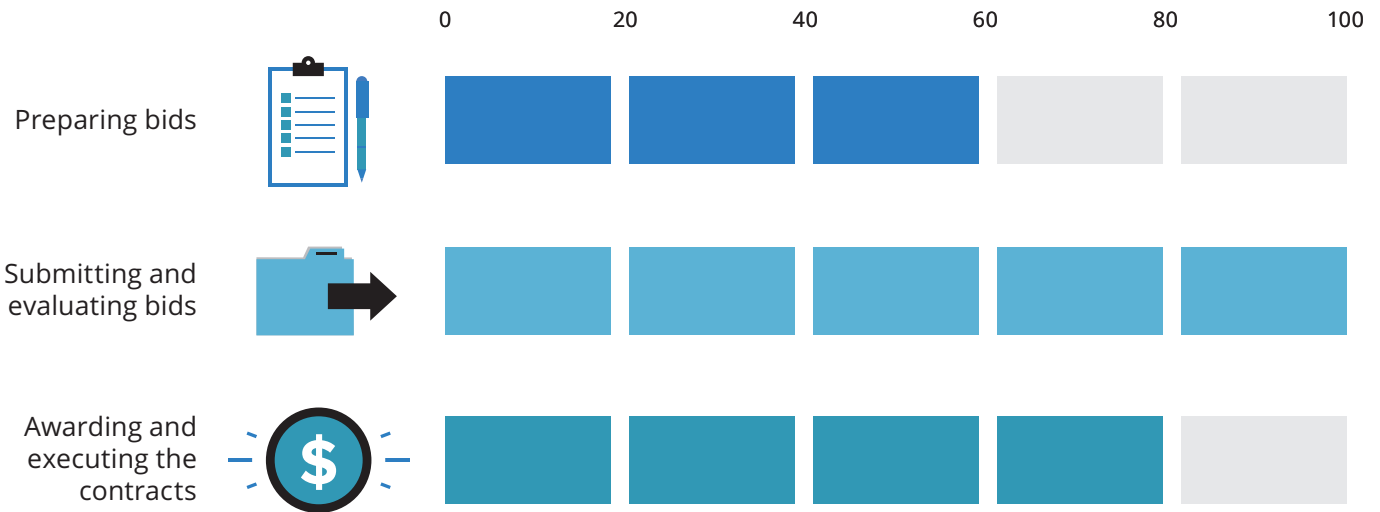
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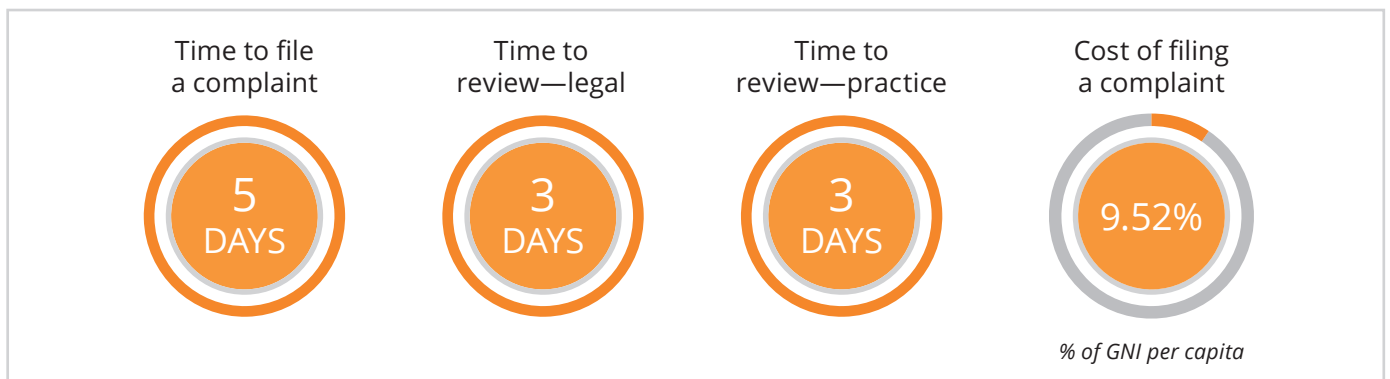
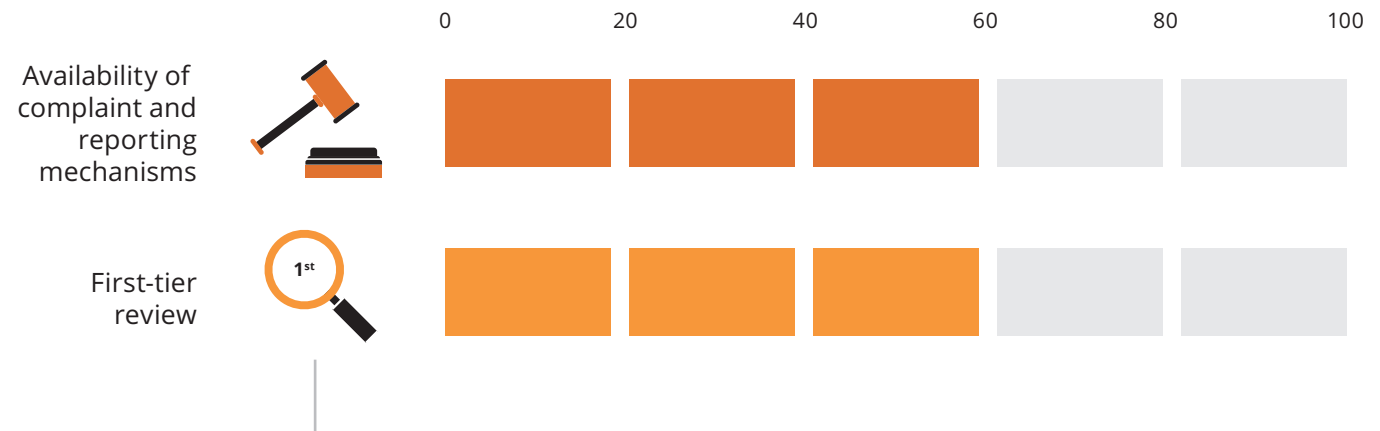
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Sub-Saharan Africa

The procurement life cycle



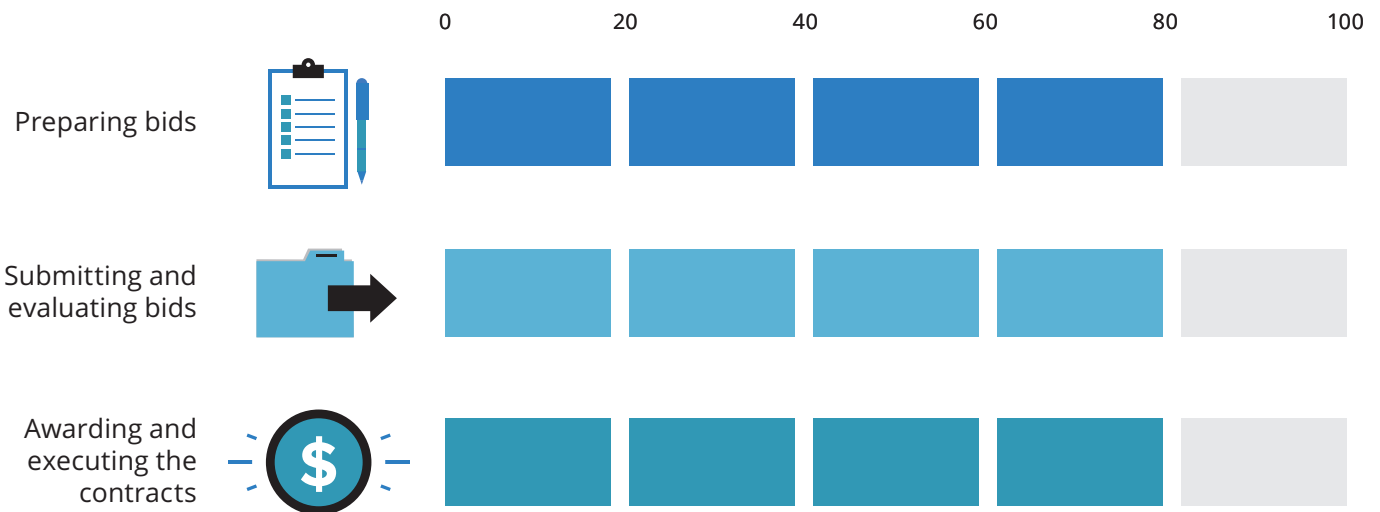
Complaint and reporting mechanisms



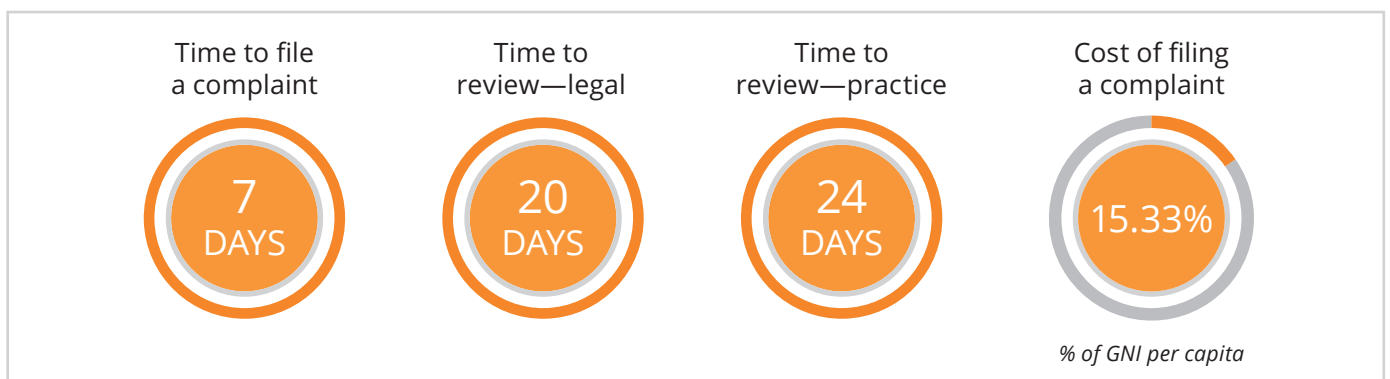
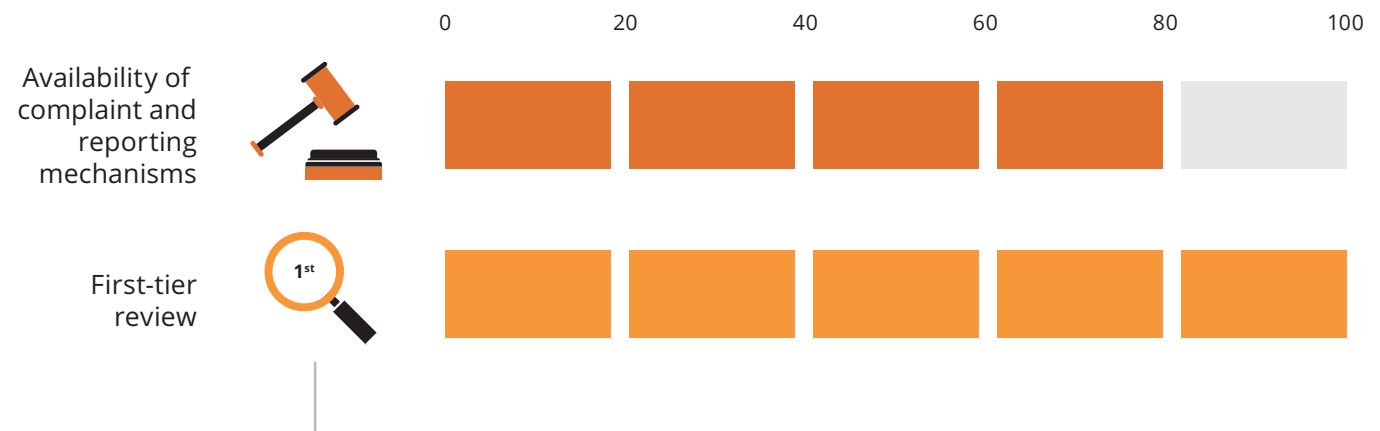
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Europe and Central Asia

