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Embracing Open Contracting in Africa

African Technology Policy Studies Network (ATPS) Technopolicy Brief No. 53

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Embracing Open Contracting in Africa

Case studies from Kenya, Tanzania, Uganda, Malawi, Zambia,
South Africa, Ghana, Nigeria, Senegal and Cote d'Ivoire

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The African Technology Policy Studies Network (ATPS) is a transdisciplinary network of researchers, policymakers, private sector actors and the civil society promoting the generation, dissemination, use and mastery of Science, Technology and Innovations (STI) for African development, environmental sustainability and global inclusion. In collaboration with like-minded institutions, ATPS provides platforms for regional and international research and knowledge sharing in order to build Africa's capabilities in STI policy research, policymaking and implementation for sustainable development.



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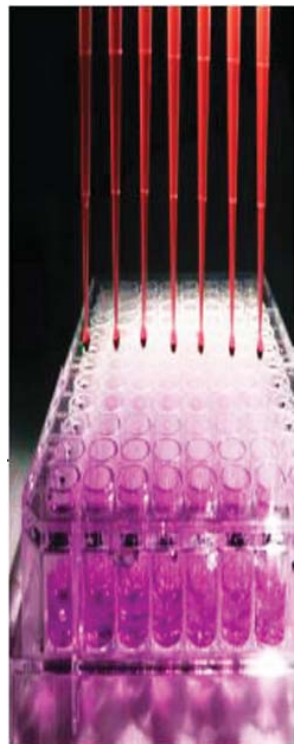


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About the Civic Engagement for Open Contracting in Africa project

Hivos and ARTICLE 19 launched the programme, Open Up Public Contracting, to support Civil Society Organizations (CSOs), journalists, entrepreneurs, start-ups and other frontline organisations in the selected focus countries to develop the capacities they need to engage in the open contracting agenda and to translate contracting data and documents into actionable information for evidence-based advocacy with governments. It is based on this that the African Technology Policy Studies Network (ATPS) anchored its research to establish the state of Open Contracting (OC) in selected African Countries and document what works, what doesn't work and why in the implementation of open contracting in the respective countries. The target countries include, Kenya, Tanzania, Uganda, Malawi, Zambia, South Africa, Ghana, Nigeria, Senegal and Cote d'Ivoire selected based on regional representation in sub-Saharan Africa.

About the African Technology Policy Studies Network (ATPS)

The African Technology Policy Studies Network (ATPS) is a trans-disciplinary network of researchers, policymakers, private sector actors and the civil society promoting the generation, dissemination, use and mastery of Science, Technology and Innovations (STI) for African development, environmental sustainability and global inclusion. ATPS has over 1,500 members and 3,000 stakeholders in over 51 countries in 5 continents with institutional partnerships worldwide. We implement our programs through members in national chapters established in 30 countries (27 in Africa and 3 Diaspora chapters in Australia, United States of America and the United Kingdom). In collaboration with like-minded institutions, ATPS provides platforms for regional and international research and knowledge sharing in order to build Africa's capabilities in STI policy research, policymaking and implementation for sustainable development.

Acknowledgement

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Key Messages

- Open contracting is a system of procurement that allows disclosure of procurement data at all stages of procurement and allows for engagement and feedback from other stakeholders.
- Open contracting is increasingly gaining prominence across Africa. This has been brought about by the obvious benefits that come with its full implementation. Many African countries have been making significant progress towards implementing open contracting by enacting policies that support the principles of open contracting.
- Increasingly, African countries are putting in place institutional frameworks that are geared towards enacting laws and regulating procurement procedures in their countries. However, these institutional frameworks have not fully embraced the participation of other stakeholders in the whole procurement process.
- Timely reporting, proper data management, compliance monitoring, and proactive disclosure remain a challenge due to a lack of user-friendly digital tools for procurement. Some countries have embraced e-procurement systems but there are capacity challenges across the various spectra of stakeholders.
- Procurement entities across many African countries do not proactively disclose all procurement data at all stages of procurement, most notably at the stages involving payment and service delivery.
- Engaging with various user groups (government, civil society, and private sector) can help to identify key gaps in existing data collection, inform efforts to improve data systems (including the design of an e-procurement solution) and also inform effective policies for procurement processes.

1. Introduction

Governments worldwide spend an estimated US\$ 10 trillion on public contracting. It is a major part of any economy- up to 30 percent in developing countries. According to the World Bank, public procurement accounts for nearly 15 percent of GDP per capita in sub-Saharan Africa (SSA) (Djankov et al, 2016).

