Open Contracting for Infrastructure (OC4I): Covid-19 recovery

Illustrative OGP Commitment

This illustrative commitment provides guiding questions on how to approach open contracting for infrastructure OGP commitments, followed by a worked example of what a strong commitment could look like. Note that the contents of this template are designed to cover a broad range of diverse contexts and varying capacities, so you are encouraged to think strategically about your local context and choose the relevant activities that apply. This list is not linear, prescriptive or exhaustive; instead it provides a menu of options that can help you deliver on open government reforms and may span more than one OGP NAP cycle.

Background information

This illustrative OGP commitment on Open Contracting for Infrastructure (OC4I) to enable Covid-19 recovery has been developed by the Open Contracting Partnership (OCP). It forms part of the "Guidance for the creation of OGP action plan commitments on open data for anti-corruption (OD4AC)", issued by the consortium created between Global Integrity, Open Data Charter, ILDA (Iniciativa Latinoamericana de datos abiertos), AODN (African Open Data Network), and OD4D (Open Data for Development Network).

Open contracting is an OGP global norm, with over 189 open contracting commitments already included in National Action Plans around the world. Over 70 OGP members including Australia, Canada, France, UK and USA have made at least one open contracting commitment, with 55% of these open contracting commitments already completed. More than two of every five open contracting commitments have "significantly opened up government", which is more than double the rate of successful commitments overall.

In response to increasing demand for more detailed guidance on how to create an effective open contracting commitment and especially in the aftermath of covid-19, we have developed this template to support the co-creation of high quality OGP action plan commitments on open contracting for infrastructure. It is not intended to be a one-size-fits-all solution, but simply a good example of an ambitious, meaningful, and well-articulated commitment that can help advance aspirations for covid-19 recovery through infrastructure investment.

Commitment template:

Investing openly, efficiently and effectively in infrastructure for COVID-19 recovery

Commitment Start and End Date (1st August 2020 - 31 July 2022)

Lead implementing agency/actor E.g. Ministry of Infrastructure

Commitment description

What is the public problem that the commitment will address?
Describe the social, economic, political, or environmental problem addressed by the commitment. When available, include baseline data and contextual facts.

OC4I guiding questions
- What are the specific problems/challenges related to infrastructure? e.g.
  - Why is this a problem?
    - Which sectors are most affected by the problem? E.g. transport, health, education, etc.
    - What stages of the infrastructure lifecycle is most affected by the problem? e.g. identification/preparation, procurement, implementation, completion, maintenance or operation
  - What causes the problem?
  - What evidence is there to show the problem exists?
  - How does covid-19 contribute to, or otherwise exacerbate the problem? Watch this video for an OC4I commentary on Covid-19 infrastructure emergency and recovery response.
- What are you trying to achieve from this OGP commitment? Is it
  - Procurement systems or process impacts
  - Reduced corruption
  - Fairer competition
  - Improved efficiency
  - Better value for money, better quality infrastructure, better access to investment
  - Greater integrity and trust
  - Broader social, environmental or economic impacts e.g. gender, health, climate and environment, and SDGs etc
- For guidance on OC4IDS and OCDS use cases, please refer to:
    - OC4IDS use cases & indicators
    - OCDS use cases & indicators
    - OCDS & red flags indicators
- How can more and better open data on infrastructure procurement and delivery help achieve these goals or address/understand the problem?

What is the corruption problem that the commitment will address? | *Worked Example*
In *[country name]*, more than $600 billion will be invested in infrastructure in the next five years. According to the IMF, up to 30% of these investments will be lost to mismanagement, inefficiency and corruption. For example, in the last decade, major transportation projects experienced between 25-60% cost overruns (equivalent to multiple billions of dollars), and the cost per kilometre is also the most expensive when compared to other countries with similar projects, either in the region or globally. In a recent survey by *[organisation name]*, 49% respondents perceived corruption to be either "fairly" or "extremely common", while almost 38% had direct experience of cartel activity in the sector and predominantly in the last two years. Over one-third reported being personally offered a bribe. In addition, more than 100 firms have been fined for anti-competitive behaviour and five cartel investigations are currently underway.