The procurement life cycle



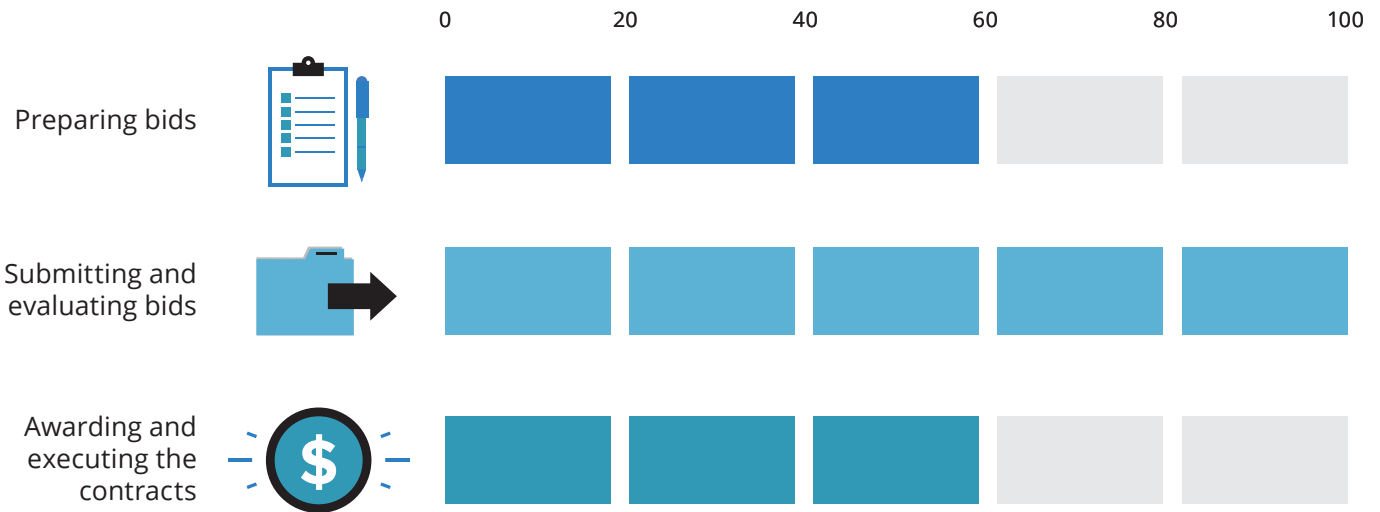
Complaint and reporting mechanisms



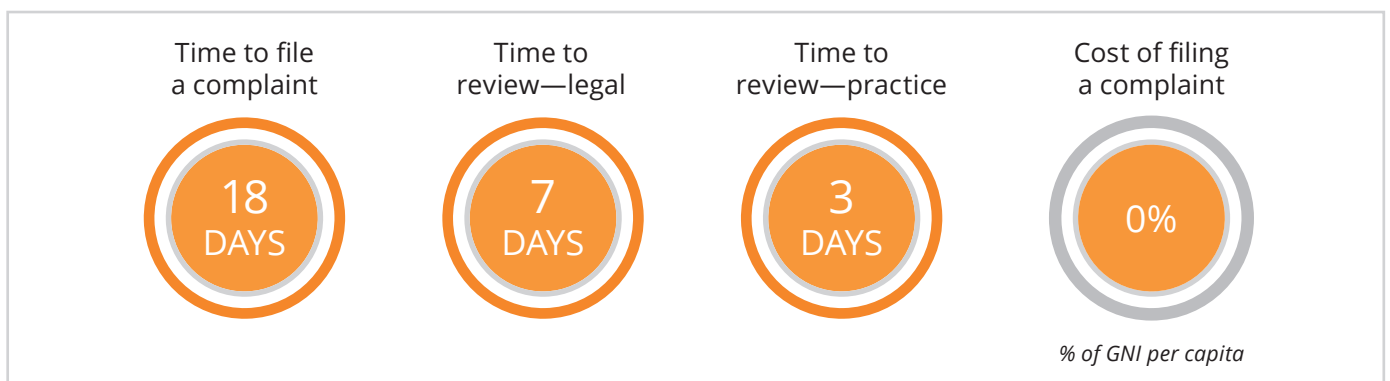
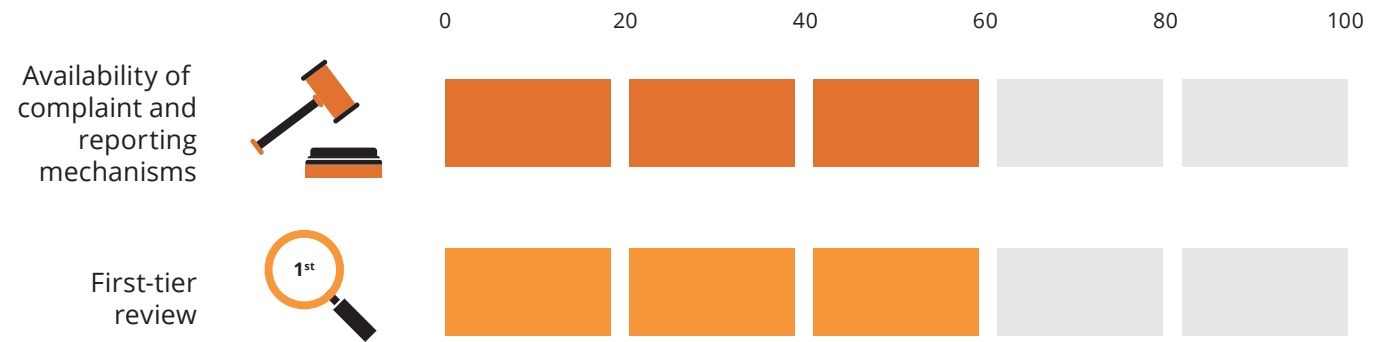
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Sub-Saharan Africa

