



## **STRENGTHENING DISCLOSURE AND CITIZEN PARTICIPATION TO IMPROVE VALUE FOR MONEY IN PUBLIC CONTRACTING IN AFRICA**

**PROJECT SUCCESS STORIES**

**JUNE 2020**





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# ACRONYMS

<b>AFIC</b>	Africa Freedom of Information Centre
<b>ATI</b>	Access to Information
<b>BRW</b>	Basic Right Watch
<b>BPP</b>	Bureau of Public Procurement
<b>CSOs</b>	Civil Society Organizations
<b>CHRR</b>	Centre for Human Rights and Reconciliation
<b>CSEC</b>	Civil Society Education Coalition
<b>CONGOMA</b>	Council for Non-Governmental Organizations in Malawi
<b>DPP</b>	Democratic Progressive Party
<b>ESCOM</b>	Electricity Supply Corporation of Malawi
<b>FOI</b>	Freedom of Information
<b>GACC</b>	Ghana Anti-Corruption Coalition
<b>HRDC</b>	Human Rights Defenders Coalition

<b>MDAs</b>	Ministries, Departments & Agencies
<b>MSG</b>	Multi-Stakeholder Group
<b>MEJN</b>	Malawi Economic Justice Network
<b>NOCOPO</b>	Nigeria Open Contracting Portal
<b>ODPP</b>	Office of the Director of Public Procurement
<b>OCP</b>	Open Contracting Partnership
<b>OCDS</b>	Open Contracting Data Standards
<b>PPDC</b>	Public & Private Development Centre
<b>PPDA</b>	Public Procurement and Disposal of Assets Authority
<b>PPA</b>	Public Procurement Authority (PPA)
<b>PPE</b>	Personal Protective Equipment
<b>TETFUND</b>	Tertiary Education Trust Fund

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# FOREWORD

Throughout the last two years of implementing the “Strengthening disclosure and citizen participation to improve value for money in public contracting in Africa” project in 5 countries, we have been able to see countries adopting reforms that promote transparency and accountability.

The two years have not only been a time for transformation but also a lot of learning across all the 5 countries of Kenya, Malawi, Ghana, Nigeria and Uganda by six partners (Article 19 and International Commission of Jurists (ICJ Kenya) in Kenya; Centre for Human Rights and Rehabilitation in Malawi; Public and Private Development Centre (PPDC) and Media Rights Agenda (MRA) in Nigeria; Ghana Anti -Corruption Coalition (GACC) in Ghana; and AIC in Uganda).

We continue to thank the Hewlett and Foundation for the partnership, financial and technical support to undertake this project. We also thank the partners who have worked tirelessly to make sure this becomes one of the most successful projects in Africa and whose prospects we see highly transforming this continent in transparency and accountability.

We are thus pleased to share with you some of the success stories from this project that will show you how Uganda has championed open contracting in Africa, Nigeria has been keep on monitoring transparency and disclosure, Malawi has adopted multi-stakeholder approach, Kenya has generated political will to open contracting and Ghana has already adopted a new e-procurement system. You will find these and more stories eye catching and indeed showing the potential of Africa and its people to improve the public procurement systems and overall procurement transparency. We hope that these stories will inspire governments to do more in implementing their OGP commitments and civil society to continue with its work of monitoring these commitments.

Enjoy your reading!

**GILBERT SENDUGWA**  
**EXECUTIVE DIRECTOR**

## INTRODUCTION

Africa Freedom of Information Centre (AFIC) a leading civil society organization in Africa on promoting and advocating for open contracting and public procurement transparency. AFIC received support from the William and Flora Hewlett Foundation for a two- year project that started in June 2018 aimed at strengthening disclosure and citizen participation to improve value for money in public contracting in Africa. The project which has been implemented in five countries : Kenya, Malawi, Ghana, Nigeria and Uganda by six partners (Article 19 and International Commission of Jurists (ICJ Kenya) in Kenya; Centre for Human Rights and Rehabilitation in Malawi; Public and Private Development Centre (PPDC) and Media Rights Agenda (MRA) in Nigeria; Ghana Anti -Corruption Coalition (GACC) in Ghana; and AIC in Uganda).

