

EVOLUTION OF WORLD BANK COUNTRY SYSTEMS PROPOSALS, 2005-2007

[SEQUENTIAL]

***INCREASED USE OF COUNTRY SYSTEMS IN PUBLIC PROCUREMENT***

**(Withdrawn 2005)**

Green arrows denote upgrading of a given sub-indicator from the Country Systems Proposal of 2005 to that of 2007

Green text indicates substantive improvements

Orange arrows indicate that importance is the same in both years

Orange text indicates nonsubstantive changes in language or substance

Red arrows denote downgrading of a given sub-indicator from 2005 to 2007

Red text indicates substantive deterioration

***DETAILED METHODOLOGY FOR PROCUREMENT COUNTRY SYSTEMS PILOTING PROGRAM***

**(Proposed 2007)**

*Italics denote the components or standard absolutely required to pass a given sub-indicator.*

**2005 Rating**

**“Mandatory” Sub-Indicators**

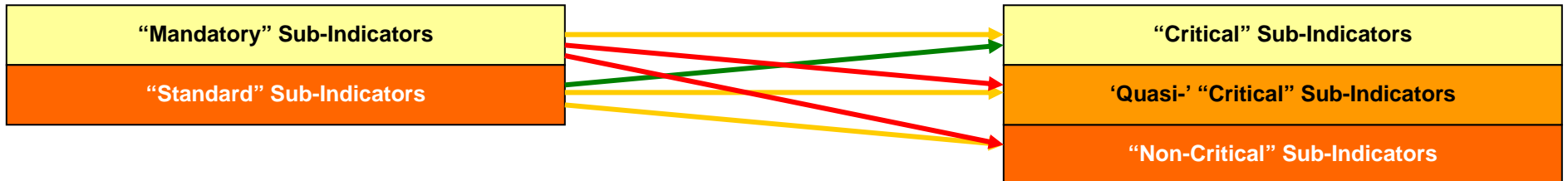
**“Standard” Sub-Indicators**

**2007 Rating**

**“Critical” Sub-Indicators**

**‘Quasi-’ “Critical” Sub-Indicators**

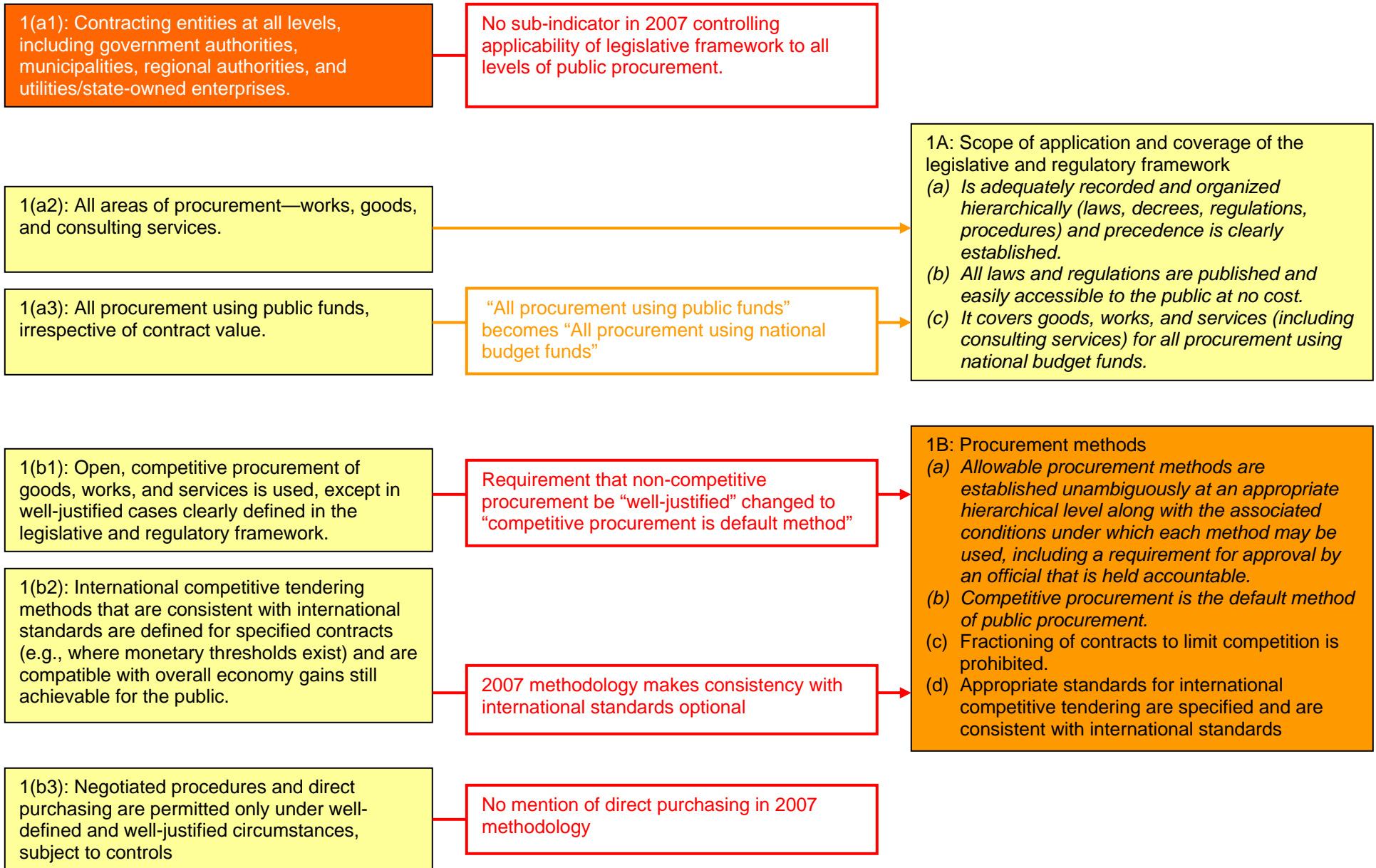
**“Non-Critical” Sub-Indicators**



## 2005 Country Systems Proposal

## Evolution

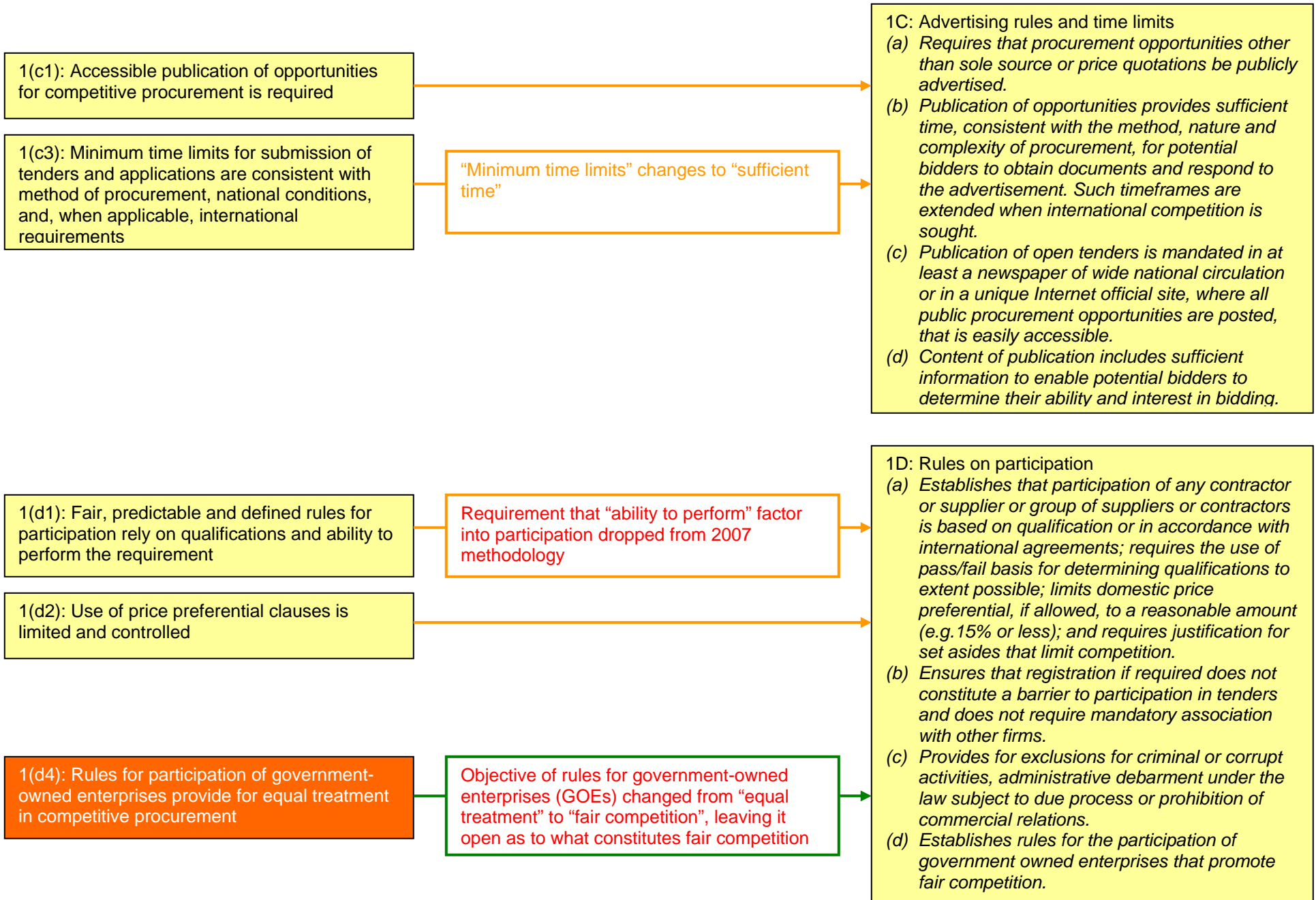
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

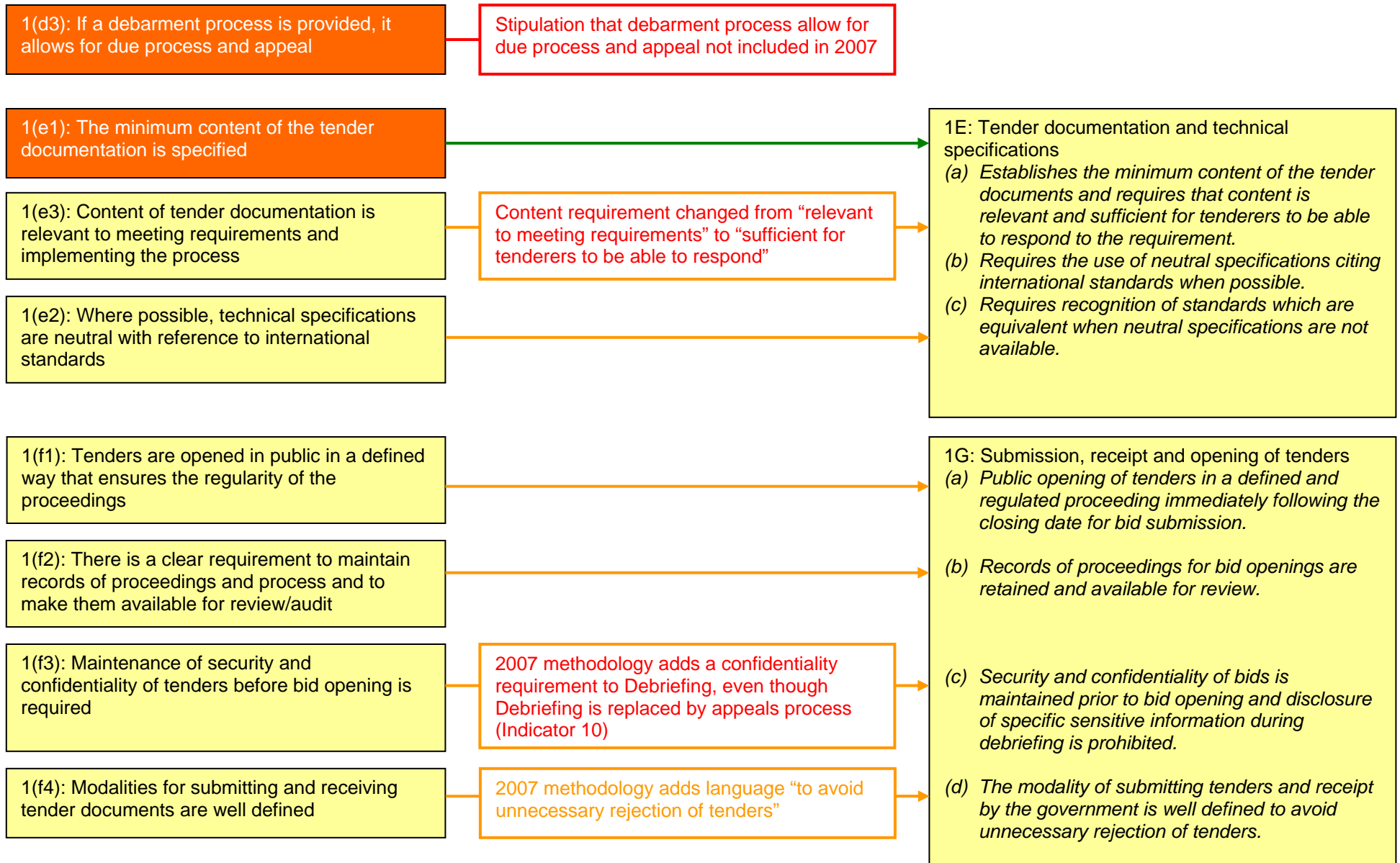
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