Contracting is an essential step in delivering goods and services that people care about: quality education, quality health care, safe roads and clean drinking water. Public procurement is a controversial subject in both developed and developing countries due to various reasons such as corruption. Some forms of corruption are more prevalent in certain countries, according to the United Nations Office on Drugs and Crime (UNODC, 2013).

Corruption in public procurement is manifested in unnecessary projects, substandard and unnecessarily expensive work, the diversion of resources, and unjustified and unexpected price increases resulting in inequity and inequality. This has been exacerbated by the absence of appropriate accountability mechanisms to ensure targeted funding of essential services such as education, health and transport. Ghost funding and poor service delivery have been the trend in many African countries and yet there have been efforts across Africa to open up contracting.

Open Contracting (OC) is ***“about publishing and using open, accessible and timely information on government contracting to engage citizens and businesses in identifying and fixing problems.”***

¹ <https://www.open-contracting.org/what-is-open-contracting/>

As a process, open contracting is a commitment by governments who are the data holders to engage a variety of stakeholders, including citizens and the private sector, in meaningful discussion about procurement performance and processes.

Whereas there have been some achievements reported according to Hivos synthesis report of 2016 on OC in 15 countries, there is still a lot that needs to be done in Africa in order to reach the levels achieved by developed countries in Europe and the Americas as well as some developing countries in Asia (Hivos, 2016). Some of the things that need to be done to promote open contracting involve the enactment of policies and institutional frameworks that enshrine open contracting in public procurement.

There is also need to build the capacity of stakeholders/actors involved in public procurement to embrace open contracting which has multiple benefits that range from stimulating competition, promoting accountability, stimulating innovation and enhancing fairness in awarding of contracts as well as ensuring the quality provision of services and goods.

It is against this background that the African Technology Policy Studies Network (ATPS) anchored its research to establish the state of OC in selected African Countries and document what works, what doesn't work and why in the implementation of OC in the respective countries.

The target countries include, **Kenya, Tanzania, Uganda, Malawi, Zambia, South Africa, Ghana, Nigeria, Senegal and Cote d'Ivoire** selected based on regional representation in sub-Saharan Africa.

2. Rationale for Open Contracting in Africa

Procurement constitutes an average of 50% of government expenditure in low-and middle-income countries (Transparency International UK, 2017). Corruption is a major problem during the contracting process. The Organisation for Economic Co-operation and Development (OECD), the European Commission, and the UNODC all cite public procurement as the largest corruption risk for governments (Open Contracting Partnership [OCP], 2016). According to the UNODC (2013), corruption reduces the value of a public contract by 10 to 25%. The financial cost—not to mention the human cost of corruption in this sector is significant. The importance of open contracting goes well beyond anti-corruption. A clear case can be made that it has a significant impact on government efficiency, value for money, and fair competition. There is a very clear correlation between publishing more information about tenders and a reduced likelihood of single-bid contracts which have been reported to be 7–10% more expensive (Fazekas and Kocsis, 2015).

As open contracting focuses on disclosure of more and more information, citizen/stakeholder engagement has been seen as a critical element in ensuring accountability and meaningful use of the opened up contracting data. The different stakeholder categories have very different and critical roles to play in the whole process of open contracting in order to achieve the meaningful benefits of it. For instance, the infomediaries will interpret the open contracting data to provide meaningful information to the less technical stakeholders (Dietrich, 2017). This policy brief, therefore, provides specific policy recommendations which if implemented, will go a long way in promoting open contracting across Africa.

3. Understanding Public Procurement and Open Contracting

3.1 Public Procurement

The term “public procurement” refers to the process through which public entities (governments, government agencies, sub-national governments, etc.) purchase goods and services. There are five phases in the procurement process:

- **Planning:** Before seeking a supplier to provide specific goods or services, governments undertake a planning process to determine the goods or services needed. Planning includes drafting procurement plans, and may also include the conduct of various assessments (public needs, environmental, social impact, etc.) and outreach efforts (public hearings, site visits, etc.) aimed at understanding the nature of the intervention required.
- **Tender:** The second phase of procurement is the issuance of a tender, often referred to as an invitation to bid (ITB). Governments are often required by law to publicize ITBs to ensure that potential tenderers, or bidders, have the opportunity to bid. While there are many different types of tender process (open, limited competitive, reverse-auction, etc.), the tender period is of fixed length. At the end of the tender phase is an evaluation period during which the procuring entity selects a winning tenderer.
- **Award:** Once a bidder has been selected, the procuring entity notifies the winning tenderer, now called the “supplier.” The procuring entity also notifies the losing tenderers that they have not been selected.