Open contracting is a new approach that (1) transforms government contracting from secrecy to publishing open, accessible and timely contracting data, (2) engages citizens, businesses, and government to identify and fix problems, and (3) has already demonstrated substantial results in improved value for money, competition, and service delivery outcomes to governments that have adopted it. Public access to contracting documents

has improved since open contracting reforms were introduced, as have communication channels between citizens, civil society and public servants. At the core of open contracting is the Open Contracting Data Standard (OCDS), which is an internationally accepted standard with a growing community of users. This means that approaches to monitoring and measuring improvements can be shared across countries. In Nigeria, Uganda, and Ukraine, reforms actually began with civil society demonstrating to government the benefits of an open contracting approach.

Through the two years of implementation, there has been demonstrable progress in promotion of transparency and accountability especially in adoption of open contracting initiatives in the 5 countries. Uganda continued to be a champion in open contracting through its adoption of OCDS for improved public procurement disclosure and using the data to engage government accountability agencies to ensure effective service delivery. Nigeria has also championed both analysis of the state of Freedom of Information and Open Contracting and contributing to the improved disclosure levels in the country.

All the countries had a second mapping of their procurement portals and there has been some considerable level of improved disclosure especially in Nigeria. Countries like Malawi that never had any open contracting initiatives have moved a step further through this project engagements to come up with a Multi-Stakeholder Working Group to advance open contracting initiatives in the country. Kenya's the Executive Order No.2 of 2018 has indicated the commitment of the government to uptake open contracting initiatives and also consider gender, youth and Persons With Disability (PWDs) as part of promoting inclusion in access to public procurement. The capacity of the partners has been strengthened to promote transparency and demand for accountability as seen from the implementation of the advocacy campaigns and the success stories generated from their work. Towards the end of the project, with the disruption of COVID-19 pandemic globally, partners engaged their governments calling for accountability and disclosure of public procurement information for emergency procurements as part of their governments' responses.

This project success story book thus presents some of the interesting achievements made within the two years of project implementation. Some of them are presented as interviews, others as descriptive stories as well as first hand encounter narrations. These will indeed show that the project has had impact in the five countries and laid a sustainable way of maintaining them through the systems built by the collaboration between governments and civil society.

**UGANDA** CONTINUED  
TO BE **A CHAMPION IN  
OPEN CONTRACTING  
THROUGH ITS ADOPTION  
OF OCDS** FOR IMPROVED  
PUBLIC PROCUREMENT  
DISCLOSURE AND  
USING THE DATA TO  
ENGAGE GOVERNMENT  
ACCOUNTABILITY  
AGENCIES TO ENSURE  
EFFECTIVE SERVICE  
DELIVERY.

01.

# UGANDA

## Uganda takes Lead in Public Procurement Data Disclosure, Analysis and Use

“We are committed to ensuring that we improve on the level of disclosure and will need AFIC services on training our procurement staff on how to disclose information on the GPP,” said Ms. Diana Atwine, the Permanent Secretary for the Ministry of Health in Uganda. She made these comments while meeting with the team from AFIC to discuss the most recent data analysis report of the Health Sector disclosure levels on the Government Procurement Portal (GPP). AFIC partnered with Public Procurement and Disposal Authority (PPDA) to redesign the Government Procurement Portal (GPP) and align it to OCDS in a bid to promote disclosure of procurement information.

The portal was redesigned to accommodate the increased numbers of government entities to disclose public procurement information and enable monitoring and production of reports that can be used to analyze the disclosed data.

Following the redesign , AFIC was able to build other eco-system tools that consume GPP data, like open-data dashboards, that have been extensively reused for visual data analysis. It is from this dashboard that AFIC was able

