OPEN CONTRACTING IN AFRICA
The next generation of action

The next generation of Africa's development will require billions in investment to build infrastructure and provide quality services to its citizens such as health centers, food for school children, water, and roads to help farmers market their produce. Investments in African infrastructure alone to meet the Sustainable Development Goals carry a price tag of an estimated US $93 billion a year.

Government contracts with private companies will be vital to delivering on this promise of public benefit. Across Africa, on average half of government spending is on public contracts. Like many places around the world, public contracting in Africa has been characterized by poor planning, corruption in picking contractors and suppliers, and contracts are poorly managed.

Given that it is taxpayers' money involved, citizens should know why a school has not been built, why medicines are so expensive, why a road is in disrepair after only one year, or how many local workers a new mine will be hiring. Sometimes, not even parliamentarians and supreme audit institutions can find this out: they are prevented by confidentiality clauses from understanding how the government allocates public resources.

Business in Africa also suffers from unresponsive governments. In 16 of 19 countries surveyed in Sub-Saharan Africa, companies have to wait longer than 30 days to receive their payment.

The OECD, European Commission, World Economic Forum and UN Office of Drugs and Crime all agree that public procurement and contracting is a government's number one vulnerability for corruption and fraud. Some 57% of foreign bribery cases prosecuted under the OECD Anti-Bribery Convention have involved bribes to obtain public contracts. Costs are huge: some 10-20% of procurement budgets may be wasted. In a more corrupt country, the same road

can cost almost 50% more than in a better governed one.

A recent inquiry into Uganda's National Roads Authority discovered that billions were paid to non-existent firms and double payments were common. These problems are not new. In 2012, the Inspectorate of Government found that 99% of contracts overshot original budgets while the Public Procurement Regulatory Authority reported that two out of three contracts were not completed on time.

At the 2015 Open Government Partnership Summit in Mexico, open contracting emerged as one of the major new ideas to help open government deliver on the promise of a more effective government, creating a thriving business environment, and delivering results to citizens.

What is open contracting?

Open contracting is about publishing and using open, accessible and timely information on government contracting to engage citizens and businesses in identifying and fixing problems.

Public disclosure and participation are critical tools for improving the management of public resources, and are at the core of open contracting.

Open contracting covers the entire process of public contracting including formation, award, execution, performance and completion of public contracts. It also covers the full range of contract types from basic procurement to joint ventures, licenses and production sharing agreements. A global standard, the Open Contracting

Data Standard provides a handy schema to help civic administrations manage, order and share this information as reuseable open data. It is not a new system for managing contracting, rather a way of unlocking and sharing data across existing silos and systems. Neither is it a pass or fail standard, but rather an extendable register of all the key items of data that can be shared around contracting. It is also based around several key user needs: specifically, those of improving value for money, detecting red flags for corruption, tracking service delivery and creating a level playing field for businesses to compete for contracts.

With open data at the core, government contracting information can be made actionable by developing tools to analyze and sift through contracts, improve access and notifications for companies who want to grow their business with government, and finally, monitor that contractors deliver on what they are paid for.

Open contracting developments in Africa

As of April 2016, no African country yet provides timely, machine-readable and reusable data but innovations are emerging and creativity is being unlocked across the continent.

- **South Africa**: The Office of the Chief Procurement Officer (OCPO) in the National Treasury has introduced the central supplier database to reduce the administrative burden on both the supplier and the administrator. The OCPO has also led the compulsory implementation of the eTenders portal, which is

expected to save the government ZAR 400m (almost US$3m) a year in advertising costs for procurement notices.

- **Zambia**: The government of Zambia (not currently a member of the OGP) is championing open contracting. The World Bank and the Open Contracting Partnership are supporting the development of a new e-procurement system that allows the publication of open data in accordance with the Open Contracting Data Standard.

- **Nigeria**: In Nigeria, civil society is taking the lead in developing powerful analysis tools for public contracts. The Budeshi platform aims to open up to public scrutiny processes through which public services are delivered. Budeshi also connects procurement data to the government budget and, eventually, to public services. Kenya and Malawi are already considering adopting this platform.

- **Uganda**: The Public Procurement Authority signed an agreement with the Uganda Contracts Monitoring Coalition to ensure transparency and accountability in public contracts.

- **Ghana**: In its second National Action Plan 2015-2017, Ghana has committed to open contracting focusing specifically on the sector of extractive industries.

- **Extractives Industries Transparency Initiative:**
Contract disclosure in the extractives sector is also becoming more routine. The governments of Liberia and Guinea are already disclosing all their contracts.

Congo DRC, Republic of Congo, Ghana, Mali, Mauritania, Mozambique, and Sierra Leone have a commitment to do so and disclose some of their contracts. Online searchable databases for contracts and/or licenses are available in Guinea, Liberia and the Republic of Congo. The databases for the latter two have been established by national EITI processes. NRGI provides a ready-made solution for countries to do this at www.resourcecontracts.org.

- **Regional:** The Africa Freedom of Information Centre (AFIC) has long been using access to information requests to monitor public contracts and investigate the misappropriation of public funds. Recently it has started working on open contracting as a proactive form of disclosure, establishing a working group to promote open contracting in Africa.

The state of open contracting as an OGP commitment in Africa

In 2015, AFIC and the Public and Private Development Centre have reviewed the seven OGP National Action Plans in Africa on their degree of inclusion of open contracting as a commitment to stimulate transparency and accountability in governance. The countries evaluated were: Sierra Leone, Kenya, Tanzania, Ghana (prior to its 2015-2017 plan), Liberia, Tunisia, and South Africa.

Open contracting is not yet part of any of the plans reviewed. Where proactive disclosure of public contracts is included (i.e. Sierra Leone, Tanzania, Liberia, and Tunisia), the efforts are limited to their extractive industries and alignment to the EITI.

While all the African OGP members mention open data initiatives or open budgets, none make reference to using a data standard to safeguard the quality and relevance of the information disclosed.

There is more to be done to unlock the promise of open contracting for Africa. We recommend:

1. Governments should publish contracts and make deals open by default. This includes putting an unambiguous public disclosure clause in all government contracts and publishing data on contract milestones and performance.

2. Provide machine-readable, reusable open data on public procurement and how deals are reached. The Open Contracting Data Standard provides a handy schema to help civic administrations do this. Including public contracts in existing open data initiatives means reaping the full benefits from interlinking with budget and spending data.

3. Provide engagement channels to identify and fix problems in contracting. Engaging citizens, businesses, technologists and journalists in contracting is crucial. Public participation in planning can help define better contracting terms, manage expec-tations of everyone engaged, and provide oversight and feedback for better delivery of good and services. Government, contractors and citizens have to work together to address irregularities and problems that are being identified through the feedback.

Open contracting innovation under the Open Government Partnership

There is great potential for innovation in managing government contracting under the OGP umbrella, allowing members to draw on lessons from countries like the Czech Republic and Slovakia, that have enshrined open as the default in their procurement laws, or from Georgia, which introduced an exemplary complaint mechanism. In Mexico and the Philippines, the law requires that citizen observers are invited to monitor bid and award proceedings. Or Ukraine, where implementing open contracting is saving the government 14% of its spending and rebuilding trust with the private sector by encouraging a new generation of independent businesses to bid for and win government contracts.

Better public procurement through data, disclosure and engagement means better deals and lives for everyone. That's why open contracting is so central to open government.

About us

The Open Contracting Partnership connects governments, civil society and business to open up and monitor public contracting. We support the global open contracting community and work with partners across sectors and along the whole process of government contracting.

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