- **Contract:** Once a supplier has been selected, the supplier and procuring entity sign a contract. Sometimes there is an opportunity for negotiation on the final goods and services to be provided and contract amount. Although necessary, negotiation also provides an opportunity for corruption to enter the process.
- **Implementation:** Once a contract has been finalized, the implementation process begins. Depending on the size and scope of the contract, the supplier must oftentimes meet set milestones to receive payments, which are dispersed throughout the implementation period. At the end of implementation, evaluation of the contracting period should take place. While each legitimate contracting process enters into all five (5) phases at some point in time, the phases may take on distinctive appearances depending on the country, the procuring entity, the contracting method, and multiple other factors. A partial consequence of the distinctiveness of procurement processes is the proliferation of the lexicon used in describing them. Even when describing the same process or actor, the terminology used may differ. For instance, a “supplier” may also be referred to as a “contractor” or a “tenderer” (even if the term “tenderer” may also refer to the entity that has issued the tender).

3.2 Open Contracting and Open Contracting Data Standards (OCDS)

Open contracting has become a new global norm, recommended and endorsed by global bodies such as the G7, the G20, OECD, the European Commission, the World Bank, and the European Bank of Reconstruction and Development. Global open government and open data initiatives (ODI) such as the Open Government Partnership (OGP) and the Open Data Charter (ODC) also support opening up public contracts as a priority issue. Open Contracting aims at transforming how business is done by engaging stakeholders across government, private sector and civil society to collaborate on reforms, engage users, respond to feedback and to create open data and tools to drive

systematic change. Some of these tools include using OCDS which is an open data standard for a structured presentation of the data on the contracting process. It was developed by Open Contracting Partnership (OCP) to reflect the complete contracting cycle.

Open contracting has the following benefits and been well documented by many across the world:

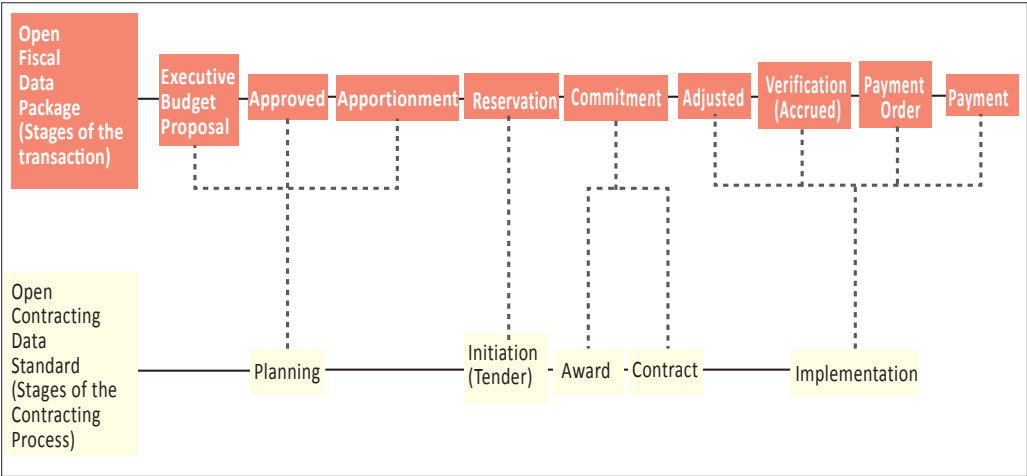
- Ensures value for money, saving governments time and money
- Helps build a fairer business environment and create a level playing field for suppliers
- Helps track, monitor and improve spending and service delivery
- Creates new and better feedback loops between government and users
- Improves public integrity by deterring fraud and corruption.

These benefits are only enabled by adopting OCDS. OCDS is an open data standard for the publication of structured information on all stages of a contracting process from planning to implementation. This public access to open contracting data builds trust and ensures that the trillions of dollars spent by governments result in better services, goods, and infrastructure projects (OCP, 2018).