The procurement life cycle

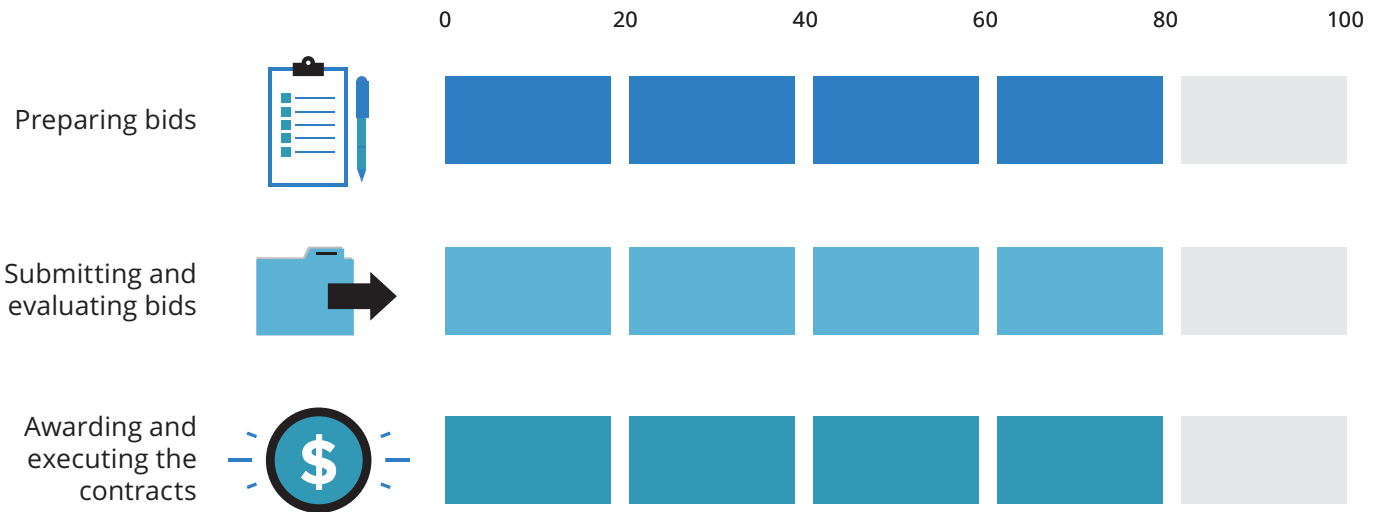


Complaint and reporting mechanisms

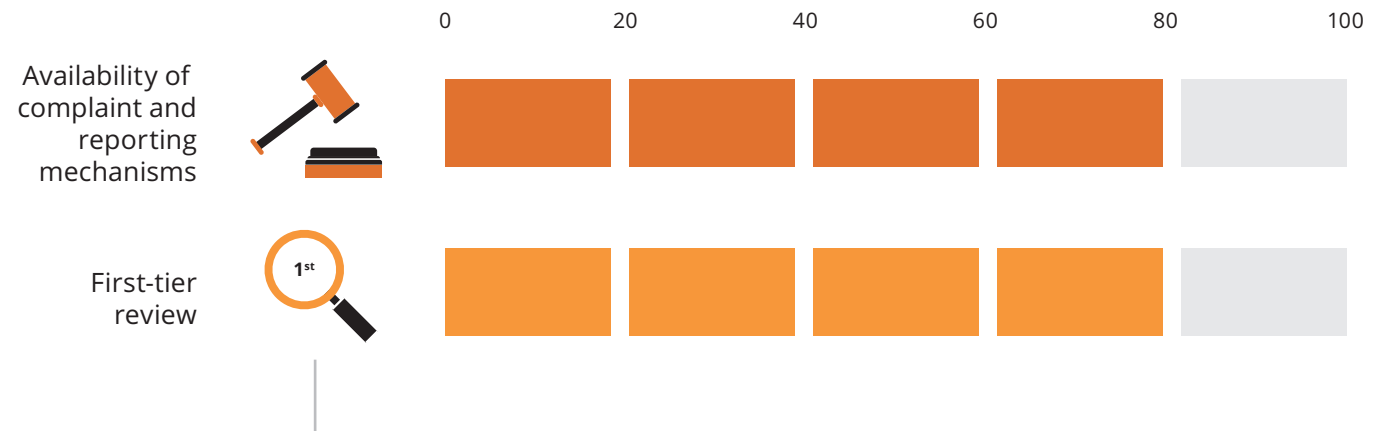


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The procurement life cycle



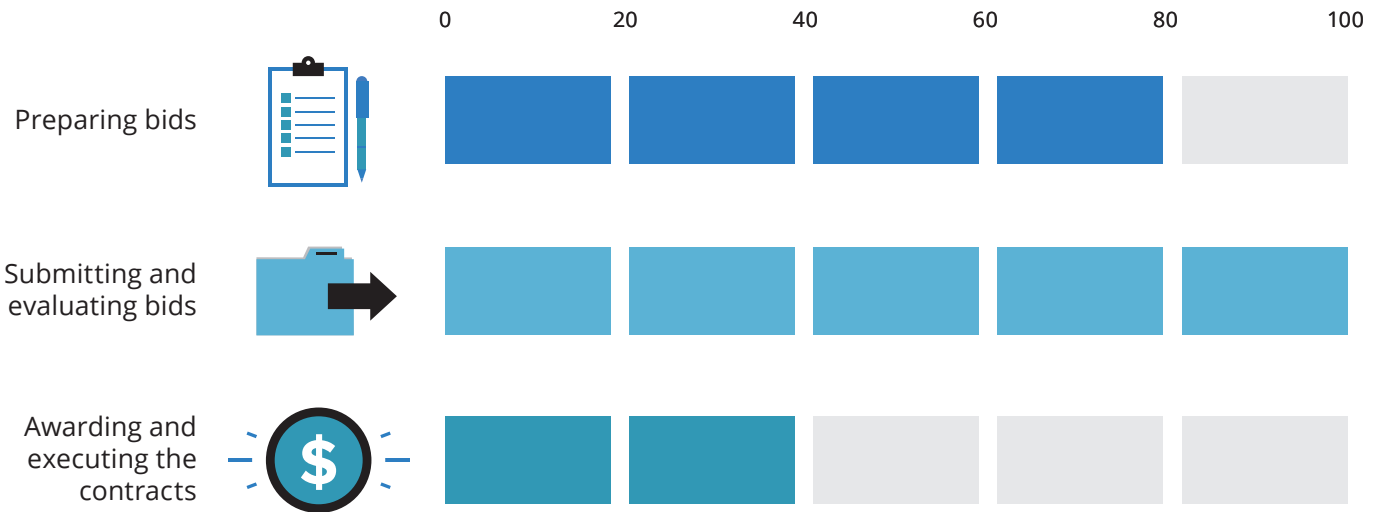
Complaint and reporting mechanisms



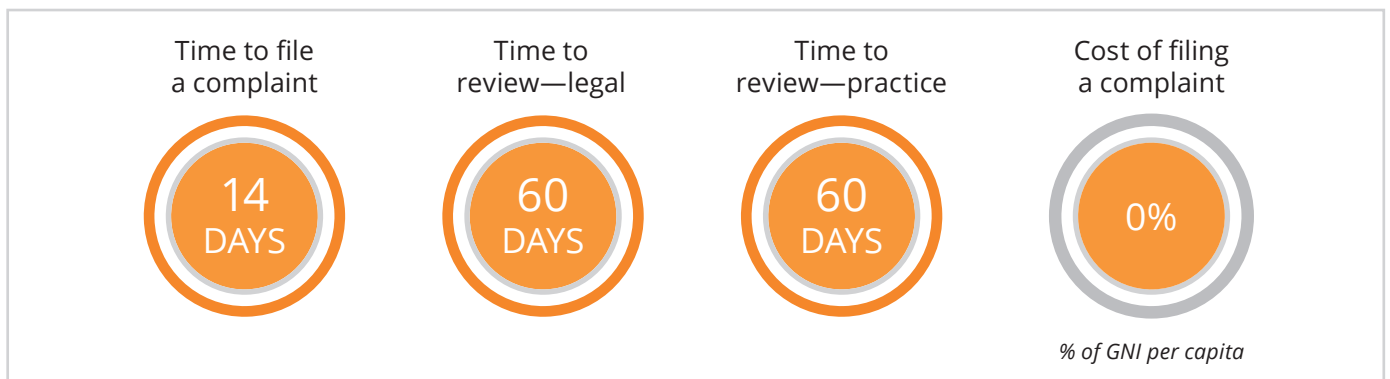
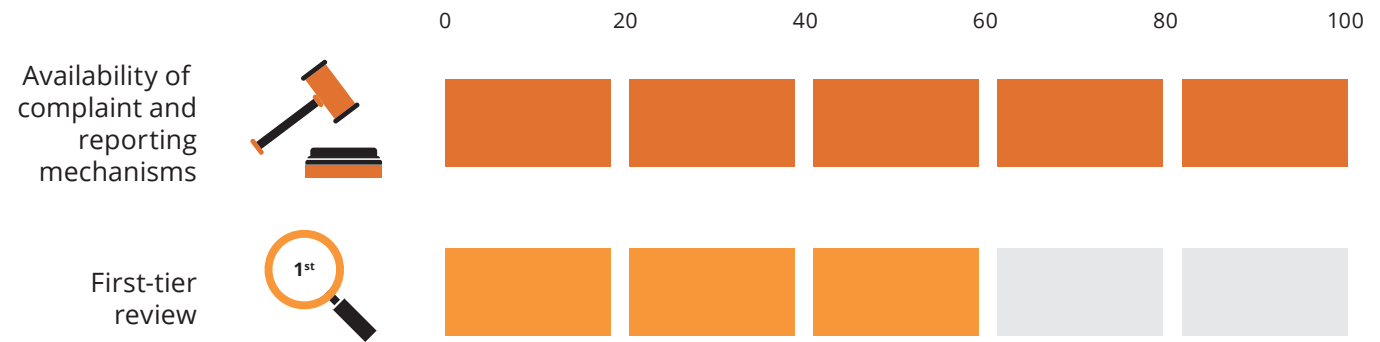
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Sub-Saharan Africa

The procurement life cycle



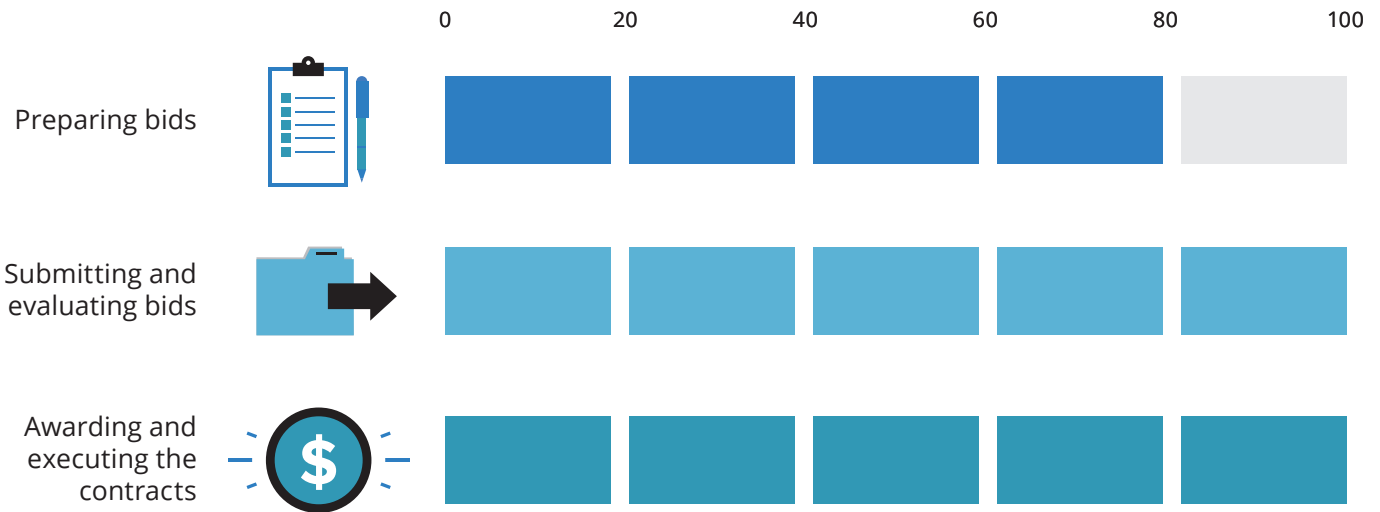
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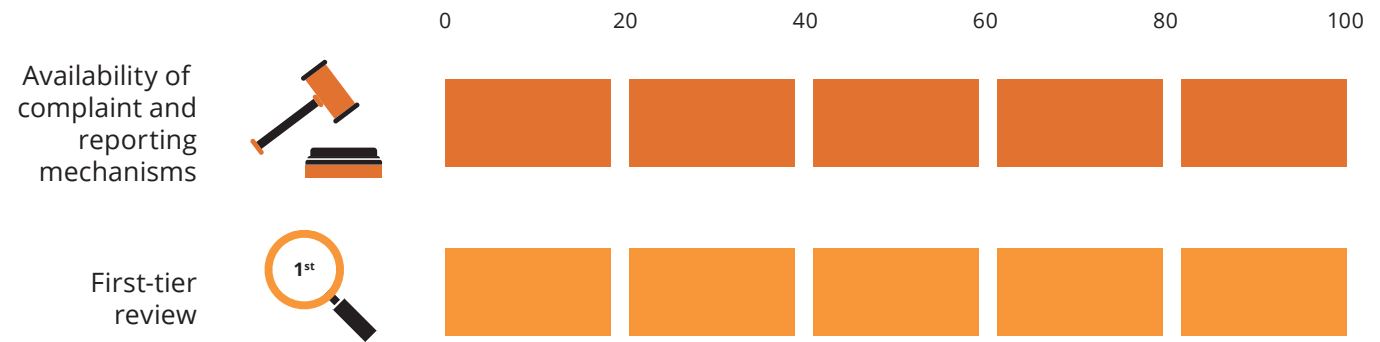
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High-income OECD

The procurement life cycle



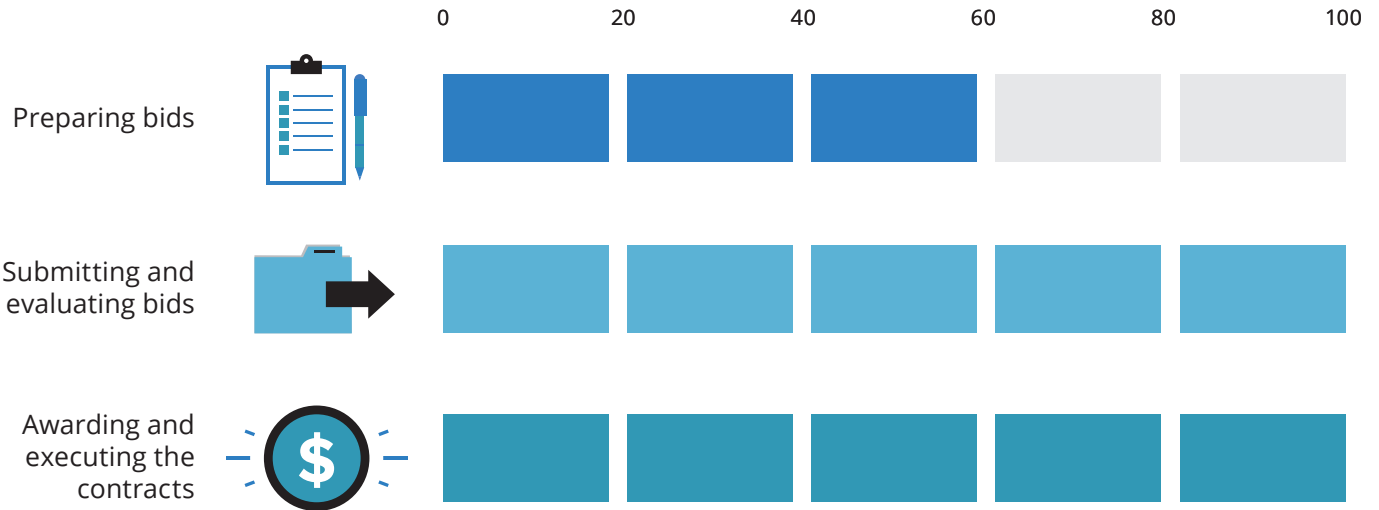
Complaint and reporting mechanisms



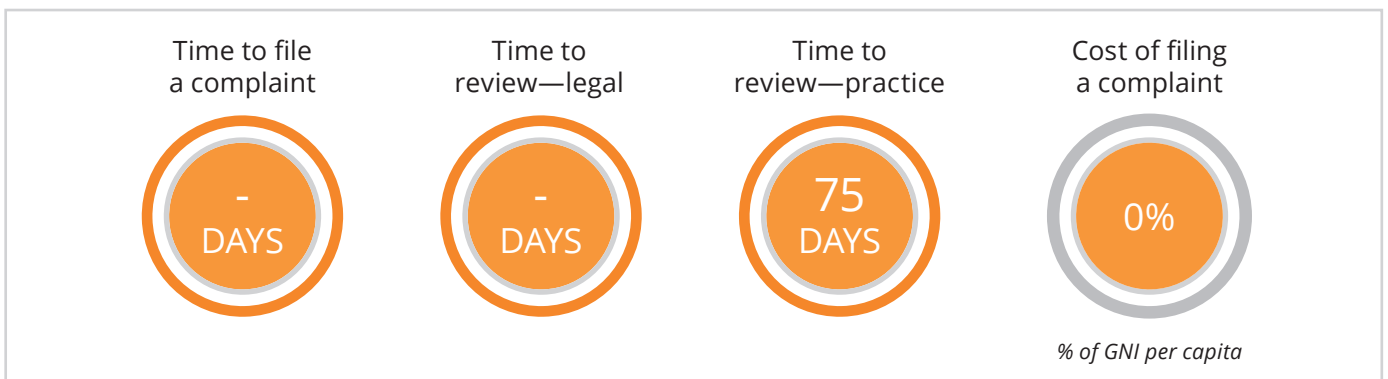
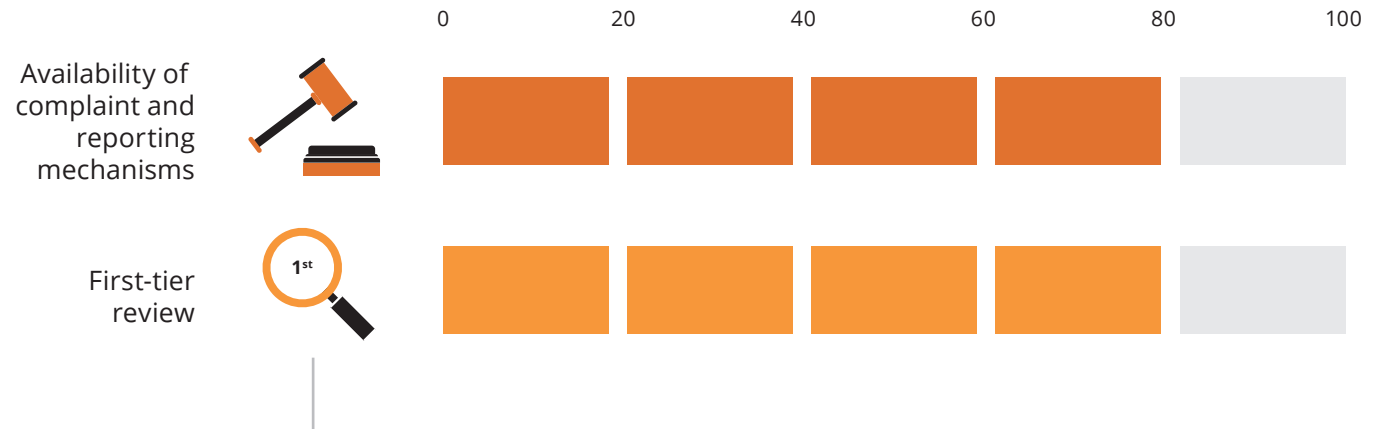
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High-income OECD