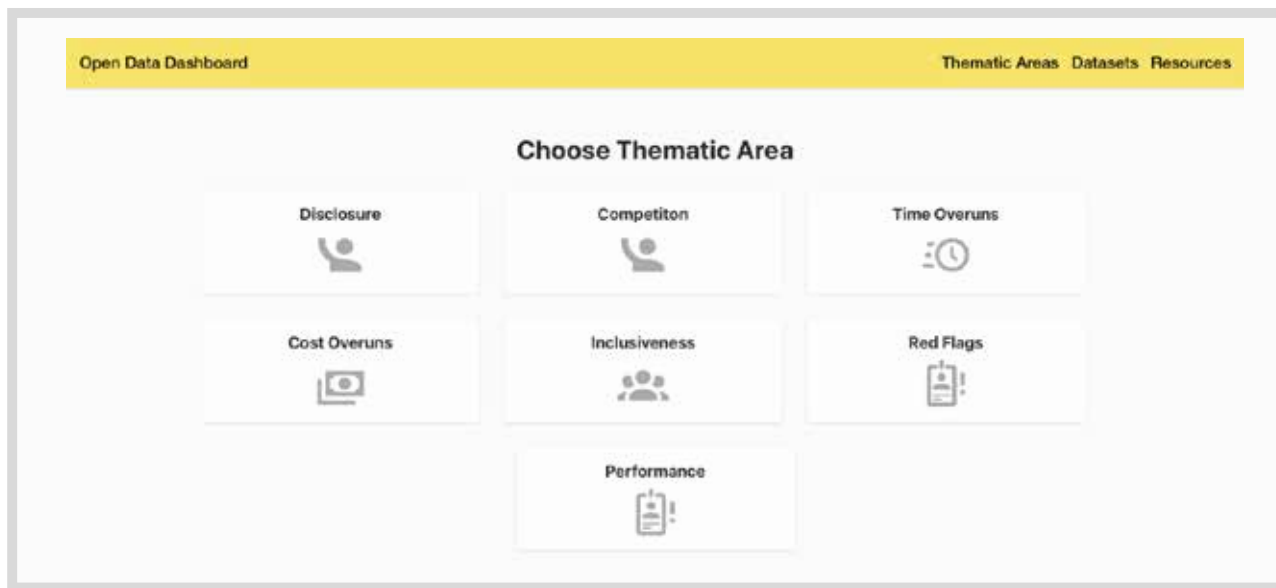
**Dr Diana Atwine,**  
Permanent Secretary,  
Ministry of Health



to analyse data of key sectors like Education, Health, Agriculture; Transport and Works. The analysis of these sectors focused on high spending entities within the sectors looking at specific indicators like Cost Overruns, Time Overruns, Competition, Inclusiveness and Efficiency. From these indicators, AFIC is able to generate the levels of disclosure and rate of return on investment from the procurement processes. From the analysis generated, AFIC has been sharing reports with the relevant entities to discuss their level of disclosure and collectively generate a way forward.

AFIC realizes that there is a need to increase disclosure levels on the portal and inculcating open contracting in the norm of public procurement of Uganda.


To that end, on Tuesday, 18<sup>th</sup> February, 2020 AFIC held a meeting with the Ministry of Health officials at their offices to discuss the Health Sector report and the findings therewithin. From the meeting, the Permanent Secretary indicated the need to build the capacity of the procurement department staff to improve on disclosure levels of the Ministry and sector as a whole. AFIC welcomed the idea and indeed prepared to train the officers. On 15<sup>th</sup> March,




The AFIC Open Data Dash Board

2020 AFIC held a training of 10 procurement officers of the key PDEs in the Health sector and other PDEs that included National Drug Authority, National Medical Stores, Ministry of Health, Kampala City Council Authority, National Water and Sewerage Corporation, and Uganda National Council of Science and Technology. Since the training the disclosure levels of these entities has since improved from disclosing from less than 100 contracts to about 145 contracts.

AFIC has not only shared and built the capacity of Ugandan CSOs. With the successful upgrade of the GPP, AFIC was invited to share lessons with PPRA Kenya on how to duplicate its workflow. The meeting was prepared on the backdrop of Kenya's government commitments to open contracting and to the OCDS in several international fora. The government of Kenya and PPRA in particular have worked aggressively to open up public contracting data to the private sector, citizens, oversight agencies and the government. Kenya has also taken significant strides in making public procurement transparent, notably the launch of the newly redesigned Kenya Procurement Portal.