The opaque nature of infrastructure procurement and delivery and the acute lack of good quality open data prevent effective solutions to address these infrastructure investment and performance failings. *[Research Institute Name]* shows that less than 40% of tender notices and less than 30% of contract award notices were published in the last three years. What little infrastructure project and contract information is published, is not available in any open data format and scattered across multiple different systems and platforms. This makes it difficult to compare data to identify problems or introduce reforms.

This commitment aims to open up infrastructure planning, procurement and delivery to radically improve efficiency, enhance competition and reduce corruption so that citizens get the infrastructure and related services they need. In turn, and in the Covid-19 context, this supports broader post covid recovery goals to deliver inclusive growth and safeguard livelihoods through infrastructure investment.

What is the commitment?
Describe what the commitment entails, its expected results, and overall objective.

OC4I guiding questions
Overarching question
- What are your commitments on open data for infrastructure procurement and delivery?

Transparency & Open Data
- Does it include explicit provisions for publishing data in a standardised, structured, machine readable open data format that is free to use and reuse?
- Does it cover the entire lifecycle of infrastructure projects and contracts i.e. from planning, procurement and implementation of infrastructure projects?
- Does it comply with and/or explicitly reference international open data standards such as the Open Contracting for Infrastructure Data Standard (OC4IDS), Open Contracting Data Standard (OCDS) and OCDS for Public Private Partnerships (OCDS for PPPs)?

Data Use & Reform/Impact
- Does it include explicit provisions for effective and inclusive data use that can and will successfully drive reforms and positive change? How will you use the data to identify problems and solutions to improve infrastructure planning, procurement and delivery?
- Does it include explicit provisions active and inclusive stakeholder participation in every stage? How will civil society, media, academia and other relevant stakeholders be involved and engaged in the process? Are there effective feedback mechanisms that enable constructive dialogue, feedback and knowledge exchange?
- Are there any missing stakeholders that are unique to or relevant in the infrastructure context that should be included in this process?

Implementation & Enforcement
- How will you create an enabling environment for your commitment? For example, by explicitly mandating OC4IDS and OCDS in legislation, regulation or policy.
- What are the incentives to drive compliance and how will you enforce it? What are the penalties for bad behaviour?
- Is the implementing agency directly responsible for planning, procuring and/or managing infrastructure or otherwise empowered to develop guidelines and processes related to transparency and accountability in infrastructure projects and contracts? If not, have you engaged with the responsible agency?

How to ground open data for anti-corruption purposes? | *Worked Example*
This commitment aims to open up infrastructure planning, procurement and delivery to radically improve efficiency, enhance competition and reduce corruption so that citizens get the infrastructure and related services they need. In turn, and in the Covid-19 context, this supports broader post covid recovery goals to deliver inclusive growth and safeguard livelihoods through infrastructure investment. In the long term, this will build trust across government, businesses and civil society.

In pursuit of these goals, we will:

1. **Adopt:** Fully adopt open contracting for infrastructure (OC4I) in financing and delivering infrastructure so that all government agencies, businesses and citizens can follow the money, spending and opportunities arising from infrastructure projects and contracts.
2. **Enable:** Create a clear enabling environment that actively promotes and supports the implementation of these commitments, for example through explicit inclusion of OC4I and OC4IDS in *[legislation/regulation/ policy]* including *[name of legislation/regulation/policy]*. This will include clear allocation of resources, both financial and personnel to take these OC4I commitments forward. In addition, include advocacy, capacity building and related activities.
3. **Publish:** Implement full transparency and open data on infrastructure planning, procurement and delivery by publishing infrastructure projects and contracts data in accordance with the Open Contracting for Infrastructure Data Standard (OC4IDS) to ensure a standardised, structured, open data format that is machine-readable, free to use and reuse. This will:
   a. span the entire value chain of investments, procurement and delivery, from inception, design and preparation of projects right through to implementation, construction and delivery of the assets, operation, maintenance and beyond; and
   b. join up data linking projects to contracts for enhanced performance monitoring.
4. **Use:** Develop innovative open data tools that can be linked to design, preparation, procurement and relevant decision-making systems and processes, such as *[insert name of tool/system]* so that data can be analysed and used to identify needs, problems and introduce evidence based reforms. You can find more details on available tools in our Open Contracting Tools Directory.
5. **Engage**: Commit to inclusive, citizen-centred infrastructure design, preparation and planning to ensure infrastructure is 'open by design', user-led and fit for purpose. This includes building in effective participatory mechanisms that enable active engagement and participation of all relevant stakeholders including businesses, citizens, media and academia with a conscious effort to ensure inclusion of affected marginalised and vulnerable groups to enable cross-sectoral feedback and coordination that can leverage the combined expertise of industry specialists, local communities and other relevant stakeholders. For example, in Ukraine, the Dozorro community of over 100,000 users every month uncovered discrepancies in over 30,000 tenders worth an estimated $4billion. Similarly, Development Check allows users to report problems on infrastructure projects and ensures decision-makers report on action taken to redress so users can monitor the 'fix-rate'.
6. **Reform**: Identify, develop and implement clear reforms based on robust data analysis and stakeholder participation to transform infrastructure design, planning, procurement and delivery to solve *[insert problem]* and better serve the needs of its intended beneficiaries. This includes *[insert examples]*.
7. **Monitor**: Monitor, document and analyze progress to assess relevance and/or impacts from the commitments to inform future commitments and strategies for transforming infrastructure procurement and deliver for the better. This is assessed against the specific, measurable, achievable, relevant and time-based goals and targets that relate to the specific problem this commitment aims to solve, including *[insert specific targets that relate to problems identified in Question 1 e.g. improved internal efficiency, better competition etc]*. See the OCDS Use Case Indicator Guide and OC4IDS Use Case Indicator Guide for more detail on how to identify and calculate indicators for specific use cases.
8. **Partner:** Explore and include complementary initiatives that can offer funding and resources and would add value to this OGP commitment such as CoST - the Infrastructure Transparency Initiative or Integrity Pacts.

How will the commitment contribute to solving the public problem?

- What is your Theory of Change? How will this commitment help achieve
  - Procurement systems or process impacts
  - Reduced corruption
  - Fairer competition
  - Improved efficiency
  - Better value for money
  - Better quality infrastructure
  - Better access to investment
  - Greater integrity and trust
  - Broader social, environmental or economic impacts e.g. gender, health, climate and environment, and SDGs etc
  - Other [depending on context]
- What is the role of open data in driving these improvements? What is the value add of open data for infrastructure?

For inspiration and examples of open contracting impact, progress and data use stories, click on the links below:
- OC4I & Environmental Protection
- OC4I & Health, Education & Social Welfare
- OC4I & Improved Competition
- OC4I & Better Resource Allocation

How will the commitment contribute to address the corruption problem? | *Worked Example*
Public infrastructure projects are characterized by large sums of money, protracted timeframes and complex supply chains, often with fragmented and siloed information scattered in multiple different systems, locations and formats. All of this impedes investment, competition, coordination, management and monitoring, which in turn increases the risk of losses from inefficiency, mismanagement or corruption.

By transforming cumbersome, paper-based processes **and/or** fragmented and siloed processes into standardized, machine-readable, interoperable, open data, this
1. helps to sort, analyse and present data in a way that is easy to use and easy to understand;
2. unlocks a 'network effect' so data can be aggregated, linked, and compared more easily; and
3. connects contracts to projects so it is easier to understand how infrastructure projects as a whole are performing.

Set against the backdrop of a coherent, enabling environment, more and better open data, published in a timely fashion across the entire infrastructure lifecycle, means that government agencies, businesses and citizens will be able to follow the money across the entire value chain of public projects and contracts from planning to tendering to award onto implementation and delivery. Through this, they are more able to understand what infrastructure projects are being procured, how, when, why, by whom and for whom. Clear and robust mandates for OC4I also mean that these important reforms are more able to withstand shocks such as those brought on by unexpected or future political or administrative transitions.