The procurement life cycle



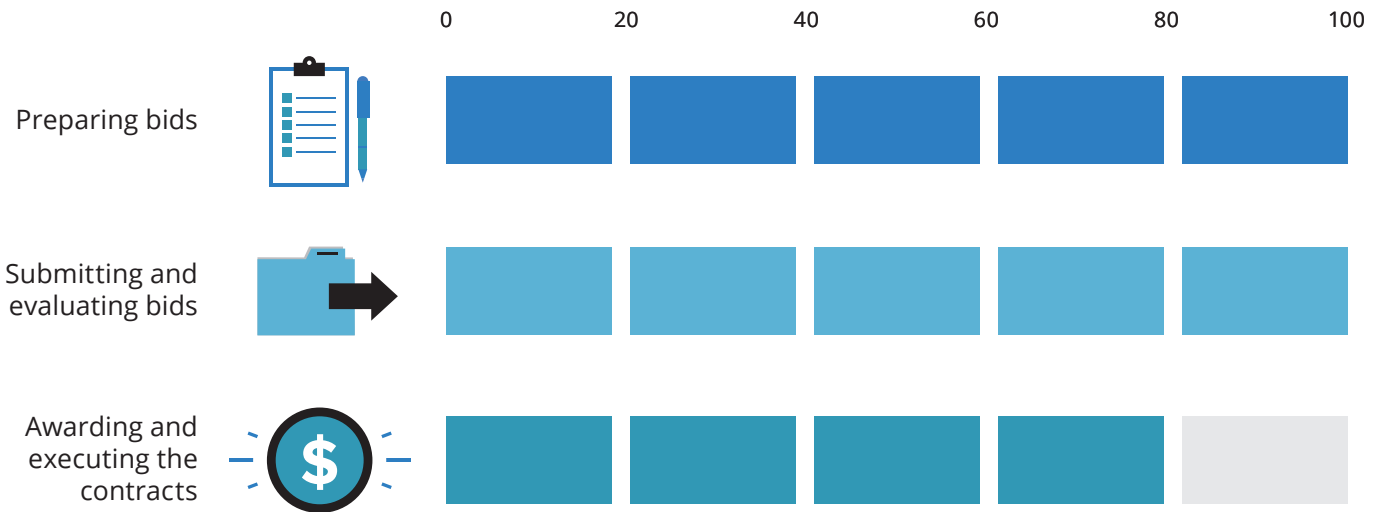
Complaint and reporting mechanisms



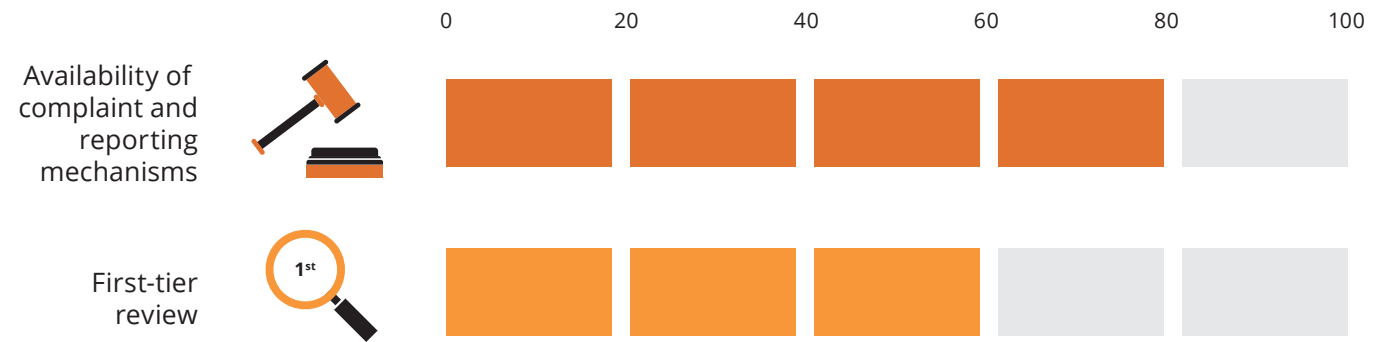
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East Asia and Pacific

The procurement life cycle



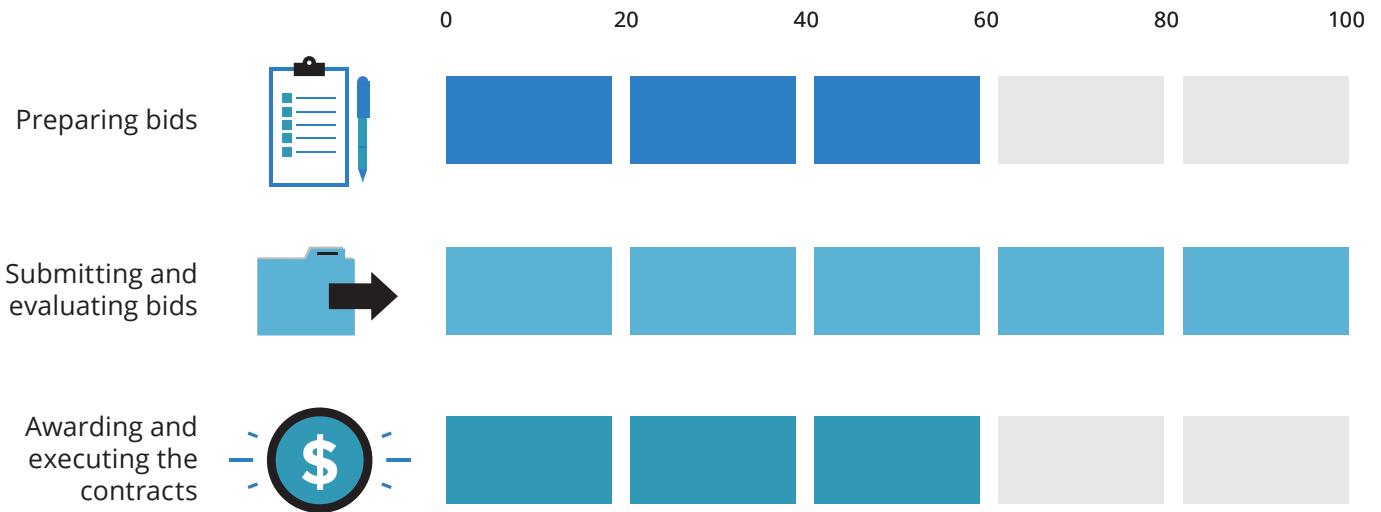
Complaint and reporting mechanisms



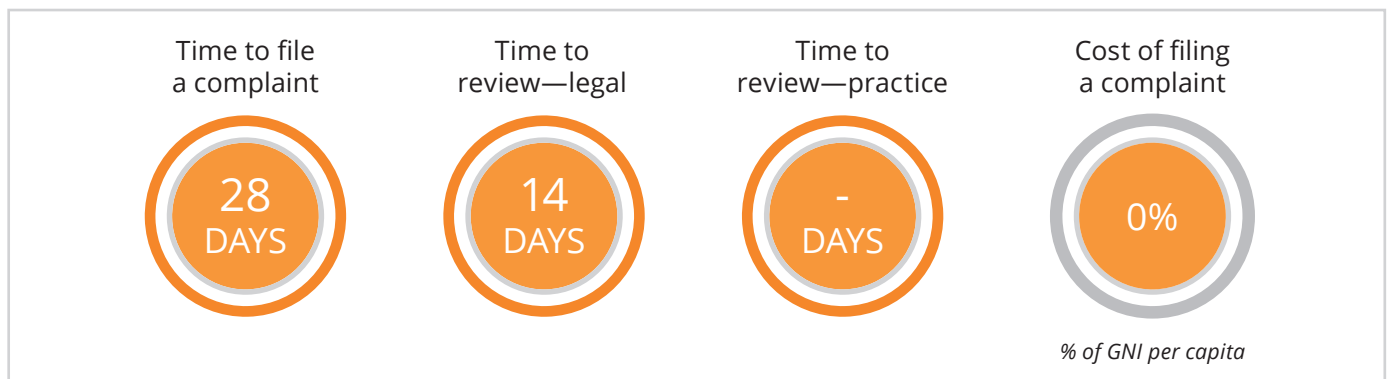
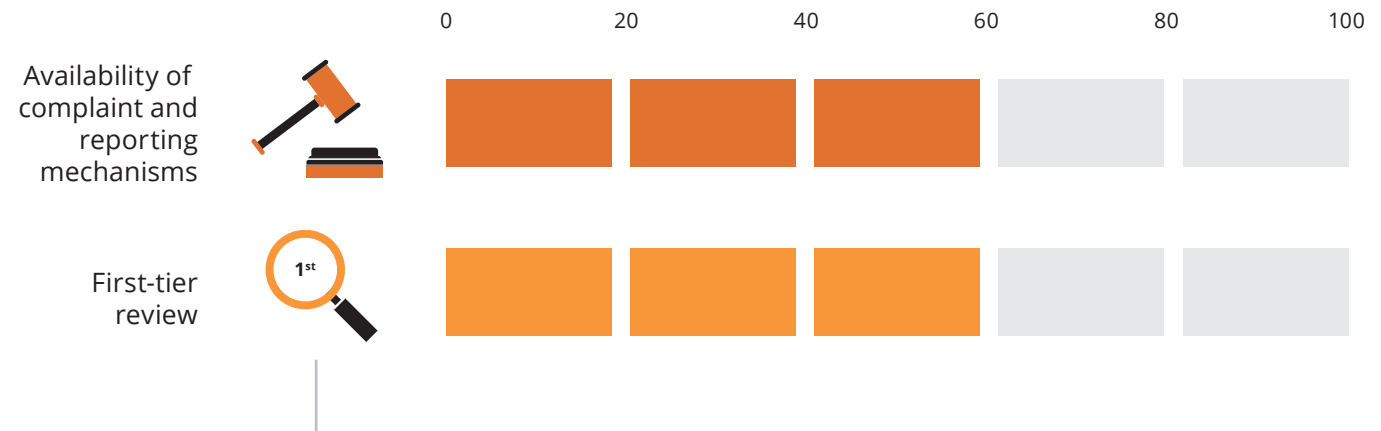
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Sub-Saharan Africa