The publication of OCDS data can enable greater transparency in public contracting and can support accessible and in-depth analysis of the efficiency, effectiveness, fairness, and integrity of public contracting systems. OCDS was designed with a focus on public procurement of goods, works and services, but can be extended for use in other contexts. Access to information legal framework is critical in advancing disclosure of procurement data and is an

enabler of public participation which are the two components of the open contracting approach. On the other hand, open contracting has triggered more actions around access to information and push for adoption and implementation of the access to information legal framework.

Figure 1: Stages of Transaction and Contracting process



Source: <https://extensions.open-contracting.org/en/extensions/budgetandspend/master/>

The figure above shows a mapping between the stages of a transaction and the stages of a contracting process. The stages of a transaction are generally common across different jurisdictions. Some jurisdictions might not record all stages, some might use different terminology, and some might have more stages. With open data, contracting information can be made actionable by developing tools to analyse and sift through contracts, improve access and notifications for firms and finally, monitor delivery by contractors on what they are paid for.

4. Methodology

This study used both primary and secondary data collection methods. The secondary data were obtained through comprehensive desk studies, where published policy materials, online journals and all relevant grey literature were reviewed and analyzed.

The primary data were obtained through Key Informant Interviews (KIIs) and online surveys. This was a modification of the originally planned physical interviews and Focus Group Discussions (FGD) to adapt to the COVID-19 pandemic which paralyzed international travels and to a greater extent in-country movement. As much as possible, online tools such as Skype, Zoom were also used in the interviews or to get clarifications.

The Data collection tools were designed to cover a range of issues that would provide insights into the potential for implementing the open contracting intervention in a given polity. They include:

- Institutional arrangements: the structure of the political institutions as they related to the procurement process;
- Policy and legal framework: the structure of laws around procurement and disclosure of information and the view of the government on information disclosure and open contracting;
- Technical assessment of the procurement management systems, data collected during the procurement process and quality of that data; and

- Stakeholder Identification and user engagement: efforts and initiatives by the government and other stakeholders to engage with procurement data, both in the present and past. Stakeholders related to the government, civil society/media, private sector actors shaping the procurement landscape, their technical capacities, use cases and opportunities for collaboration.

Quantitative data analysis mainly consisted of descriptive statistics (frequencies and percentages) and inferential statistics. The frequencies and percentages were used to determine the respondents' views. Qualitative data were analysed using content analysis. The qualitative data was re-organized into meaningful shorter sentences.

A thematic approach was used to analyze qualitative data where themes, categories and patterns were identified.

5. Major Findings

Public procurement reforms among African countries are not significantly different in terms of stages of reform, components of reform strategies, and implementation. In most African countries, public procurement reforms have been preceded by assessments of the existing system, either by consultants or by external donor agencies particularly the World Bank through country procurement reports.

In terms of components of the reforms, most African countries have created new procurement legislation that has put in place new institutional frameworks through which procurement is expected to be managed. The major findings from this research study are described under the following headings:

5.1 Institutional Arrangements

The study findings reveal that there are designated government agencies that have the primary responsibility for creation, monitoring and enforcement of procurement rules in the study countries. The government procurement agencies in the study countries have significant powers/ legal authority to effect the procurement reforms except in Senegal where a minority (33%) of the respondents did not believe that the procurement agency in the country has powers to effect any reforms.

The systems in place for procurement are also used in the subnational government entities. The study countries have attempted to reform their public procurement system, have instituted control measures like a central authority where procurement activities are coordinated to ensure that systematic procurement processes are followed.

Other stakeholders outside government have also been encouraged to participate in the procurement processes to ensure transparency, accountability and participation.

5.2 Policy and Legal Framework

The study results show that the countries have relevant legislation and policies in place to guide procurement processes. These are however, not fully applied by all institutions, including by sub-national procuring entities (PEs), and smaller ministries and agencies. In most of the study countries, the legislation provide for a somewhat clear procedure for procurement. It defines procurement methods and circumstances where each procurement method can be used and defines criteria for the award of contracts.

The countries also have regulations that guide implementation of the policies. Majority of the respondents across the countries interviewed indicated that procurement entities or government agencies are required by law to use contracting data to produce annual procurement reviews, monitoring and evaluation framework, supplier performance reviews or other tools and publications. From the study, it was reported that the laws and regulations in the countries provided for the public to access procurement information, requires proactive disclosure of the tender information, planning and implementation of procurement.