Empowered by data and inclusive, participatory mechanisms such as pre-market consultations, multi-stakeholder forums, complaints or feedback channels, stakeholders are able to work together to identify innovative and effective solutions that can help address or overcome the deficiencies or failings in existing systems, policies and processes. For example, red flags indicators and tools help alert governments, businesses and citizens to potential corruption and collusion at the earliest stages of an infrastructure project or contract to inform preventative measures and/or penalties. Armed with information, businesses and civil society are better able to scrutinise and hold governments to account, and responsive governments more able to introduce effective, evidence based reforms.

Why is this commitment relevant to OGP values?

OC4I guiding questions
- Does the commitment, as written, clearly demonstrate or advance OGP values?
  - **Access to Information:** Does the commitment improve the access to, or availability and/or quality of infrastructure project and contracts data in the public domain?
  - **Civic Participation:** Does the commitment create or improve opportunities for relevant stakeholders to participate in or influence decisions relating to infrastructure projects and contracts?
    - Have you shared these values in tandem with the commitments with relevant government, business, civil society stakeholders? Can you demonstrate a shared understanding of these values and commitment goals?
  - **Public Accountability:** Does the commitment create or improve regulations, policies or processes that can hold governments and its officials accountable and answerable for their actions?

What is the policy goal from the commitment? | *Worked Example*
Publishing more and better quality data, improving access to that data is at the heart of open contracting for infrastructure (OC4I) commitments. This commitment is focussed on implementing full transparency on infrastructure procurement and delivery, so that infrastructure projects and contracts are 'open-by-design', radically increasing the availability and quality of data in the public domain, and ensuring that it is easy to access, free to use and reuse.

Transparency in itself however, is unlikely to drive change. This is why this commitment has included explicit provisions for relevant stakeholders to use data, and to participate in and influence decisions relating to infrastructure projects and contracts. In addition, the commitment was actively co-created through an inclusive and participatory process with relevant government, business, civil society stakeholders. *[insert details of co-creation workshops/meetings if applicable]*. The commitment is an accurate reflection of our shared understanding of our common aspirations benchmarked against OGP values.

In addition, to the commitment to publish and use open data on infrastructure projects and contracts, engage relevant stakeholders through inclusive and participatory mechanisms, the commitment also provides for stronger legislation, regulation and policies to mandate open contracting for infrastructure (OC4I) at the national and sub-national levels so that public officials will be required to comply and can be held accountable for their actions. Furthermore, the commitment enables analysis and tool development that enable all stakeholders to understand if or when bad behaviour occurs.

Additional information

OC4I guiding questions
Use this optional space to provide useful supporting information including:
- Available budget or resources allocated to this commitment
- Links to infrastructure recovery plans, national development plans or other complementary government programmes
- Links to broader regional or global initiatives or standards

Example for additional information | *Worked example*
This commitment is aligned with the five year infrastructure recovery investment plan with over $600 billion, which was unveiled by the government in *[month, year]*. *[add any additional evidence e.g. National Development Plans or other]*. Given these significant investments, and mindful of the well documented complexities and leakage that are common on infrastructure investments, it is imperative to introduce more comprehensive strategies, policies and processes to ensure that this recovery package delivers the jobs and opportunities, wealth and inclusive growth that are envisioned.

The government has also introduced an ambitious Open Data Strategy (2020-2025) to earn a place as a global leader on open data innovation. This augments *[add relevant legislation e.g. The Freedom of Information Act 2000]* which provides public access to information held by public authorities. A new *[insert details e.g. public works law, number]* which comes into force early next year also requires that public infrastructure project and contracts data must be published within *[number of days]*. To ensure effective implementation, the Minister of Technology has created an "open data team" to lead this initiative, and especially to apply the OC4IDS on all infrastructure projects and contracts.

The government is also signatory to several international initiatives including the United Nations Convention against Corruption, the Inter-American Open Data Program to Combat Corruption and theInter-American Convention against Corruption of the OAS,.

The government has set aside *[insert amount]* to implement these commitments, in addition to specific personnel and related resources to ensure much needed capacity for these open data and technology improvements.

Milestone Activity with a verifiable deliverable

Milestone 1: Preliminary scoping of the available data, how it can be joined up, and options for publication. Understanding the broader infrastructure governance landscape (existing legislation, regulation, policies and political economy issues) and whether there is an infrastructure project register, or registers, and whether project identifiers are included in contracting data. This includes completing the OC4IDS Scoping Template and OCDS Technical Assessment Template.

