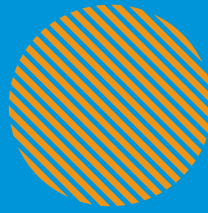


BENCHMARKING PUBLIC PROCUREMENT | 2017

ASSESSING PUBLIC PROCUREMENT REGULATORY SYSTEMS IN 180 ECONOMIES

EXECUTIVE SUMMARY





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Executive Summary

The public procurement market is vast, and the range of economic sectors it encompasses is as wide as the needs of governments to function properly and deliver services to their citizens. Governments turn to the private sector to supply goods and services to build schools, purchase hospital supplies, secure computer services in public buildings, renew a fleet of city buses, or construct a new road.¹

Despite the importance of the public procurement market, little effort has been made to systematically and consistently collect reliable statistics on a number of critical dimensions. To date, no attempt has been made to collect comparable statistics on the size of public procurement in economies around the world.² While data are publicly available for High-income economies, for the rest of the world, data and studies are scarce. However, public procurement is as important in developing countries as it is in advanced economies. Governments in developing countries are significant purchasers of good and services, and these markets represent huge opportunities to enhance competition and development. Low-income countries have the highest share of public procurement in their economies, at 14.5 percent of GDP, followed by upper-middle income countries, at 13.6 percent, as data from government sources or international development institutions indicate.

International statistics fall short in systematically and comparably capturing a number of other important dimensions of public procurement, including the regulatory and legal environment, risks and costs, quality and efficiency of service delivery, transparency and competition.

¹ World Bank 2016.

² Djankov, Islam, and Saliola 2016.



Benchmarking Public Procurement aims to fill some of these knowledge gaps. The 2017 report provides a comparative evaluation of legal and regulatory environments that affect the ability of private sector companies to do business with governments in 180 economies. *Benchmarking Public Procurement 2017* covers two thematic pillars: the procurement process, from needs assessment to the implementation of the procurement contract; and complaint review mechanisms. The indicators cover eight important areas:

Needs assessment, call for tender, and bid preparation:

The indicators assess the quality, adequacy, and transparency of the information provided by the procuring entity to prospective bidders.

Bid submission phase: The indicators examine the requirements that suppliers must meet in order to bid effectively and avoid having their bid rejected.

Bid opening, evaluation, and contract award phase:

The indicators measure the extent to which the regulatory framework and procedures provide a fair and transparent bid opening and evaluation process, as well as 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.

Content and management of the procurement contract:

The indicators focus on several aspects during the contract execution phase related to the modification and termination of the procurement contract, and the procedure for accepting the completion of works.

Performance guarantee: The indicators examine the existence and requirements of the performance guarantee.

Payment of suppliers: The indicators focus on the time and procedure needed for suppliers to receive payment during the contract execution phase.

Complaints submitted to the first-tier review body: The indicators explore the process and characteristics of filing a complaint before the first-tier review body.

Complaints submitted to the second-tier review body: The indicators assess whether the complaining party can appeal a decision before a second-tier review body and, if so, the cost and time spent and characteristics for such a review.

Data highlights

Payment delays. Delays in payment hinder participation by private firms in the public procurement process—especially small and medium enterprises (SMEs) that struggle with limited cash flow. Suppliers need to obtain payment in a timely and reliable fashion; otherwise, their liquidity and profits can be impaired, reducing economic growth. *Benchmarking Public Procurement* data show that the higher the income level, the fewer the number of days suppliers must wait to get paid. Delays average 30 to 60 days in 9 of the 32 high-income economies, while the remaining 23 ensure timely payments to suppliers. **Delays are still common across all regions, and payments are timely in only one-third of the economies measured.** For example, suppliers in the Dominican Republic, Equatorial Guinea, Gabon, Guinea-Bissau, Iraq, Trinidad and Tobago, and Vanuatu must wait more than six months to receive payment from purchasing entities.

Bid security deposits and performance guarantees. Bid security deposits ensure serious offers and guarantee that bidders will not withdraw their bids from the procurement process in an untimely manner. While there is no clear good practice as to the amount that should be requested, there is agreement that it should not be set so high as to hinder participation or so low as to allow frivolous offers. **Most economies have bid security and performance guarantee requirements, but they do not always regulate them.** In 32 economies where bid security is required by the legal and regulatory framework, there is no provision limiting the discretion of the procuring entity with regard to the amount, which may cause financial uncertainty and can be a burden for suppliers interested in bidding for a public tender. This is the case, for example, in Eritrea, Kiribati, the Federated States of Micronesia, and Myanmar. Similarly, when it comes to performance guarantees, only 77 economies provide the winning bidder with options regarding the form of performance guarantee.

Digitalization of the procurement process. Economies in all regions are implementing reforms to conduct the procurement process online. However, **a wide gap remains between economies that do not yet have an online portal dedicated to public procurement and other economies that have sophisticated e-procurement platforms that offer a range of services (and economies in between that offer limited information).** Twenty-six of the 180 economies measured, including Belize, Djibouti, Grenada, and Malawi, do not have an electronic portal specifically dedicated to

public procurement. The lack of such a portal means that suppliers may not have access to procurement opportunities and associated information. Disparities in information (information asymmetries) between the parties in a procurement process can give some parties an unfair advantage. Information and communications technology (ICT) tools can help close information gaps and curb such opportunistic behavior. The amount of information published on the internet differs across economies, even within the same geographical region. In Latin America and the Caribbean, for example, of 30 economies covered in the region, 3 do not publish any procurement-related information besides their procurement laws, while 13 make all procurement-related information available to suppliers.

Complaint mechanisms. The existence of a fair and transparent complaints mechanism bestows confidence in the procurement process because it increases the likelihood that the procurement will be carried out in a more impartial and transparent manner. **While disgruntled bidders should have the right to file a complaint at any stage of the procurement process (both before and after the award is granted), this possibility is not always built into the procurement process.** In 10 economies (Antigua and Barbuda, El Salvador, Eritrea, Indonesia, Iraq, Jordan, Peru, Qatar, Samoa, and the West Bank and Gaza), the legal framework does not even contemplate the possibility of

filing a complaint before a contract is awarded. Bidders must wait until the tendering process is concluded to protest any irregularity. This may limit the effectiveness of corrective measures that the review body can take.

Time needed to resolve complaints. Timely resolution of complaints, as well as the presence of legal time limits, increases the private sector's trust in the system and encourages its participation in public tendering. Not only must suppliers be confident that their complaints will be resolved without delay, but they should also be assured that their protest will be given an appropriate amount of time to be reviewed. **The time needed for review bodies to issue decisions differs greatly, ranging from 2 to 450 days. Moreover, the time needed for review decisions to be issued is not correlated with the income level of the economies.** Even in OECD high-income economies, delays occur. It can take as long as 360 days for review decisions to be rendered in Luxembourg, and 450 days in Ireland. Timeliness and efficient reviews are standard in 36 economies, half of which are in the Europe and Central Asia region, where review bodies generally abide by the time limits set by law.

Benchmarking Public Procurement 2017 presents comparative data across 180 economies on the areas covered above and more.



References

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