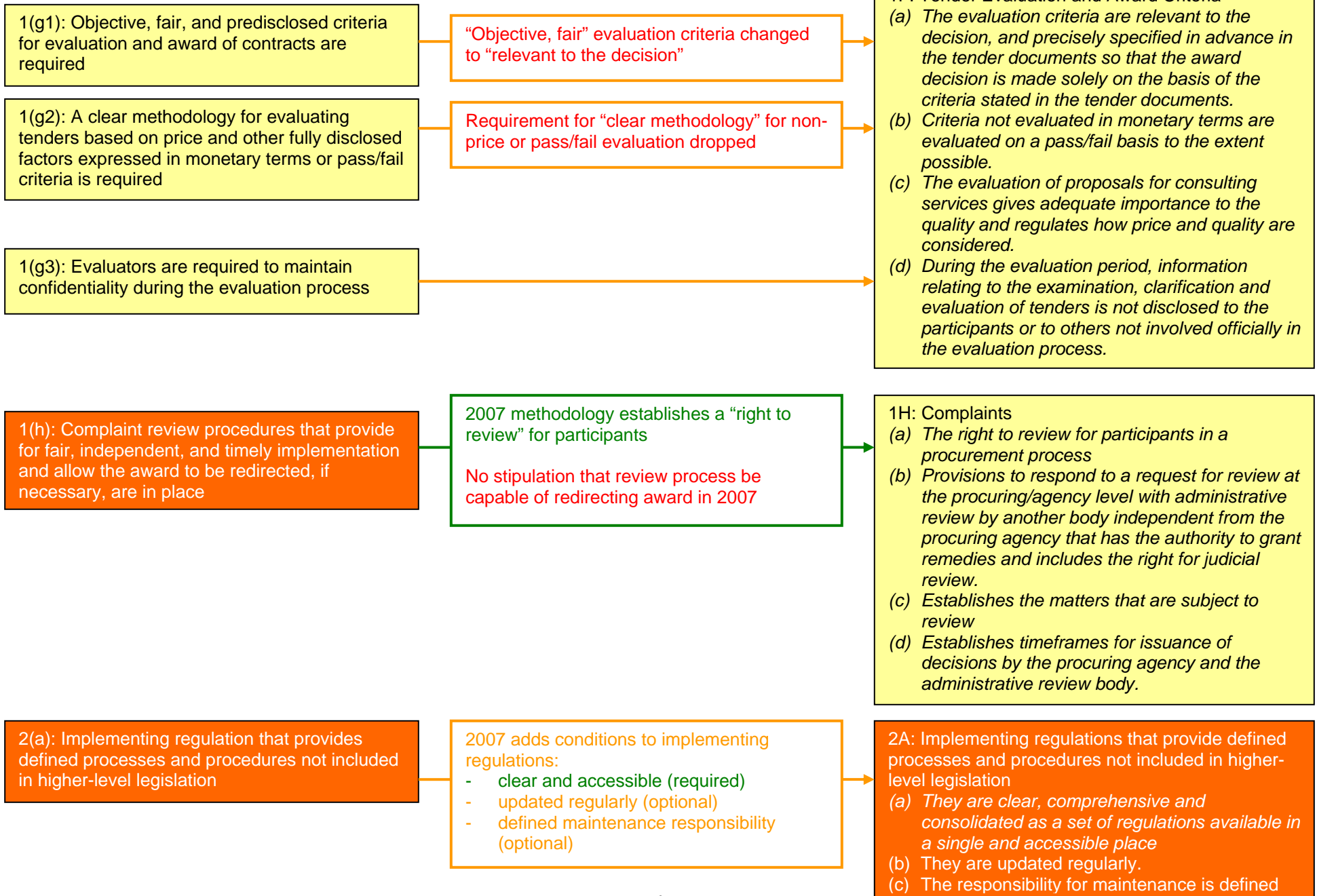
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