The procurement life cycle



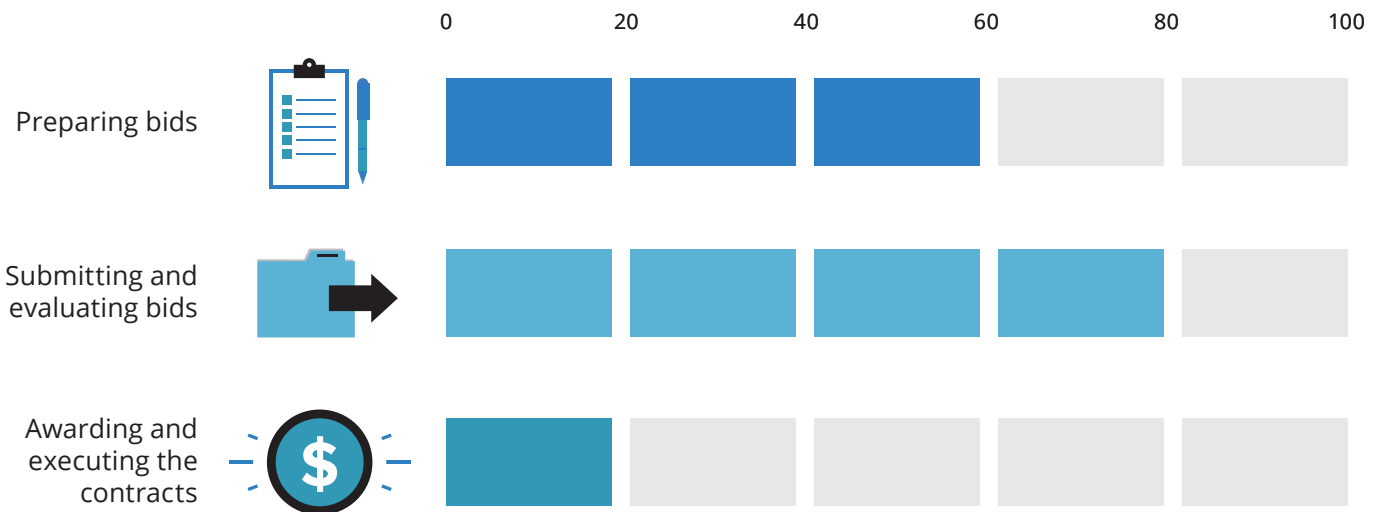
Complaint and reporting mechanisms



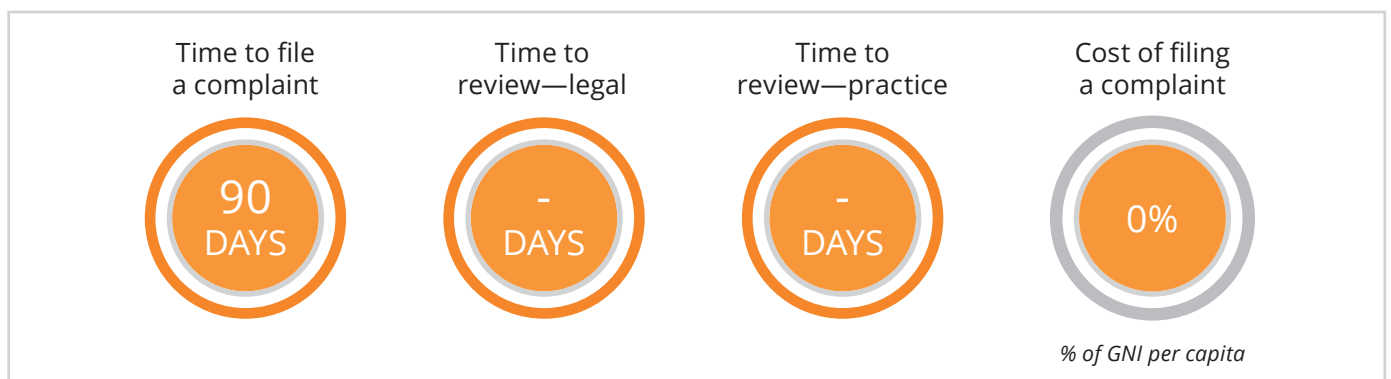
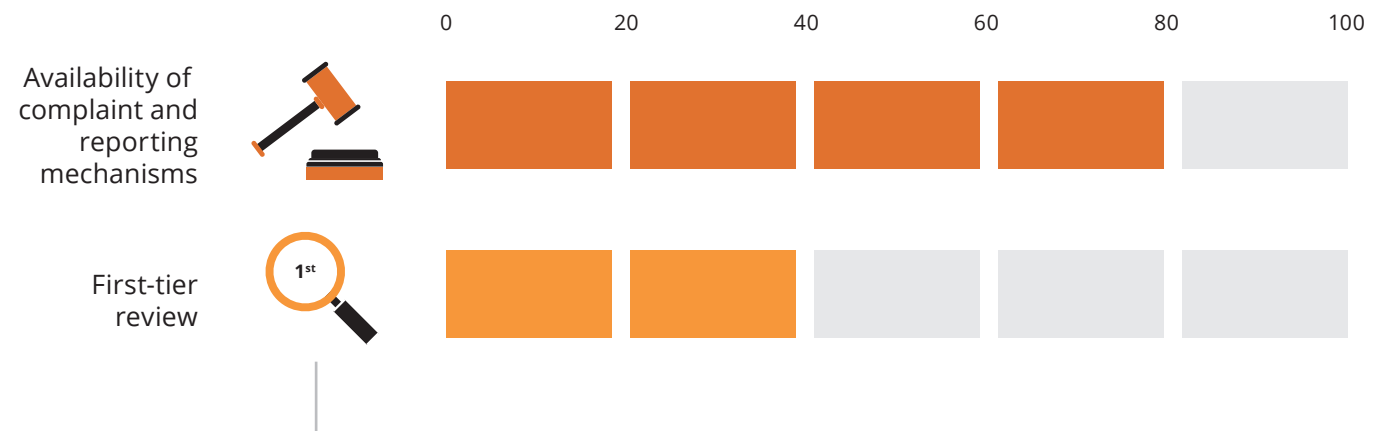
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East Asia and Pacific

The procurement life cycle



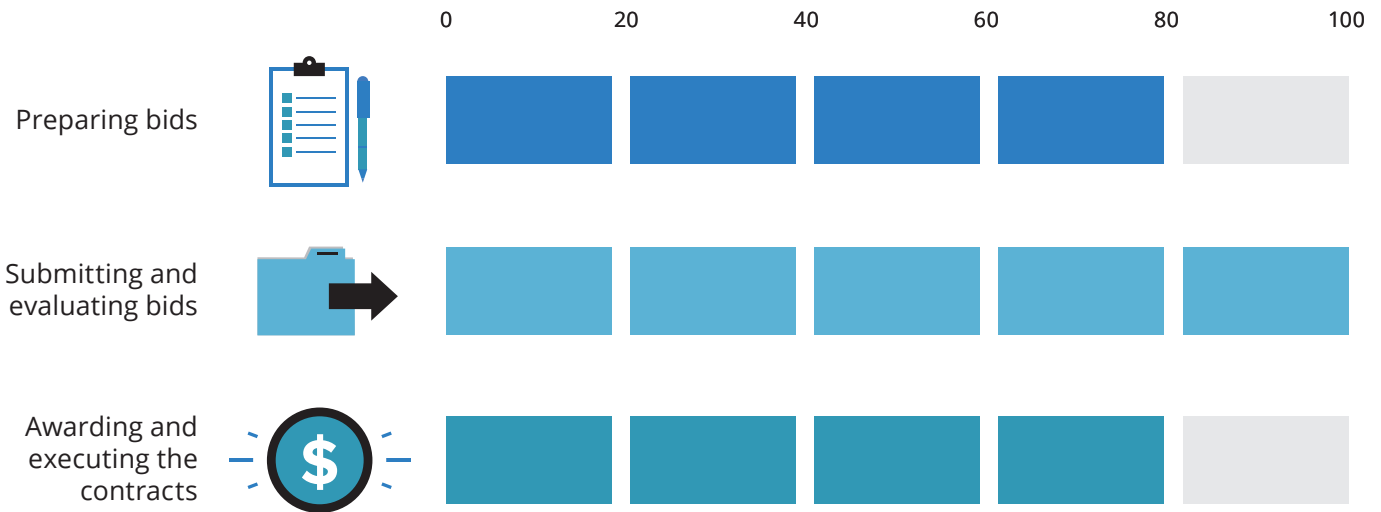
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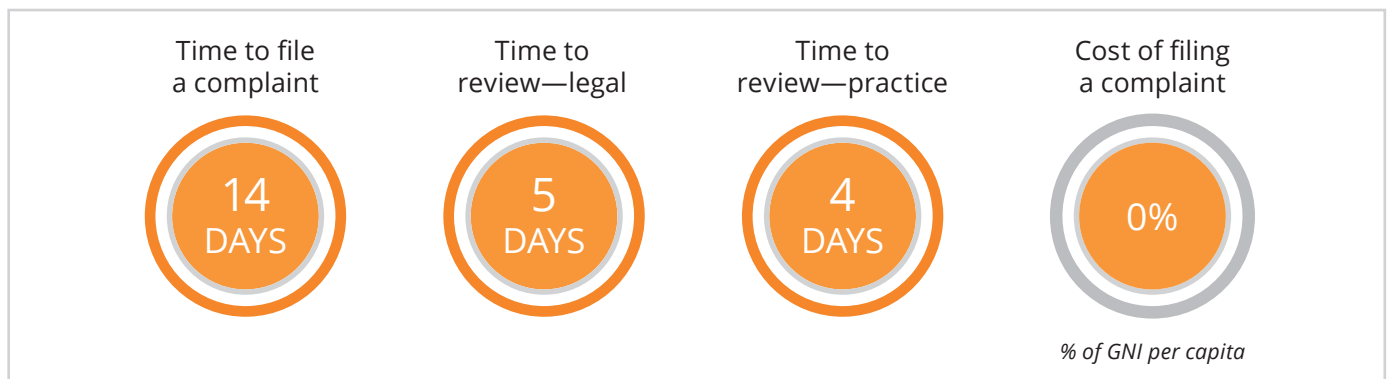
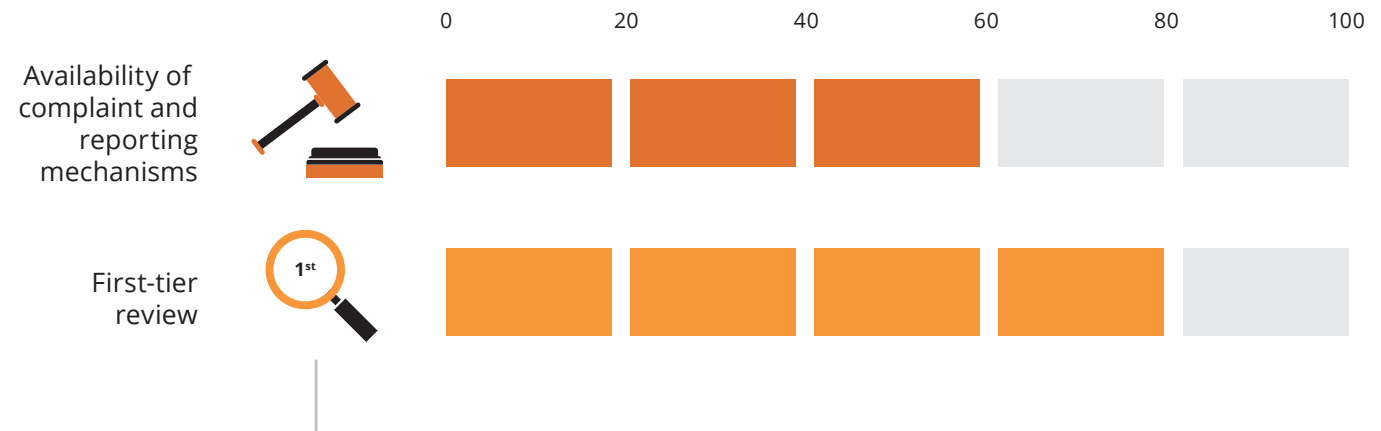
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Sub-Saharan Africa

The procurement life cycle



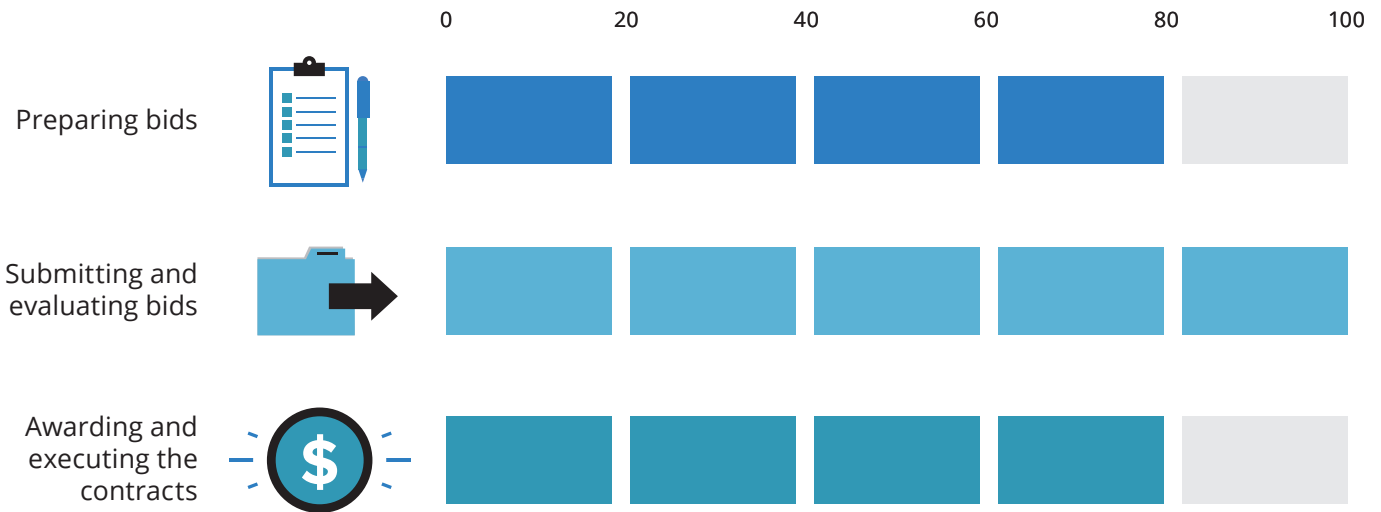
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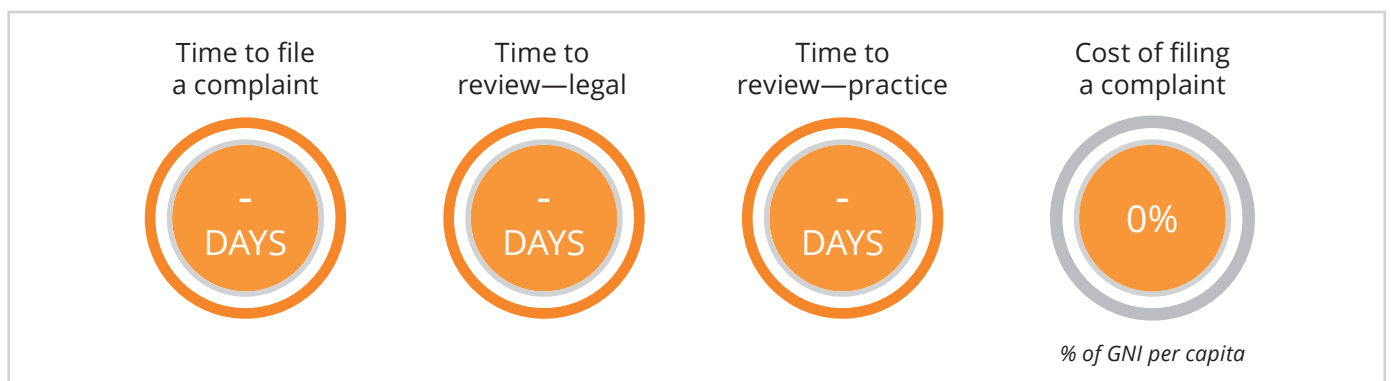
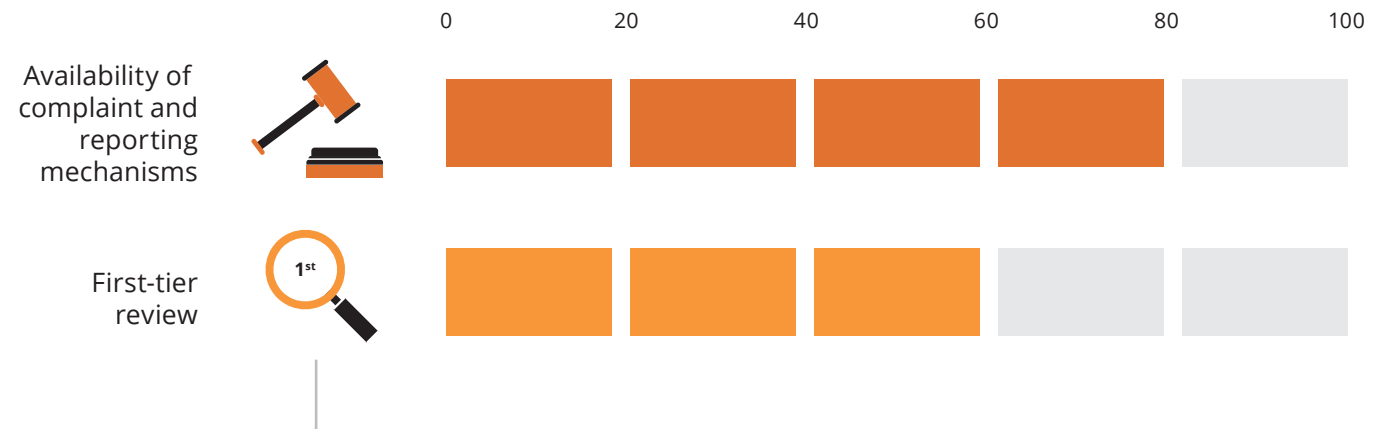
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Middle East and North Africa