5.3 Technical Assessment of procurement systems

The study revealed that there is some form of electronic system used in the collection of procurement data in the target countries. However, other systems of collection and storage of procurement data are also used. These include manual/paper-based, web-based/portal systems, database (Excel/Access) among others. According to the study findings, only 21.4% of the respondents confirmed that their countries used both manual reporting and transactional system (consist of computer hardware and software hosting a transaction-oriented application that performs the routine transactions necessary

to conduct business) in collecting procurement information while the others (78.6%) either used transactional or manual systems.

The type of data collected varies from country to country with different levels of access rights. Although the procurement policy in the study countries provided for proactive disclosure of procurement and contracting information, the procurement systems are not fully open and access is restricted due to various reasons including security reasons as well as the sensitivity of some of the tenders such as those relating to national defence and security.

There are reported challenges and concerns about the maintenance of the systems and the ability to have the systems security hack-proof. It was also noted that most of the systems did not generate data in usable formats to ease analysis to allow meaningful interrogation and participation by non-technical stakeholders in the processes.

The study also revealed that the stakeholders would prioritize to have open access to the public, the award of contract information, planning information and tender and implementation information as opposed to evaluation and prequalification of suppliers' information. Ironically, only 9% of the respondents across the study countries preferred to have all stages of procurement information available and open for scrutiny by the public. In Kenya for instance, despite having an executive order issued by president Uhuru Kenyatta in June 2018 (Odhiambo, 2020), asking all ministries, state departments and agencies that the particulars of winning bidders to any procurement, including their directors and shareholders, be made public, government agencies have for over two years not conformed with this order.

5.4 Stakeholder Identification and User Engagement

The study identified different stakeholders engaging in public procurement in the different countries where the study was conducted. It was found that different stakeholders in the different

study countries engaged differently and at different stages of the procurement process. The governments are the major players through their established procurement authorities which were highly rated by 53% of respondents as being very influential in guiding decisions on data collection and privacy in the procurement process. The primary government stakeholders are highly open to partner with non-government stakeholders on matters on procurement according to 76% of the respondents interviewed during the study.

The study also revealed that the civil society is using procurement data generated by the various authorities to engage in advocacy and lobbying activities to increase the level of openness in public procurement. The private sector was deemed open to engage with other stakeholders in advocating for increased openness and disclosure of data in public procurement.

There have been reported affirmative actions in some of the study countries where a certain percentage of all government procurement opportunities have been reserved for youth, women and people living with disabilities (PWDs). In Kenya and Tanzania, this has been backed by policy that prescribes that 30% of government opportunities are given to the marginalized groups. It was, however, noted that not all of the opportunities reserved for special groups are taken up by the groups thereby defeating the purpose for such reservations.

6. Comparative Analysis of Compliance to Open Contracting

Principles and Practices in the Case Study Countries

The study countries compared very well in many aspects of public procurement principles and practices. They all have the requisite policies and legal frameworks; they all have elaborate institutional frameworks for public procurement. The table below shows the progress made by the study countries in implementing open contracting based on the views of the majority of the respondents and to some extent secondary literature.

Table 1: State of Public Procurement Openness per Study Country

| Variable of interest | Cote d'Ivoire | Ghana | Kenya | Malawi | Nigeria | Senegal | South Africa | Tanzania | Uganda | Zambia |
|--|---------------|-------|-------|--------|---------|---------|--------------|----------|--------|--------|
| Presence of procurement policy and procurement Authority | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Monitoring of procurement laws by government agency | ✗ | ✓ | ✓ | ✓ | ✓ | ✗ | ✓ | ✗ | ✓ | ✓ |
| Laws supporting access to data and engagement of citizens in procurement processes | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Requirement by law public procurement processes are Audited | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Availability of policies for data collection and validation at each stage of procurement process | ✓ | ✓ | ✗ | ✗ | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| New initiatives aimed at increasing the level of openness in procurement | ✗ | ✓ | ✓ | ✓ | ✓ | ✗ | ✓ | ✗ | ✓ | ✓ |
| Discussions on new / amendment of legislation to support open contracting | ✗ | ✓ | ✓ | ✗ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

✓ = Yes ✗ = No

All the study countries have elaborate laws that allow access to public procurement data and engagement of citizens in the procurement processes. However, there are different levels at which these laws are implemented and enforced in the countries under study. The disclosure of data varies from step to step in the procurement process from country to country. Our findings however revealed that there are preferred stages where stakeholders want to have procurement data availed. Awarding of contract stage data was most preferred by majority of the respondents (39%) followed by planning stage (21.7%) and then tendering and implementation stage (17.3%). The least (4.3%) preferred data was that relating to prequalification of suppliers. Only 8.7% of the respondents preferred to have data from all the stages of procurement.