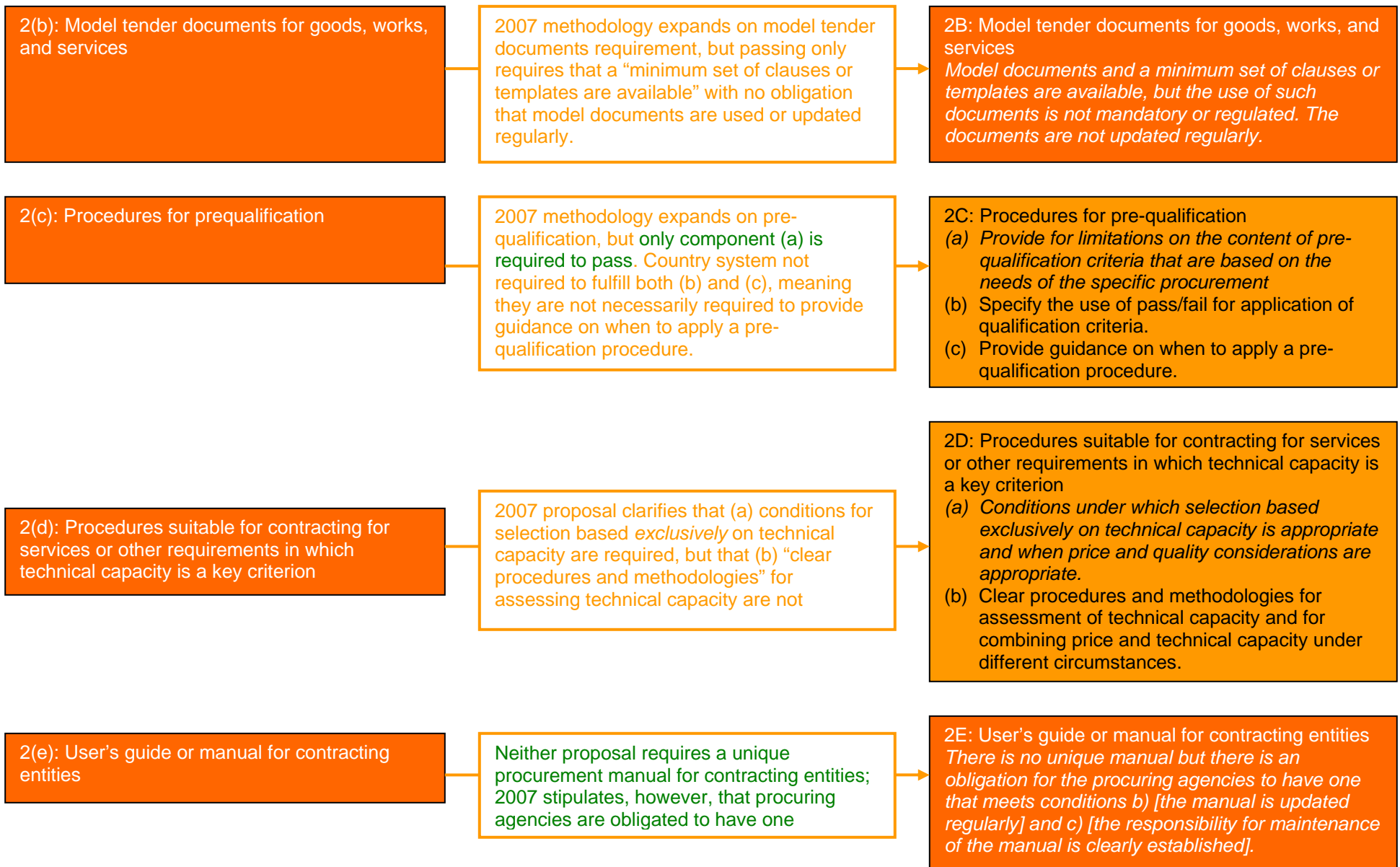
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

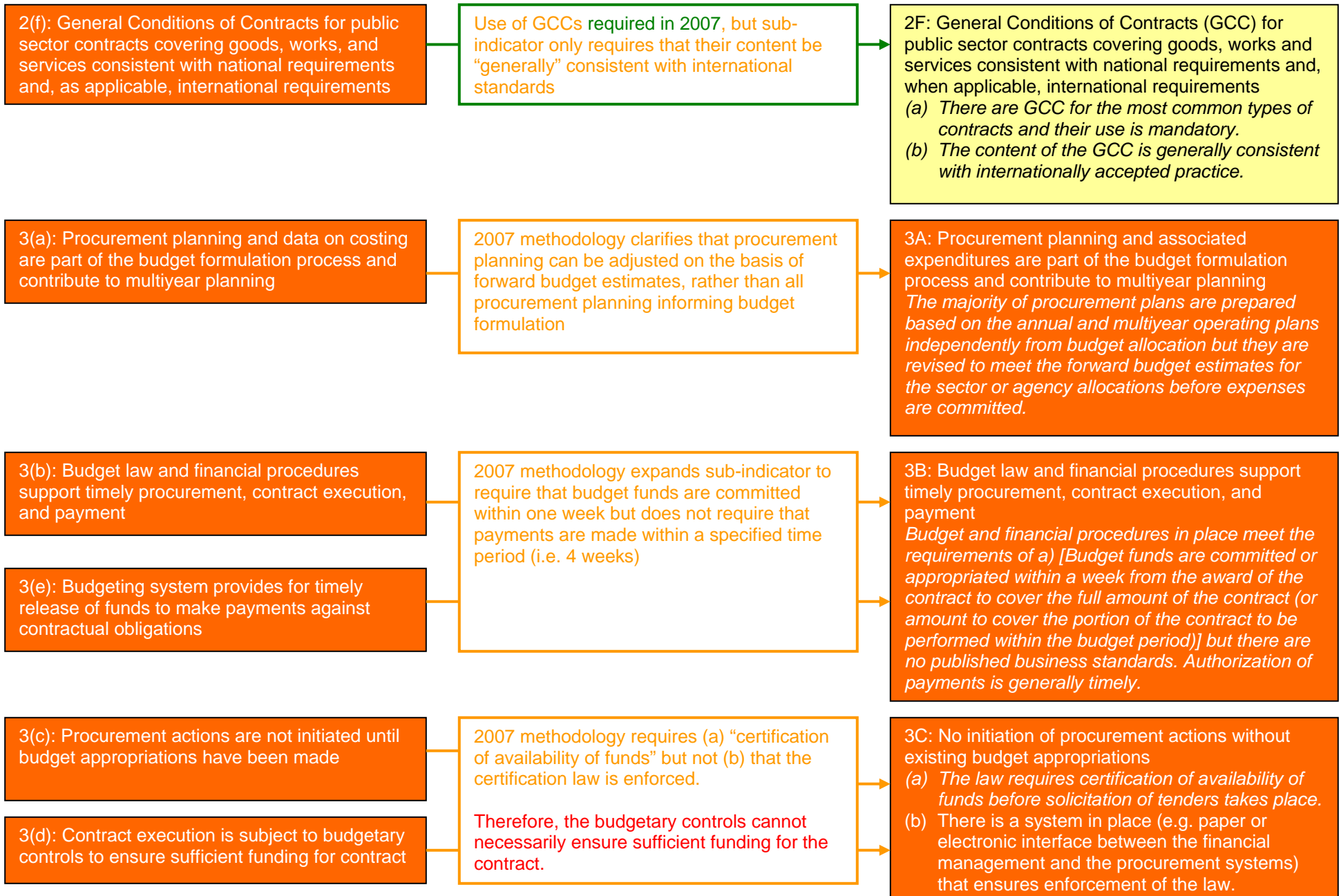
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