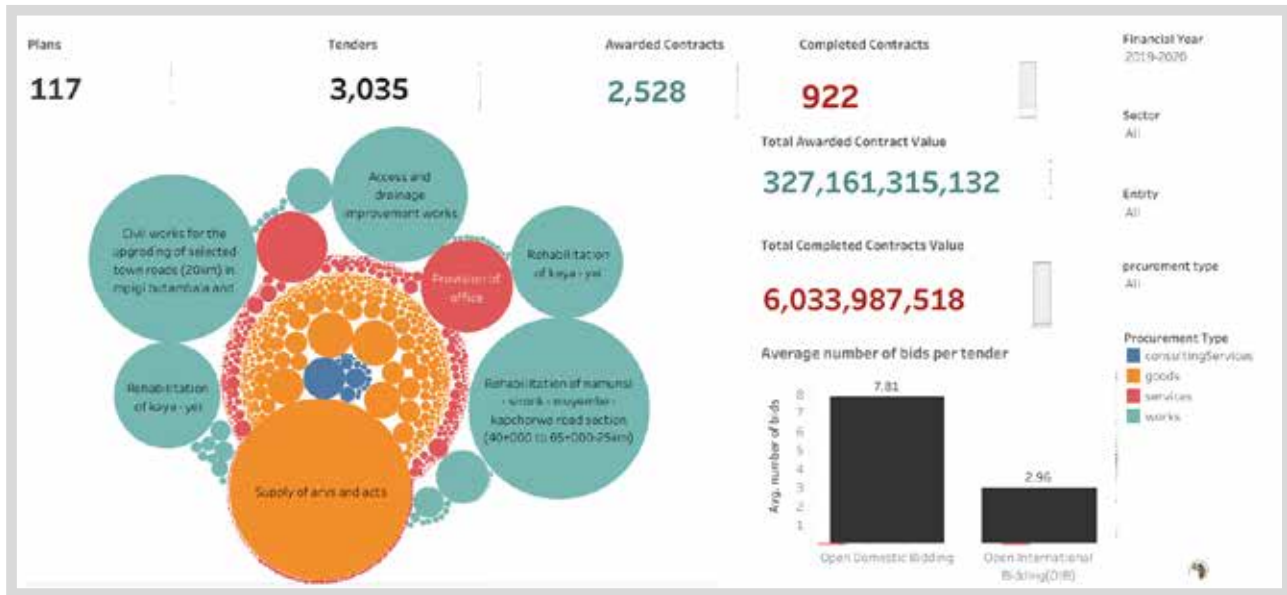


**Since the training the disclosure levels of these entities has since improved from disclosing from less than 100 contracts to about 145 contracts.**



“The reports generated across all sectors will be shared with key accountability mechanisms to ensure policy reform and quick action at the national level. We shall reach out to institutions like PPDA, Parliament of Uganda, Office of the Prime Minister and Ministry of Finance, Planning and Economic Development,” indicated Mr. Gilbert Sendugwa, the Executive Director, AFIC.

By doing this, Uganda has become an outstanding country in not only disclosing public procurement data but also using this data to inform public policy reforms and quick action from government. Indeed establishing a robust and effective open contracting system can only be achieved through e-procurement. It enhances productivity as electronic records help in the submission of reusable tenders or even filling up paperwork more quickly. It also helps in cost reduction by the prevention of duplicate spending, eliminating paper-based systems. As Uganda prepares to move into e-procurement, there will



AFIC Open Data Portal Visualization

be need to further build the capacity of public officials to understand how it will operate so they can continue to increase their levels of disclosing public procurement information. Other countries have a lot of lessons to learn from Uganda as it continues on this journey of Championing Open Contracting.

## Openness in public contracting has always been one of the goals of the PPDA as a regulator of public procurement in Uganda

**Edwin Muhumuza** – Director of Corporate Affairs, PPDA Speaks about Open Contracting in Uganda

For the last 4 years, Africa Freedom of Information Centre (AFIC) has been partnering with the Public Procurement and Disposal of Assets Authority (PPDA) in promoting efficient public procurement in Uganda. We had a conversation with Mr. Edwin Muhumuza, the Director of Corporate Affairs at PPDA on this partnership and its contribution to improved public procurement in Uganda.