Most of the study countries are embracing new initiatives that are aimed at increasing openness in public procurement as well as developing new policies or amending existing ones to make them more robust in increasing openness, accountability and increasing participation of stakeholders. In South Africa for instance, stakeholders, led by the civil society organizations are pushing to review the public procurement policy. Currently, the draft Public Procurement Bill is in its final drafting stages (Dlamini, 2020). The COVID-19 pandemic has unveiled weaknesses in the procurement policies in almost all the countries studied. In Senegal, the president issued a Decree (Sanchez et al., 2020) that exempted all COVID-19 related procurements from following the set procurement code of practice. The pandemic challenges have raised issues that require a rethink of how to procure vital goods and services while at the same time ensuring accountability, transparency and citizens participation.

7. Conclusion

This policy brief aims to influence the full adoption of open contracting across Africa. Whereas there is significant progress towards implementing open contracting across the study countries, there remains a long way to go to achieve the objectives of open contracting. There is still rampant flouting of procurement procedures as prescribed by the national policies in place leading to serious corruption cases, poor accountability and poor service delivery. In order to correct this anomaly, this policy brief has proposed specific policy changes that if fully implemented will have different outcomes in the medium and long term. Loopholes in the procurement systems need to be identified and sealed using full-proof technologies and systems that are backed by policy. Procurement entities need to liaise with procurement authorities to ensure that there is enough capacity in the utilization of these systems and have in place mechanisms for enforcement. Participation of the other stakeholders should be encouraged throughout the processes of procurement by timely and proactively disclosing data and have a reliable feedback system.

8. Policy Recommendations

The following policy recommendations are informed by the study conducted in the ten (10) countries. These are classified in the four (4) areas namely: Institutional arrangements, policy and legal frameworks, technical assessment of procurement systems and stakeholder identification and user engagement.

Recommendation 1: Strengthen the enforcement of existing policies and Institutional frameworks:

Considering that most countries have existing policy and institutional frameworks on procurement and open contracting system, it becomes imperative that the gap or failure in achieving desired targets is in implementation and enforcement. To achieve sustained impact, we do recommend that the independence of the procurement and regulatory authorities be ensured and devoid of interference from politicians and other senior civil servants. To ensure transparency and add value to the system, individuals from other non-government actors should be integrated into the institutional set up and at all stages in the open contracting process that is made open to the citizens.

Again, rewards and sanctions mechanisms need to be fully enforced in Open Contracting. A reward and sanction system will encourage and or deter people within the procurement entities or authorities to conform with the open contracting initiative or face the consequences of not conforming to the laid down principles and practices. There should be a continuous monitoring, evaluation, learning and reporting (MELR) in Open Contracting. Systems need to be put in

place to aid monitoring, evaluation, learning and reporting in every step of the public procurement and open contracting process. Reports from the MELR should be utilized in adjusting and improving on the system for efficiency and effectiveness.

On the other hand, where the existing policies and institutional frameworks on procurement and open contracting do not conform with international best practices, there is need to kick start a review process of such policies and frameworks. In reviewing such policies and frameworks, efforts should be made to ensure citizens' participation and inclusion of all critical actors in the process. Workable models will need to be adapted based on the local content and contexts so as to ensure sustainability and easy implementation of such new policies and institutional frameworks.

Recommendation 2: Capacity building and strengthening of relevant actors across the Open Contracting value chain:

The study revealed that there are substantial capacity gaps in staff of the regulatory authorities, public sector, media, private sector as well as in civil society especially in the ability to decipher open contracting data for use for various purposes. We therefore recommend constant training and retooling to ensure that all the actors are up to date with the new emerging technologies, tools and trends in public procurement.

In order to encourage meaningful engagement of all stakeholders, there is need to initiate strong advocacy campaigns to sensitize the public and educate them on their rights in public procurement processes for purposes of ensuring they are open and aligned with the international standards. The media/infomediaries can play a big and important role here especially through the use of innovative communication tools that are easily interoperable by the different spectra of stakeholders.