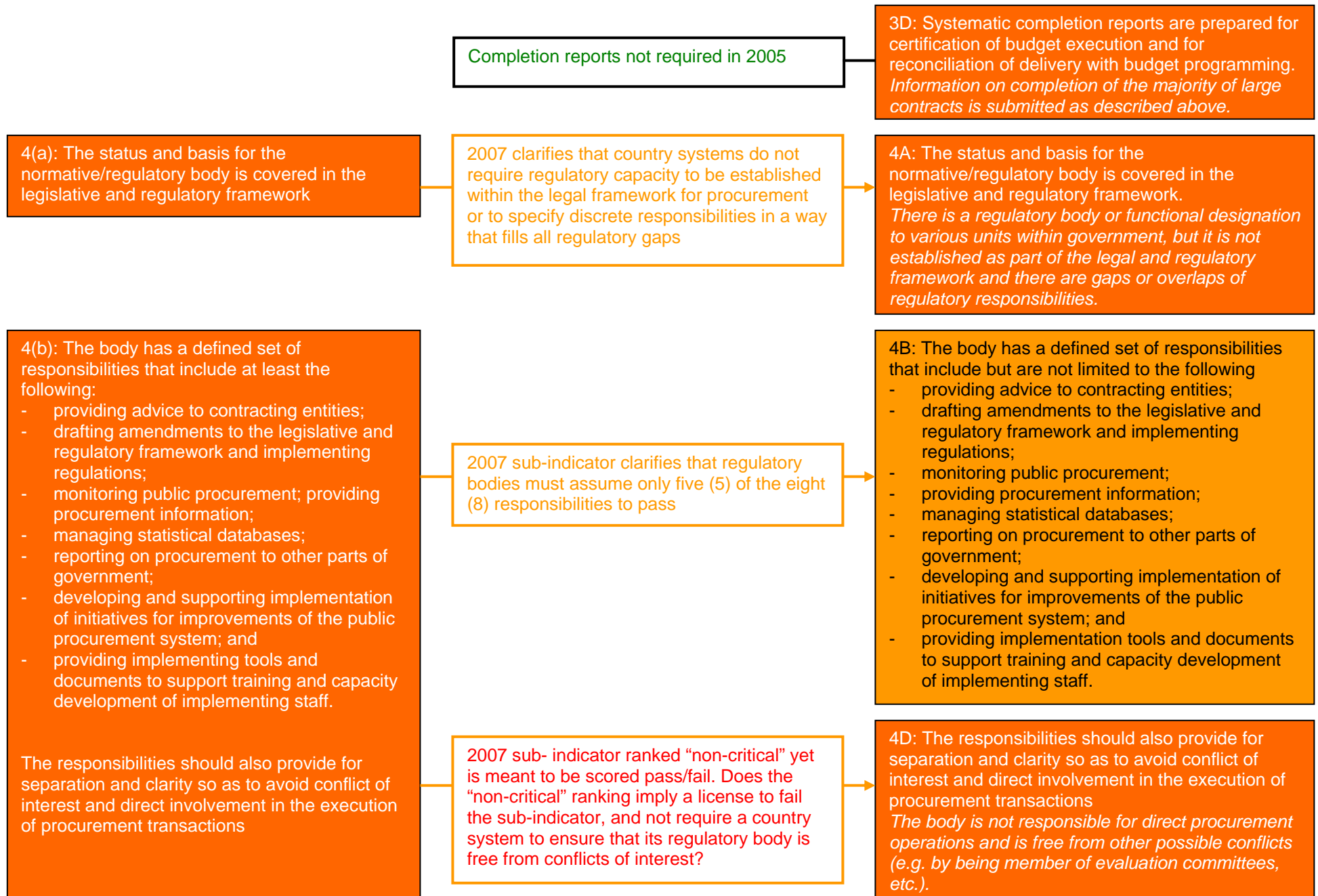
## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

4(c): The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities

2007 sub-indicator clarifies that funding for a country system's regulatory body may be "subject to administrative decisions" and "changed easily"

4C: The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities  
*The body is at an adequate level but financing is subject to administrative decisions and can be changed easily.*

5(a): The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information

2007 sub-indicator clarifies that integrated information system be both up-to-date and accessible at "no or minimum cost"

5A: The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information.  
*There is an integrated information system that provides as a minimum, up-to-date information as described above and is easily accessible to all interested parties at no or minimum cost.*

1(c2): Publication of the results of contract awards based on defined thresholds is required

*Responsibility for its management and operation is clearly defined.*

5(b): The country should have a sustainable strategy to provide training, advice, and assistance to help government and private sector participants understand what the rules and regulations are and how they should be implemented