Suggested timeframe: up to two months

Milestone 2: Conduct a multi stakeholder mapping. Afterwards, get multi-stakeholder feedback on all different stages of infrastructure projects and contracts, conducting public consultations and other participatory mechanisms to identify goals and use cases, priority datasets for publication, need for integrating existing infrastructure project registers, or developing a new register, tools for monitoring to improve infrastructure planning and implementation. Develop integrity pacts.

Suggested timeframe: up to three months (e.g. one for the mapping and two for the rest)

Milestone 3: Training on Open Contracting for Infrastructure Data Standard (OC4IDS) and Open Contracting Data Standard (OCDS) for personnel in charge of infrastructure planning and procurement, infrastructure transparency and other key stakeholders.

Suggested timeframe: up to one month

Milestone 4: Establish and implement dynamic co-creation and engagement processes with relevant stakeholders (CSOs, private sector, journalists, etc.) including regular meetings to ensure non-government stakeholders' voices are heard, and to curate inclusive forums and platforms for participation.

Suggested timeframe: ongoing throughout the commitment

Milestone 5: Mapping data fields from existing systems to the Open Contracting for Infrastructure Data Standard (OC4IDS) and Open Contracting Data Standard (OCDS) based on the agreed priority use cases and user needs.

Suggested timeframe: up to two months

Milestone 6: Developing an implementation plan covering the technical, governance, process and legislative aspects of publishing and using OC4IDS and OCDS data. This includes creating an enabling environment for OC4I through robust legal or policy mandates if needed (e.g. legislation, regulation, directives or other binding instruments) for OC4IDS and OCDS publication and use, as well as development of new project registers or integration of existing project registers into contracting systems or so that unique project identifiers can effectively link projects to contracts for end-to-end infrastructure oversight and monitoring.

Suggested timeframe: up to three months

Milestone 7: Co-creating preliminary design of data visualisation, feedback mechanisms and accountability tools with relevant stakeholders.

Suggested timeframe: up to two months

Milestone 8: Developing a baseline measurement for the infrastructure problems identified (e.g. competition, corruption and efficiency).

Suggested timeframe: up to one month

Milestone 9: Designing and preparing systems, platforms, dashboard etc for publishing OC4IDS and OCDS data, including any data analytics and related open data tools and feedback mechanisms. This includes updating contracting systems to integrate new or existing project registers. If required, designing and developing the technical infrastructure for a new project register.

Suggested timeframe: up to six months

Milestone 10: Publishing OC4IDS and OCDS data including visualizations, tools and feedback mechanisms, and any new project register.

Suggested timeframe: up to four months

Milestone 11: Promoting OC4IDS and OCDS, both inside government and outside, for relevant stakeholders (contractors, civil society, media, citizens, etc.) to use published data to monitor infrastructure projects and contracts and demand accountability.

Suggested timeframe: up to two months

Milestone 12: Delivering data use workshops and training sessions for all stakeholder groups to drive active and sustained use of published OC4IDS and OCDS data, tools, complaints and feedback mechanisms to identify successes, failures and areas for improvement.

Suggested timeframe: up to one month

Milestone 13: Analyzing data, feedback and findings to identify and implement potential reforms including policy and process improvements to deliver infrastructure that is 'open by design', citizen centred and fit for purpose. Ongoing data analysis to measure any changes/improvements over time (e.g. the potential improvement in competition and efficiency and the improved trust and collaboration between government, contractors and civil society).

Suggested timeframe: up to four months

Contact information

Name of responsible person from implementing agency
Title, Department
Email and Phone

Other Actors Involved

State actors involved
Ministry of Infrastructure, National Procurement agency, Ministry of Transparency

CSOs, private sector,multilaterals, working groups
CoST - Infrastructure Transparency Initiative: Find out more on how to apply or implement CoST principles and approaches here.

Transparency International, Open Contracting Partnership, academics from the engineer and data sector from the National University, Data activism for public policies organization, Chamber of construction, investigative journalism association.

In addition, a conscious effort will be made to consult and effectively include affected marginalised and vulnerable groups.