Recommendation 3: Increase investments in Open Contracting infrastructure:

Many technologies and systems have been developed to ease public procurement as well as minimize loopholes in the process. Caution should, however, be taken to ensure that the systems adopted do not impede openness and access to the procurement data across all the stages. E-procurement systems have been used in different countries and the results are encouraging. There is need to ensure a steady transition from manual to digital Open Contracting systems across board from planning to implementation. The investment in digital infrastructure for public procurement data collection, processing, sharing, storage and archiving should be deliberately done to enhance openness of the process.

The OCDS system in public procurement have been very successfully used in various parts of the world. There is need to fully support the adoption and implementation of the OCDS in African countries to support the opening up of public procurement and ease up availability of data for various uses.

Recommendation 4: Ensure inclusivity and stakeholder engagements across all the procurement steps:

Participation in the procurement processes has been found to be a major concern in the study countries. Efforts need to be made to ensure that all Open Contracting systems are as inclusive as possible, open, and transparent. This should actually target having all stakeholders in the procurement authorities as well as in all committees in the procurement chain. The engagements should cut across the public sector, private sector, civil society, media, women, youth, vulnerable, girls, people living with disability, among other special groups that may emerge in the respective countries.

Initiatives such as the Access to Government Procurement Opportunities (AGPO) program as implemented in Kenya and the

preferential procurement Act in South Africa among others need to be encouraged and adopted by other countries that have not yet developed them. Loopholes that may hinder the achievement of the goals of these initiatives need to be identified and closed.

Timely sharing of procurement data will provide an opportunity to get inputs from all stakeholders at every step of the open contracting process. This will ensure that the feedback loop of Open Contracting will be complete and the inputs will be used to improve the process and sustain public trust and accountability.

References

- Dietrich, D (2017). The role of intermediaries in improving efficiency, transparency and accountability in public contracting. Open Contracting Partnership: Blog. Available at: <https://www.open-contracting.org/2017/10/05/role-of-intermediaries-improving-efficiency-transparency-accountability-public-contracting/>
- Djankov S, Federica S, and Asif, I (2016). Is public procurement a rich country's policy? World Bank: Blog. Available at: <https://blogs.worldbank.org/governance/public-procurement-rich-countries-policy>
- Dlamini, P (2020). Opportunity to review 'corrupt' public procurement system – Corruption Watch. City Press. Available at: <https://www.news24.com/citypress/news/opportunity-to-review-corrupt-public-procurement-system-corruption-watch-20200901>
- Fazekas, M and Kocsis, G (2015). Uncovering High-Level Corruption: Cross-National Corruption Proxies Using Government Contracting Data. GTI-WP/2015:02, Budapest: Government Transparency Institute. Available at: <http://www.govtransparency.eu/wp-content/uploads/2015/11/GTI-WP2015-2-Fazekas-Kocsis-151015.pdf>
- Hivos (2016). Open contracting lessons from 15 countries: A synthesis report, November 2016. Available at: <https://www.open-contracting.org/wp-content/uploads/2016/12/OC-HivosArticle19-synthesisreport-1.pdf>

- Open Contracting Partnership [OCP], (2016). Why open contracting is essential to open government. Open Contracting Partnership Policy Brief. Available at: <https://www.open-contracting.org/wp-content/uploads/2016/01/OCP2015-Brief-OpenContracting-OGP.pdf>
- OCP (2018). Guide to Defining Open Contracting Data Standard FunctionalRequirementsforElectronicGovernmentProcurement Systems. Open Contracting Partnership. Available at: <https://www.procurementinet.org/wp-content/uploads/2018/12/e-GP-OCDS-guide-December-2018.pdf>
- Odhiambo, M (2020). Tender billions: How state agencies defied Uhuru order. The Star News 2nd September, 2020. Available at: <https://www.the-star.co.ke/news/2020-09-02-tender-billions-how-state-agencies-defied-uhuru-order/>
- Sanchez V.B, Ousseynou N and P. Tine, (2020). When Covid-19 Confirms the Need for Open Contracting in Senegal. Development Gateway-6th May 2020: Blog. Available at: <https://www.developmentgateway.org/OC-Senegal>
- Transparency International UK, (2017). Making the Case for Open Contracting in Healthcare Procurement. Crown Agents Foundation. ISBN: 978-1-910778-64-7. Available at: <http://ti-health.org/wp-content/uploads/2017/01/Making-The-Case-for-Open-Contracting-TI-PHP-Web.pdf>
- United Nations Office on Drugs and Crime [UNODC] (2013). The United Nations Convention against Corruption: A Strategy for Safeguarding against Corruption in Major Public Events. Vienna. Available at: https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf

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