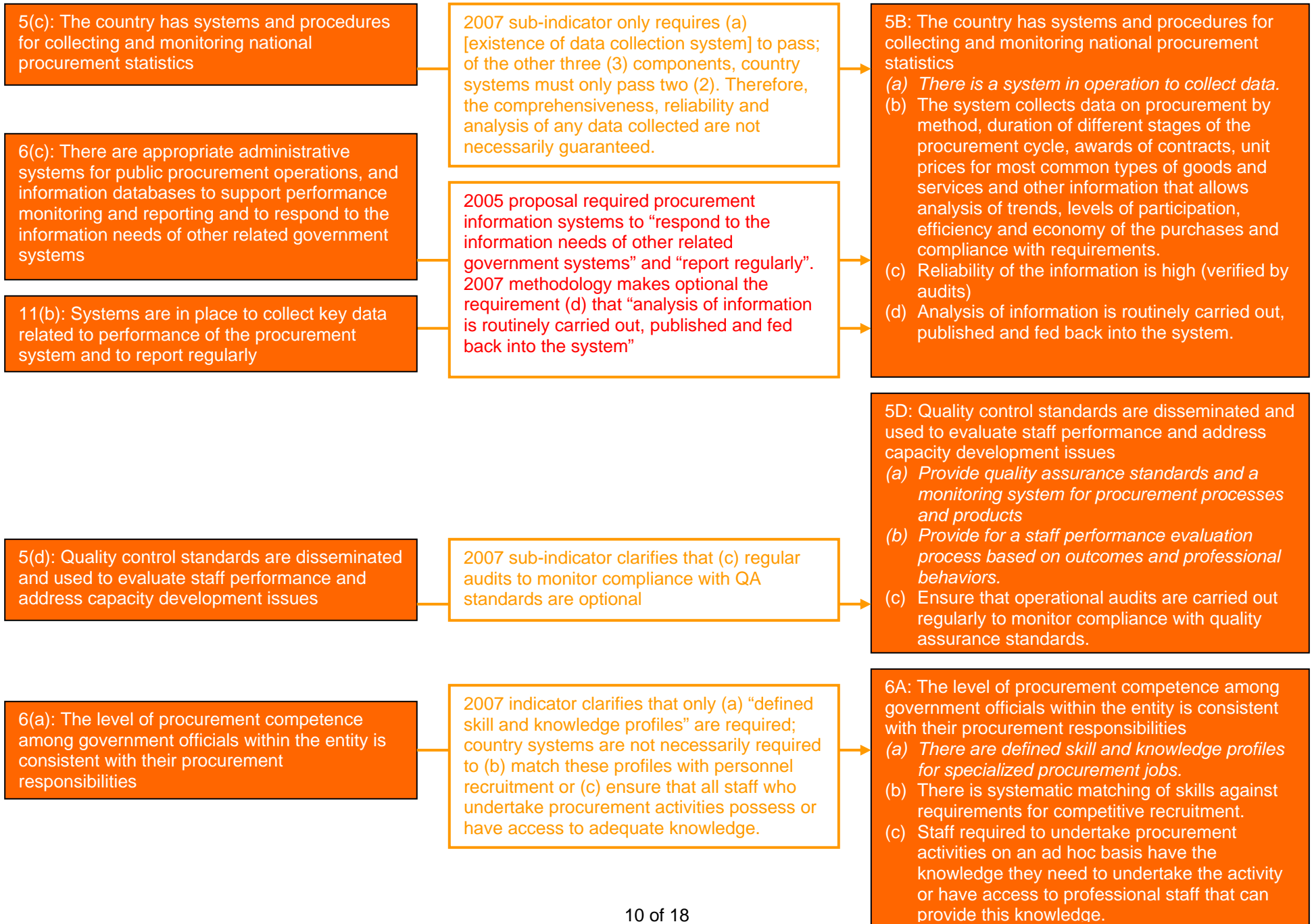
2007 sub-indicator clarifies that only (a) training programs are required for country systems; (b) an information service open to "procuring entities, suppliers, contractors and the public" is not required, nor is (c) "evaluation and periodic adjustment" of the country system's strategy and training capacity

5C: A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented  
(a) *Substantive permanent training programs of suitable quality and content for the needs of the system.*  
(b) Evaluation and periodic adjustment based on feedback and need.  
(c) Advisory service or help desk to absolve questions by procuring entities, suppliers, contractors and the public.

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology



## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

6(b): The procurement training and information programs for government officials and for private sector participants are consistent with demand

2007 sub-indicator clarifies that country systems can pass despite there being “few information programs for [the] private sector”

6B: Procurement training and information programs for government official and private sector participants are consistent with demand  
*The training programs are sufficient in terms of content and frequency (waiting time) for government participants but there are few information programs for private sector.*

6(e): There are established norms for the safekeeping of records and documents related to transactions and contract management

2007 expands detail of sub-indicator to stipulate the types of records that should be retained and qualify how the document retention policy is determined (viz. compatible with statute of limitations on fraud and corruption investigations).

However, it does not require that the document retention policy conform to international norms; an inadequate statute of limitations might preclude some fraud and corruption investigations.

6C: There are established norms for the safekeeping of records and documents related to transactions and contract management  
*(a) The legal/regulatory framework establishes a list of the procurement records that must be kept at the operational level and what is available for public inspection, including conditions for access.*

11(c): Records are maintained to validate data

2007 sub-indicator clarifies the types of records the maintenance of which should be established in the legal/regulatory framework

*(b) The records should include: Public notices of bidding opportunities, Bidding documents and addenda, Bid opening records, Bid evaluation reports, Formal appeals by bidders and outcomes, Final signed contract documents and addenda and amendments, Claims and dispute resolutions, Final payments, and Disbursement data (as required by the country's financial management system).*  
*(c) There is a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles.*  
*(d) There are established security protocols to protect records either physical or electronic.*

6(f): There are provisions for delegating authority to others who have the capacity to exercise responsibilities