The procurement life cycle



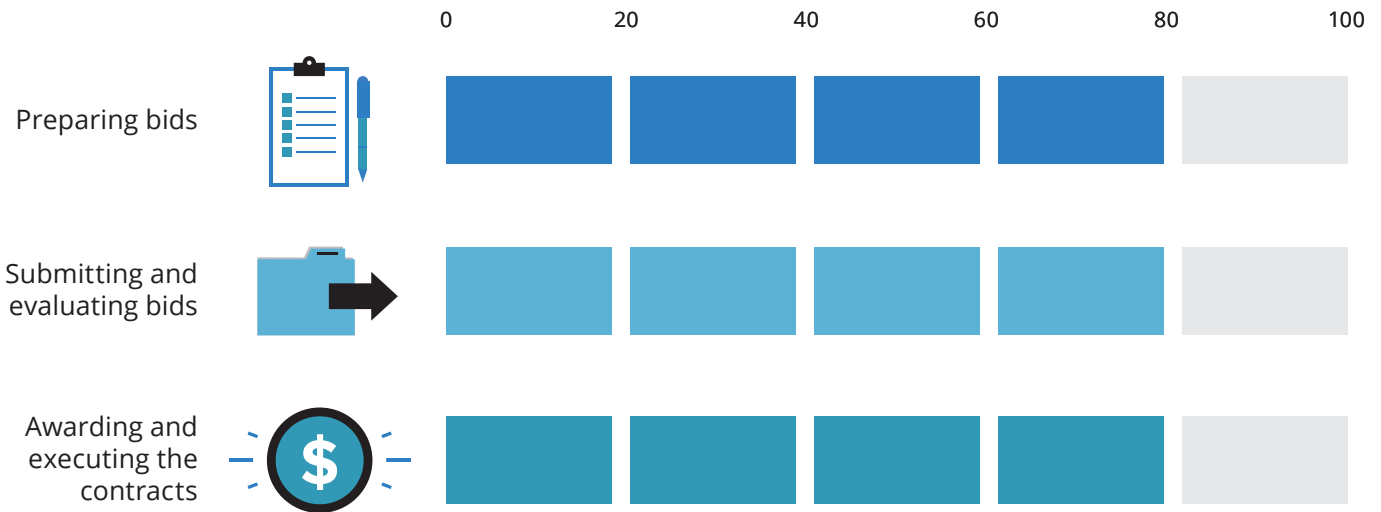
Complaint and reporting mechanisms



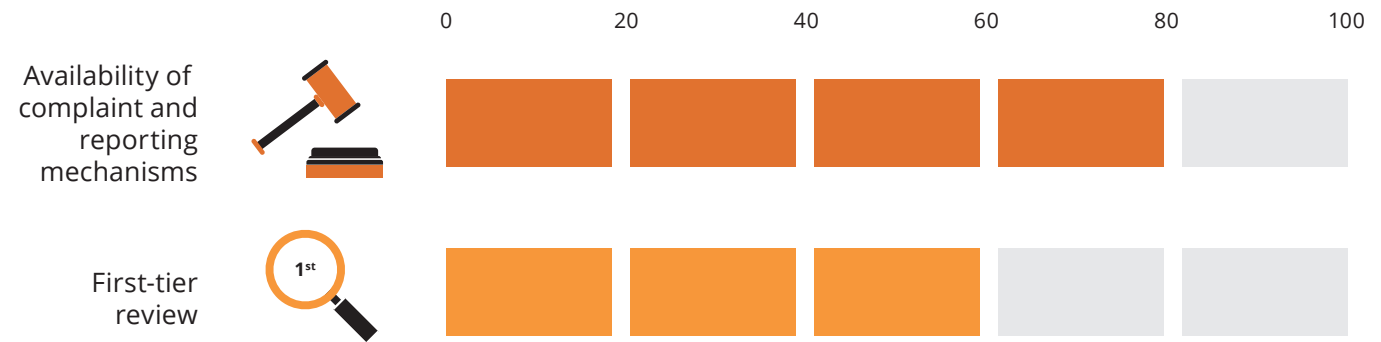
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Europe and Central Asia

The procurement life cycle

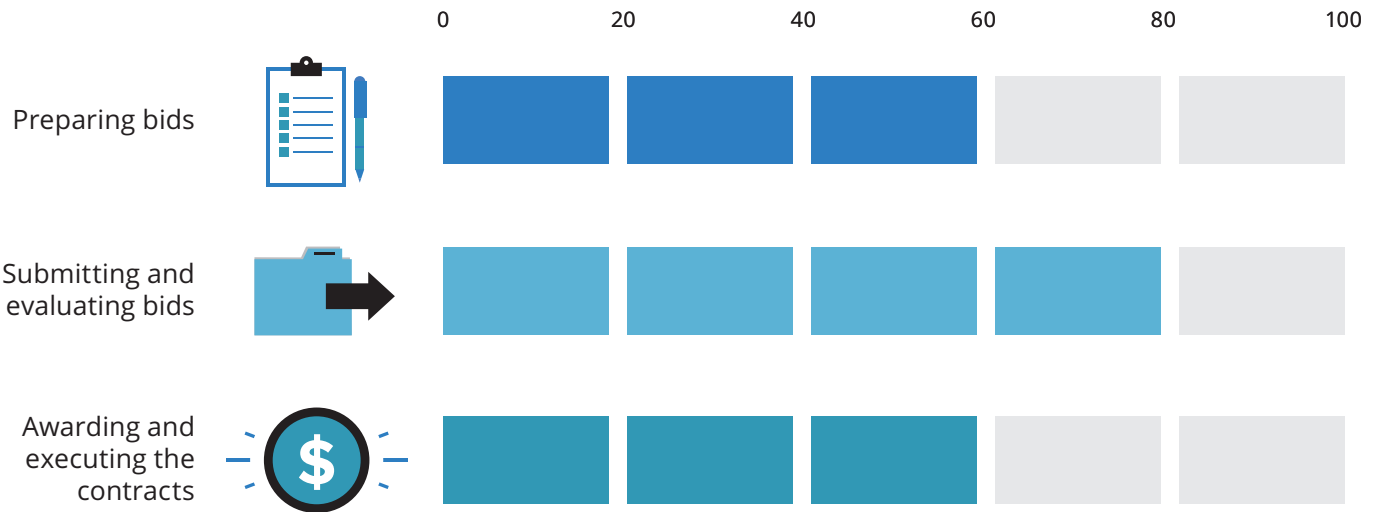


Complaint and reporting mechanisms

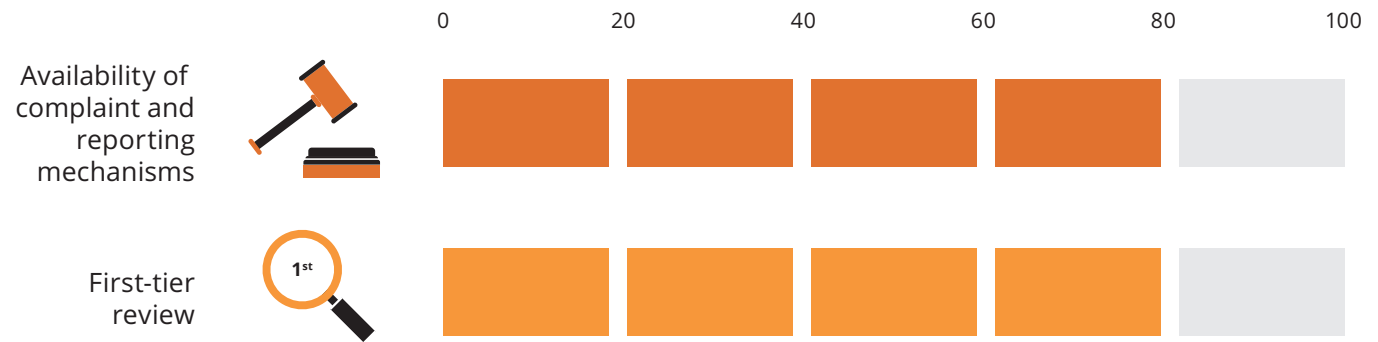


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The procurement life cycle



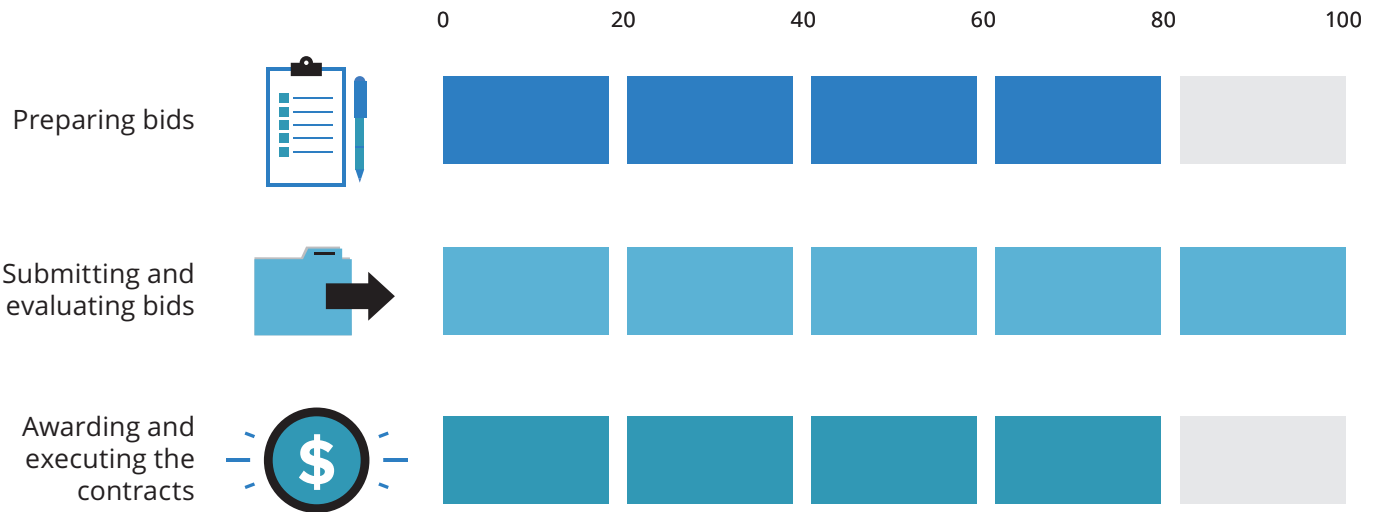
Complaint and reporting mechanisms



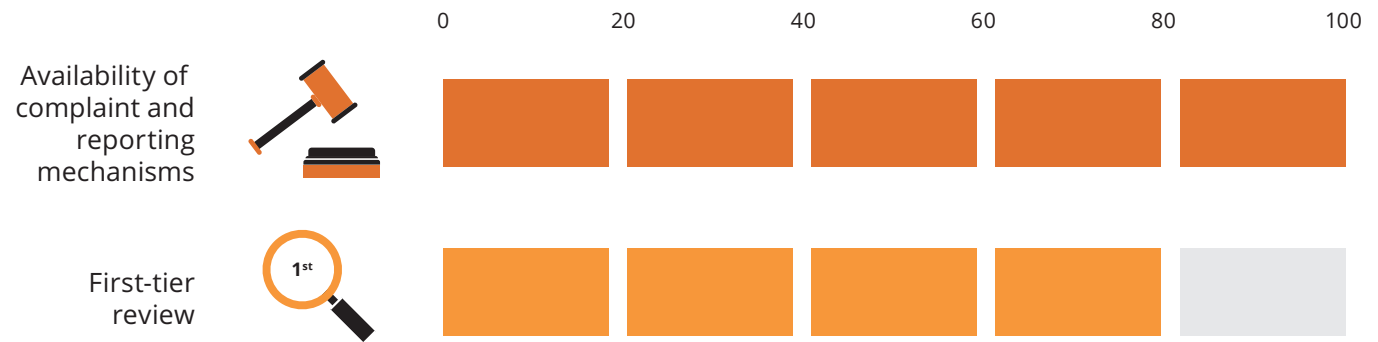
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Europe and Central Asia

The procurement life cycle



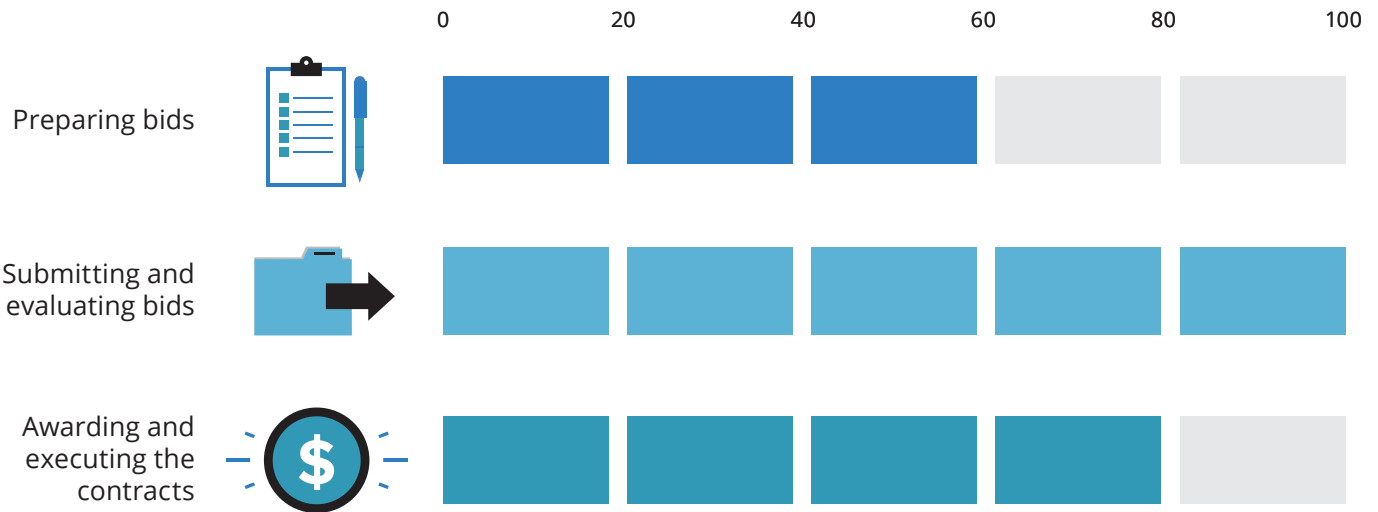
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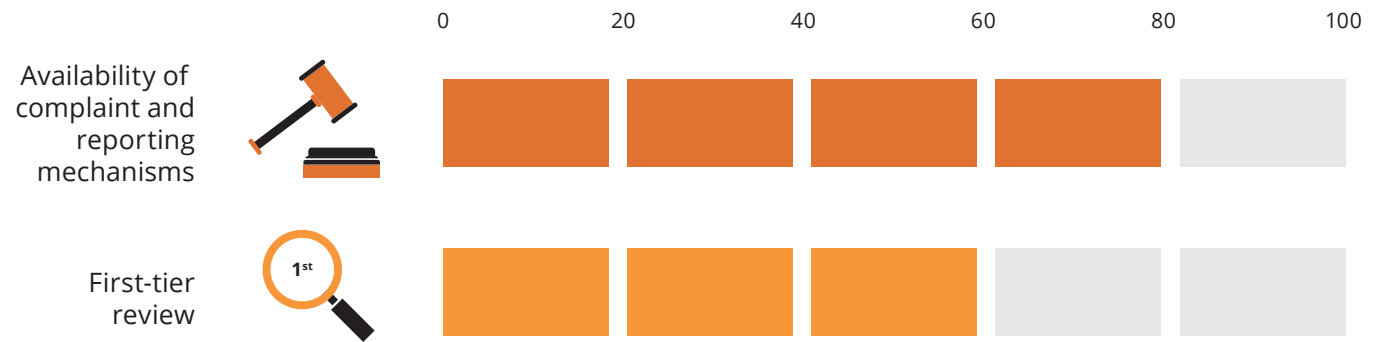
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High-income OECD

The procurement life cycle



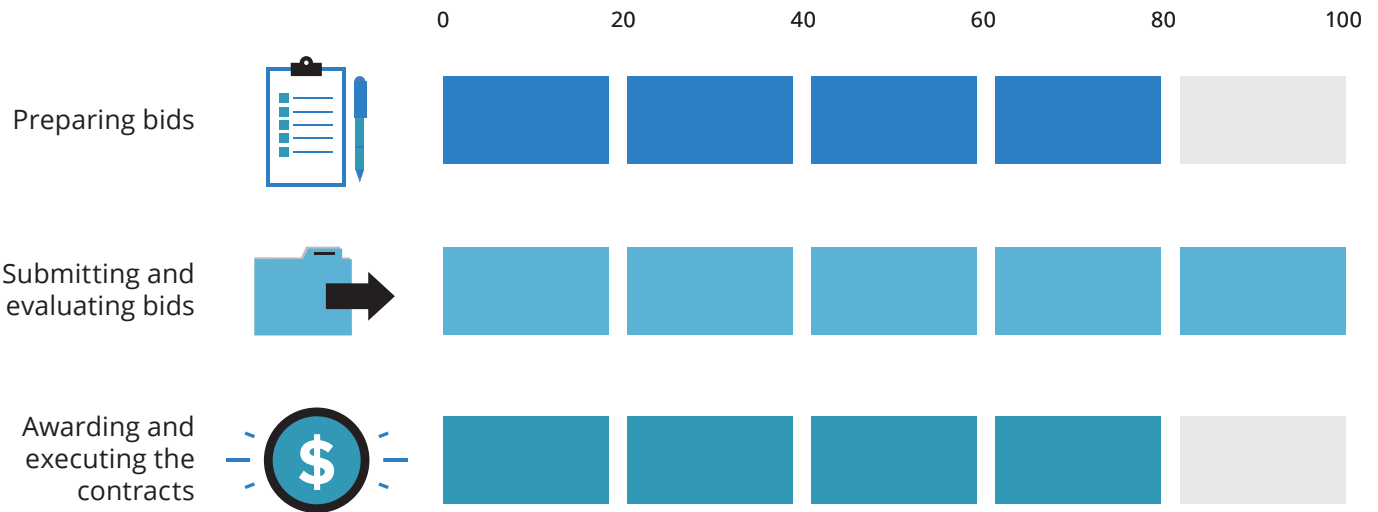
Complaint and reporting mechanisms



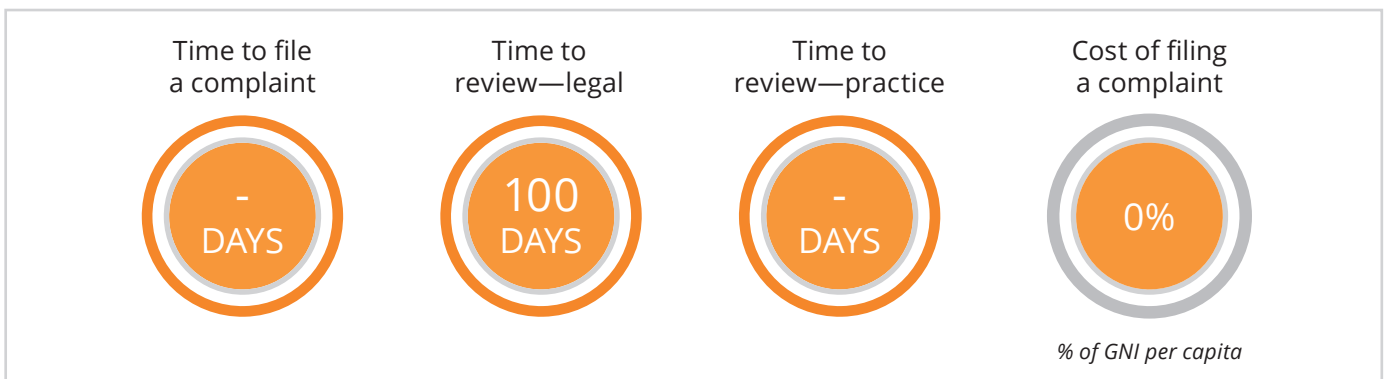
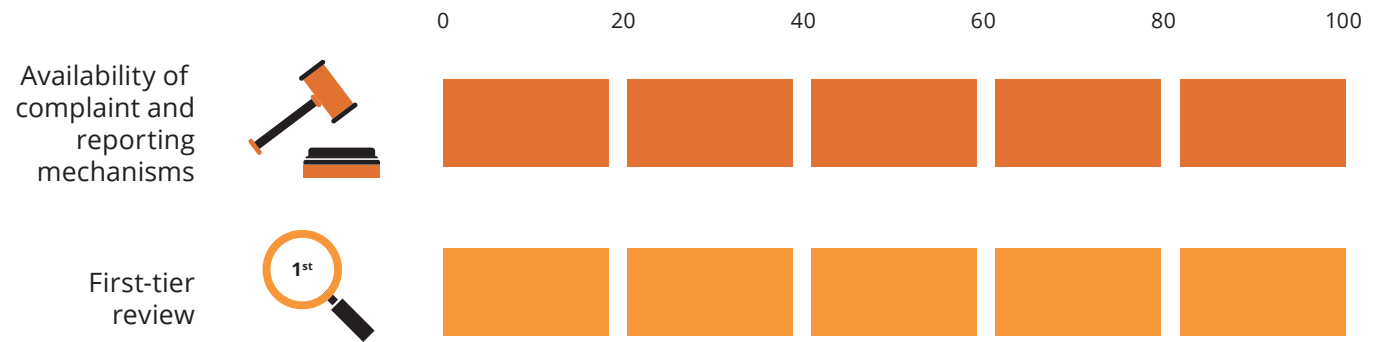
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High-income OECD