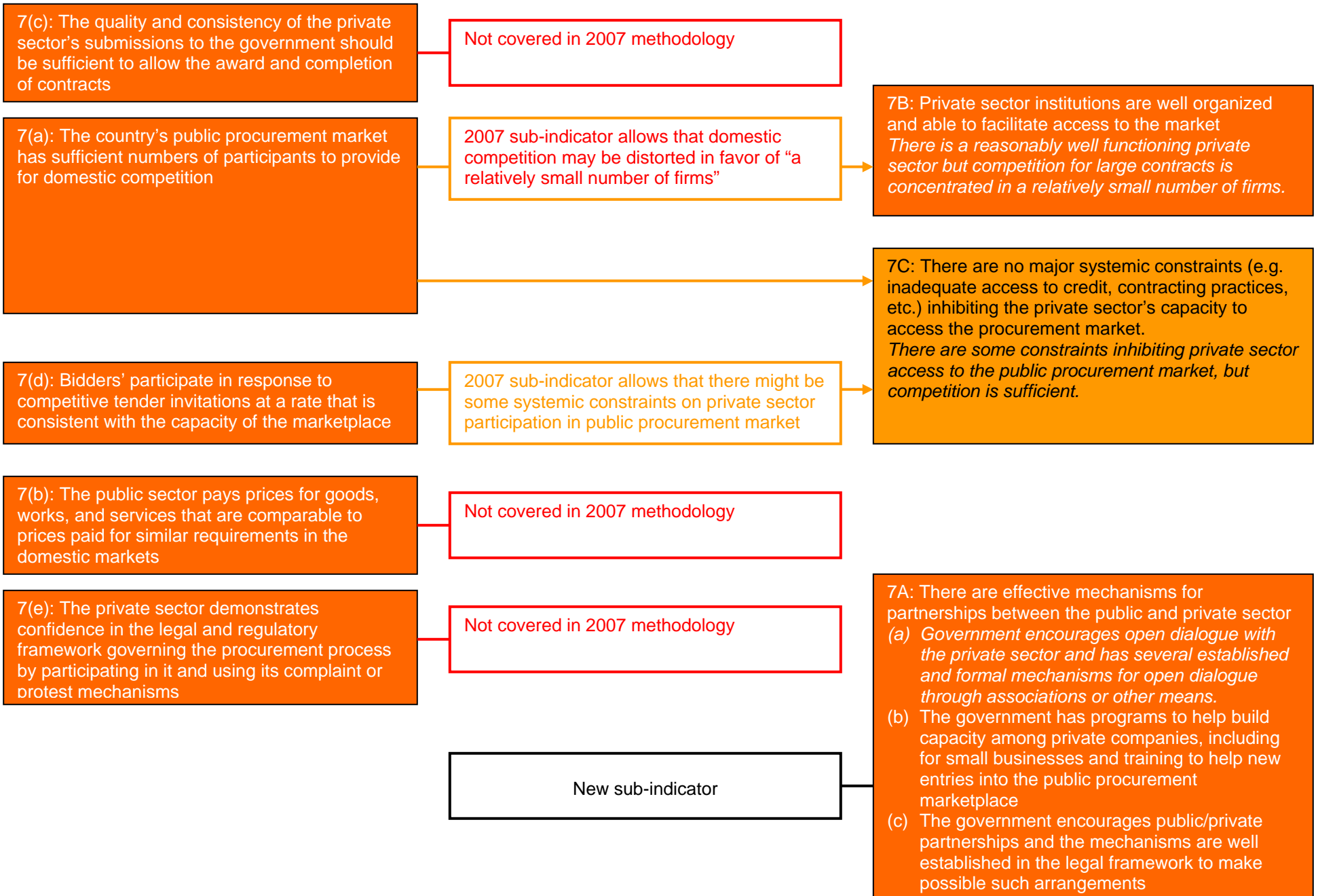
2007 sub-indicator clarifies that country systems may exhibit concentrated decision-making that introduces “congestions and delays” into the country's procurement system

6D: There are provisions for delegating authority to others who have the capacity to exercise responsibilities  
*The law establishes delegation and accountabilities but the system concentrates decisions at a high level creating congestions and delays.*

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology



Sub-indicator inexplicably excluded from OECD/DAC v. 4 methodology and not accounted for in World Bank 2007 methodology

7D: There exist clear and transparent rules for determining whether to conduct international or national bidding, based on a sound appreciation of the commercial and development stakes

- (a) The country has clear rules for determining when to conduct international or national bidding
- (b) The country regulations, when it makes a call for foreign bidding, conform to best practices and do not create barriers
- (c) The country regulations permit the participation of all interested firms, even when not making a call for international competition, in line with the legal obligations of the country

8(a): Clearly defined procedures for undertaking contract administration responsibilities include efficient and streamlined inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner

2007 sub-indicator drops language that inspection and acceptance procedures be "efficient and streamlined"

2007 sub-indicator requires that procedures are part of regulatory framework or are inserted as standard clauses in contracts, that QC procedures are "well defined" and carried out by "competent officers...firms or...facilities" and that final payments are processed promptly.

8A: Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner

- (a) *Procedures for acceptance of final products and for issuance of contract amendments are part of the legal/regulatory framework or are incorporated as standard clauses in contracts.*
- (b) *Clauses are generally consistent with internationally accepted practices (see IFI standard contracts for good practice examples).*
- (c) *Quality control (QC) procedures for goods are well defined in the model contracts/documents or in the regulations. QC is carried out by competent officers, inspection firms or specialized testing facilities.*
- (d) *Supervision of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors.*
- (e) *Final payments are processed promptly as stipulated in the contract.*

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

8(b): Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract

2007 sub-indicator details that dispute resolution procedures conform to an arbitration law and that international arbitration is used for cases involving international competitive bidding. ADR provisions required to conform to international standard wording

8B: Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract

- (b) *There is an Arbitration law in the country.*
- (c) *The law is consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability.*
- (d) *The country accepts as a matter of course international arbitration for international competitive bidding.*
- (e) *Provisions for Alternative Dispute Resolution (ADR) are standard in contracts.*
- (f) *ADR provisions conform to the international standard wording (may refer to IFI standard bidding documents for sample of good international practice).*

8(c): Procedures exist to enforce the outcome of the dispute resolution process

2007 sub-indicator requires that countries belong to UNCITRAL "Convention on the Recognition and Enforcement of Foreign Arbitral Awards" (the New York Convention).

Clarifies that enforcement of dispute resolution occurs through the courts, but provides no explicit recourse to external bodies for dispute enforcement.

8C: Procedures exist to enforce the outcome of the dispute resolution process

- (a) *The country is a member of the New York Convention on enforcement of international arbitration awards.*
- (b) *The country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts.*
- (c) *The country has a process to monitor this area of contract administration and to address performance issues.*

9(a): A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework

2007 methodology does not specify internal control mechanisms as part of the regulatory body. Details regarding "code of conduct", "separation of responsibilities" and "signature/approval authority" changed to generic "adequate...mechanisms"

9A: A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework

- (a) *Adequate independent control and audit mechanisms and institutions to oversee the procurement function.*
- (b) *Implementation of internal control mechanisms in individual agencies with clearly defined procedures.*
- (c) *Proper balance between timely and efficient decision making and adequate risk mitigation.*
- (d) *Specific periodic risk assessment and controls tailored to risk management.*

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

9(b): Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance

2007 methodology specifies annual audits of the control framework and a six (6) month window for responding to recommendations of from the audits

9B: Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance  
*Internal or external audits are carried at least annually and recommendations are responded to or implemented within six months of the submission of the auditors' report.*

9(c): The internal control system provides timely information on compliance to enable management action

2007 sub-indicator clarifies that country systems may not be required to comply with (c) established periodicity and written standards for internal control system

9C: The internal control system provides timely information on compliance to enable management action  
(a) *There are written standards for the internal control unit to convey issues to management depending on the urgency of the matter.*  
(b) There is established regular periodic reporting to management throughout the year.  
(c) The established periodicity and written standards are complied with.

9(d): The internal control systems are sufficiently defined to allow performance audits to be conducted

2007 sub-indicator allows that internal control systems can exhibit omissions or deficiencies

9D: The internal control systems are sufficiently defined to allow performance audits to be conducted  
*There are internal control procedures but there are omissions or practices that need some improvement.*

9(e): Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance

The World Bank methodology does not rate sub-indicator 9E. Because the twenty-two (22) "critical" indicators are accounted for, however, it is probably that 9E is intended as "non-critical". Therefore, country systems are not required to ensure that control auditors are sufficiently informed to conduct quality audits

9E: Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance [There is an established program to train internal and external auditors to ensure that they are well versed in procurement principles, operations, laws, and regulations and the selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits.]

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

10(a): An independent complaint review system gives participants in the public procurement process a right to file a complaint within the framework of an administrative and judicial review procedure

2007 sub-indicator is “non-critical” but scored “pass/fail”, making it unclear whether or not a country system has to fulfill the requirement

10E: The system ensures that the complaint review body has full authority and independence for resolution of complaints  
*The complaint review body is independent and autonomous with regard to resolving complaints*

10(b): Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law

2007 sub-indicator requires specified times for the submission and review of complaints and issuing of decisions

10A: Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law  
*(a) Decisions are rendered on the basis of available evidence submitted by the parties to a specified body that has the authority to issue a final decision that is binding unless referred to an appeals body.  
(b) An appeals body exists which has the authority to review decisions of the specified complaints body and issue final enforceable decisions.  
(c) There are times specified for the submission and review of complaints and issuing of decisions that do not unduly delay the procurement process.*

10(c): The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed

2007 sub-indicator requires “precise and reasonable conditions and timeframes” for rulings on complaints

10B: The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed  
*The complaint review system has precise and reasonable conditions and timeframes for decision by the complaint review system and clear enforcement authority and mechanisms.*

10(d): The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information and with decisions aimed at correcting the procurement process rather than compensating for loss of contracting opportunity

Wording changes from “decisions aimed at correcting the procurement process rather than compensating for loss of contracting opportunity” to “decisions [that]...are relevant to correcting the *implementation* of the process or procedures”, thereby taking scrutiny off the procurement process itself

10C: The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information  
*Procedures governing the decision making process of the review body provide that decisions are:  
(a) based on information relevant to the case  
(b) balanced and unbiased in consideration of the relevant information  
(c) can be subject to higher level review  
(d) result in remedies that are relevant to correcting the implementation of the process or procedures*

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

10(e): Decisions are published and made available to all interested parties and to the public

To pass the sub-indicator under the 2007 methodology, country systems would not be required to make appeals decisions publicly or easily accessible

10D: Decisions are published and made available to all interested parties and to the public  
*All decisions are posted in a somewhat restricted access media (e.g. the official gazette of limited circulation).*

10(f): The administrative review body or authority is independent from the regulatory body, executing agency, and audit/control agency

No analogous sub-indicator in 2007 governing "administrative review body"

11(a): Information is published and distributed through available media with support from information technology when feasible

2007 sub-indicator downgraded to "quasi-critical, reducing requirements that procurement information be widely distributed, comprehensive, complete *and* easy to understand

11A: Information is published and distributed through available media with support from information technology when feasible  
*Information is posted in media not readily and widely accessible or not user friendly for the public at large OR is difficult to understand to the average user OR essential information is lacking.*

12(a): The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior

2007 sub-indicator adds requirement that tender documents include "adequate" provisions on fraud and corruption but identifies no standard against which to assess adequacy

12A: The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behaviour and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior  
*The procurement law or the regulations specify this mandatory requirement and give precise instructions on how to incorporate the matter in tendering documents. Tender documents include adequate provisions on fraud and corruption.*

12(b): The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices

2007 sub-indicator clarifies that fraud and corruption be defined in the legal/regulatory framework and that individual responsibilities and consequences are specified. However, sub-indicator does not require that definitions and consequences accord to current Bank standards and international norms.

12B: The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices  
*The legal/regulatory framework explicitly deals with the matter. It defines fraud and corruption in procurement and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption in procurement, without prejudice of other provisions in the criminal law.*

## 2005 Country Systems Proposal

## Evolution

## 2007 Draft Methodology

12(c): Rulings and penalties are perceived as being enforced

Sub-indicator wording changes from “perceived as being enforced” to “evidence of enforcement of rulings and penalties exists”. However, the bar for enforcement is set low, at “a few cases”.

12C: Evidence of enforcement of rulings and penalties exists  
*There is evidence available on a few cases where laws on corrupt practices have been enforced.*

12(d): The government has an anticorruption program that provides, and enforces, special measures to prevent and detect potential fraud and corruption in public procurement in accordance with criminal laws

12D: Special measures exist to prevent and detect fraud and corruption in public procurement  
*The government has in place a comprehensive anticorruption program to prevent, detect and penalize corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out. Special measures are in place for detection and prevention of corruption associated with procurement.*

12(e): Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors

2007 sub-indicator clarifies that country systems can pass despite non-government stakeholders having limited impact on improving the system

12E: Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors  
*There are several civil society organizations working on the matter and the dialogue with the government is frequent but it has limited impact on improving the system.*

12(f): The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior

12F: The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior  
*There is a secure, accessible and confidential system for the public reporting of cases of fraud, unethical behavior and corruption.*

12(g): Codes of conduct/codes of ethics for participants in the public financial management system provide a system for indicating who is accountable for specific decisions

2007 sub-indicator clarifies that Code of Conduct/Ethics is not obligatory and does not need to be backed by sanctions

12G: Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions  
*The system meets requirements (a) [code of conduct pertaining specifically to public financial management] and (b) [defined accountabilities for decision-making] but is only a recommended good practice code with no consequences for violations unless covered by criminal codes.*