The procurement life cycle



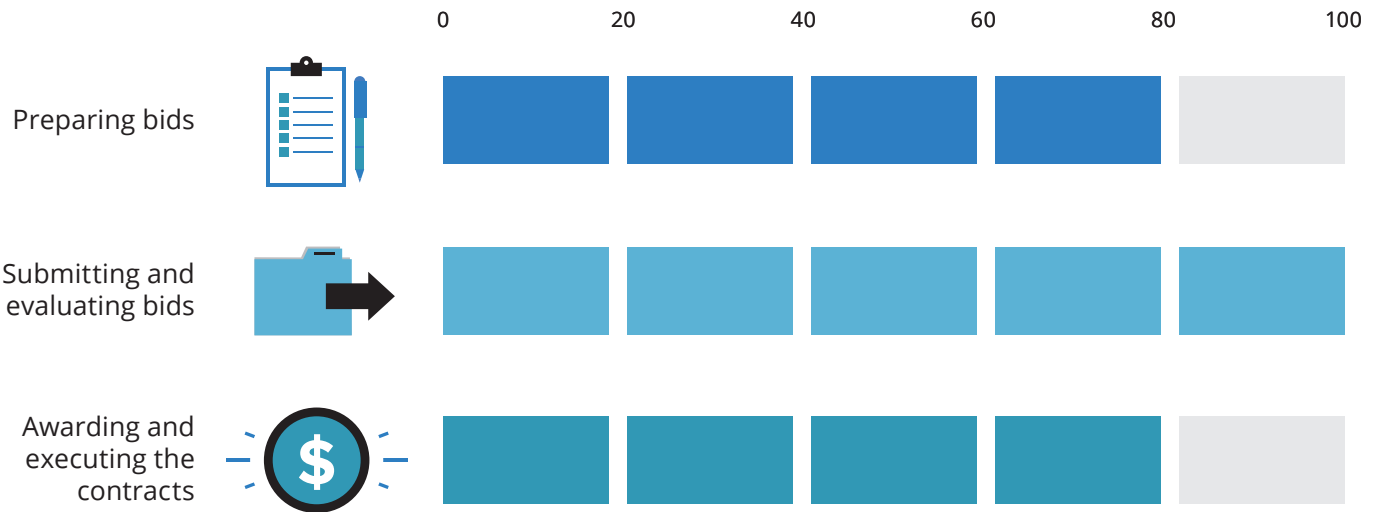
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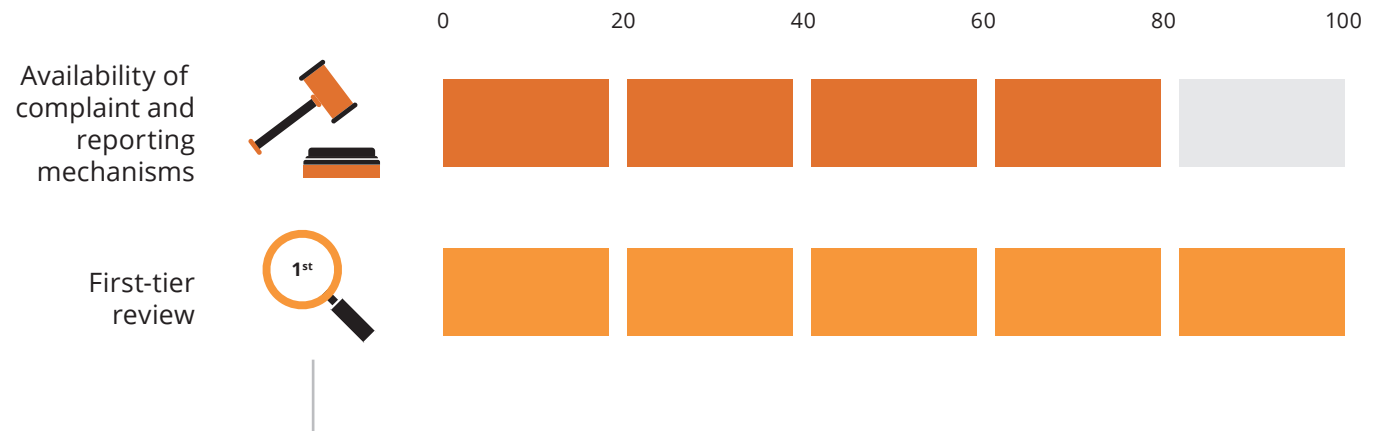
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Latin America and the Caribbean

The procurement life cycle



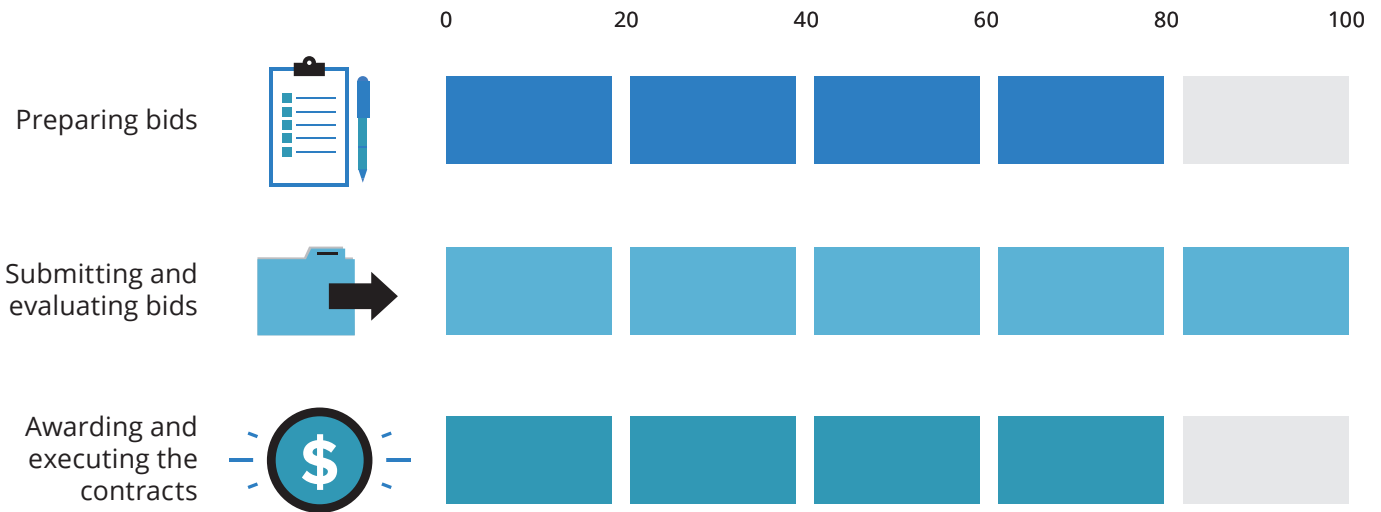
Complaint and reporting mechanisms



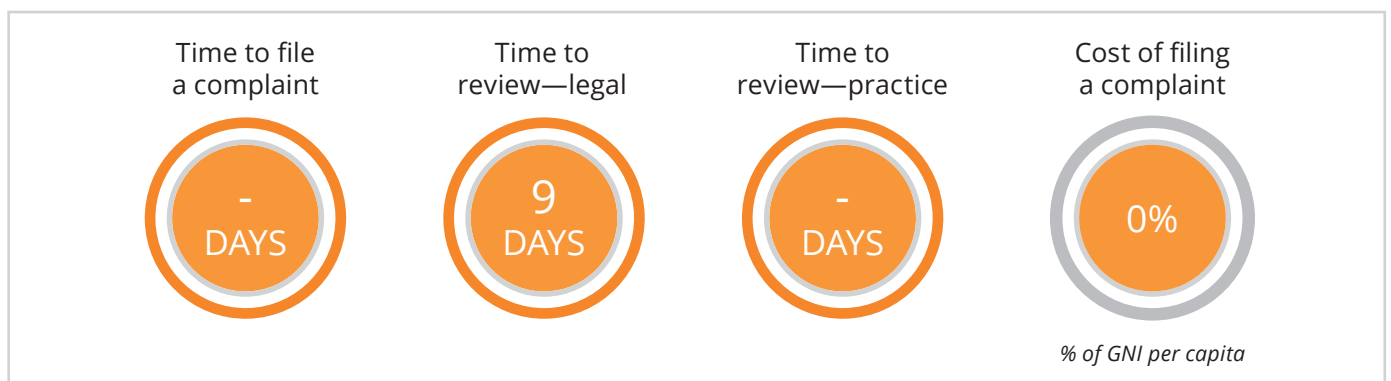
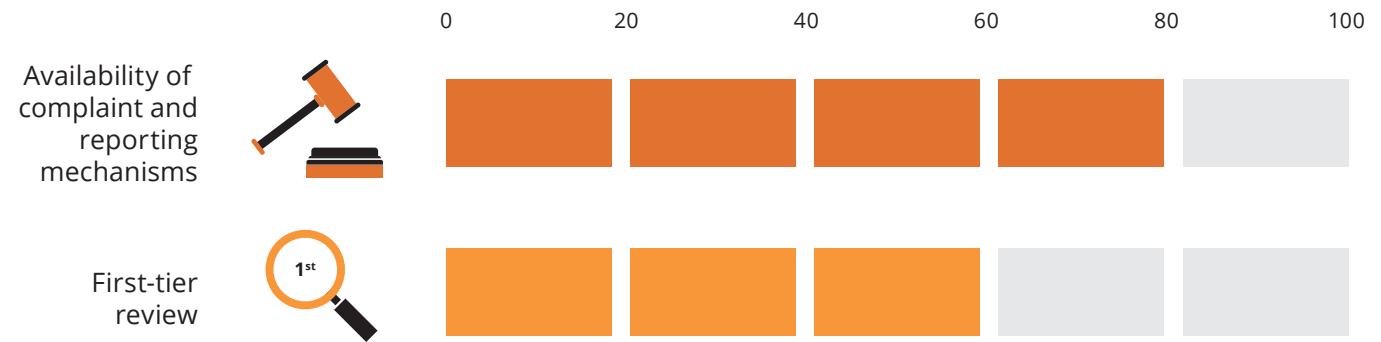
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East Asia and Pacific

The procurement life cycle



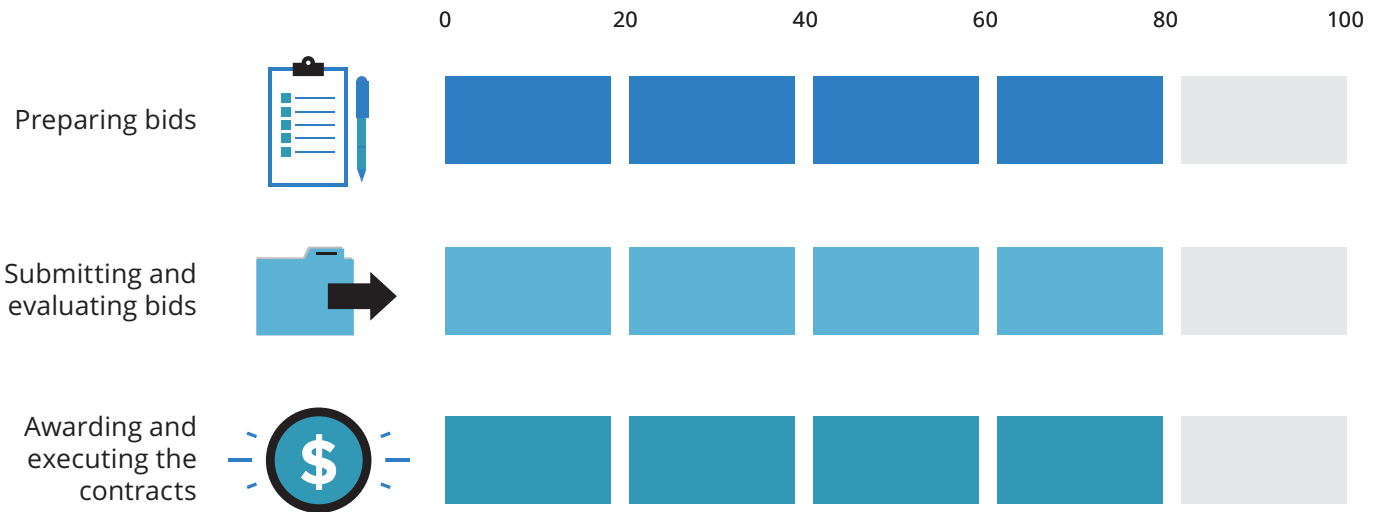
Complaint and reporting mechanisms



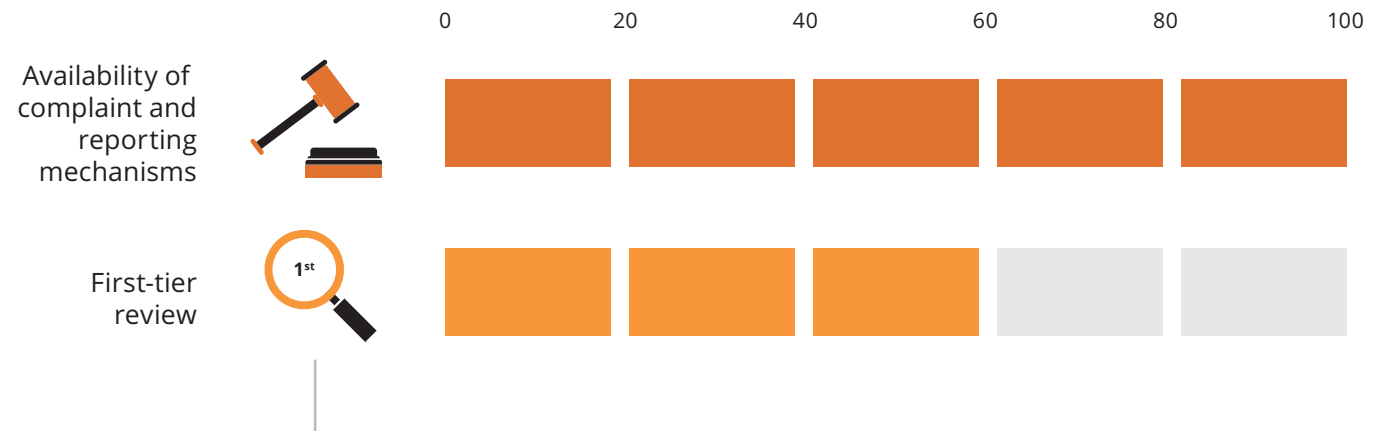
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Sub-Saharan Africa

The procurement life cycle



Complaint and reporting mechanisms



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Contributors

Afghanistan

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