***Qn. Tell us about the journey of adopting Open Contracting as a practice at PPDA and its contribution to improve public procurement performance in Uganda?***

The principles of the public procurement legal framework in Uganda include transparency and accountability. As such, openness in public contracting has always been one of the goals of the PPDA as a regulator of public procurement in Uganda. The PPDA Act of 2003 compelled Public agencies to publish some information related to contracting on their notice boards and the PPDA website. However, there were two limitations with this: compliance was low and only limited information was being published; secondly, non-state actors and the public did not have easy access to this information in a form that could enable them to monitor contract implementation.

In 2012, the PPDA entered into an MoU with a number of CSOs under the Uganda Contract Monitoring Coalition (UCMC). The partnership was meant to encourage open contracting and also allow CSOs to monitor contracts in their localities.

In 2014, the PPDA Amendments Act came into force and it enhanced the transparency measures in public

procurement. For example, entities were now required to publish their procurement plans in addition to best evaluated bidder notices as well as contract details.

In 2015, the PPDA developed a Government Procurement Portal (GPP) on which contract information was to be published and made accessible to the public.

***Qn. What was AFIC's role in this process?***

AFIC has played a crucial role at all stages on the open contracting journey. It played a leading role in the creation of the contracts monitoring coalition; it made proposals to Parliament for opening up public procurement contracts and has supported both financially and technically the incorporation of OCDS in the Government Procurement Portal. AFIC through their monitoring activities have also produced a number of reports that have supplemented Government oversight. AFIC has also engaged in training Government officials, other CSOs, the media and other stakeholders on open contracting. It's also been involved in advocacy to improve the legal and policy framework that creates an enabling environment for open contracting. PPDA has an MoU with AFIC on work that strengthens our partnership with them.

**Qn. Elaborate more about the recent framework you started with civil society and the PDEs in Uganda.**

The framework was intended to rationalize the relationship between PPDA and CSOs, spelling out the roles and responsibilities of all parties. Its intended to govern and regulate the relationship between CSOs and Government on contract monitoring

**Qn. What more can be done to improve the levels of citizens' participation in public procurement in Uganda?**

There is need for more capacity building and information sharing to enable citizens demand for accountability. There is also need to act on the reports submitted by CSOs so that citizens get confidence in the government once it acts on the feedback given.

**Qn. What lessons do you think other African countries can learn from Uganda's case on disclosure of public procurement information?**

They should be encouraged to develop and regularize relationships with CSOs and work closely with them. They should also develop an enabling legal and policy framework for information disclosure and tools such as procurement portals on which information on procurement contracts can be found.

AFIC HAS NOT ONLY SHARED AND BUILT THE CAPACITY OF UGANDAN CSOS. **WITH THE SUCCESSFUL UPGRADE OF THE GPP, AFIC WAS INVITED TO SHARE LESSONS WITH PPRA KENYA ON HOW TO DUPLICATE ITS WORKFLOW.**

## AFIC Supports and Builds Civil Society and Governments' capacity to adopt Open Contracting in Africa



AFIC Open Contracting working group partners pose for a group photo at the end of two-day meeting that was held in Nairobi, Kenya on May 17, 2018

Enhancing public procurement through open contracting requires investment in key stakeholders and ensuring that their capacity is well built to support all the procurement processes. The capacity of public officials should be built to enhance their ability to disclose public procurement information and also respond to the feedback provided by citizens. The citizens' capacity too needs to be built to boost the demand side for information that will support their ability to monitor public contracts as well as demand for accountability.

Africa Freedom of Information Centre (AFIC) since June, 2018 has been implementing the Strengthening disclosure and citizen participation to improve value for money in public contracting in Africa Project supported by the William and Flora Hewlett Foundation. Through this project AFIC has supported 4 countries Kenya, Malawi, Ghana and Nigeria to fast-track the implementation of the project while supporting 6 partners in these countries. These partners included Article 19 and International Commission of Jurists (ICJ Kenya) in Kenya; Centre for Human Rights and Rehabilitation in Malawi; Public and Private Development Centre (PPDC) and Media Rights Agenda (MRA) in Nigeria; and Ghana Anti -Corruption Coalition (GACC) in Ghana.

AFIC started this process by making a strategic decision to set up a Working Group (WG) on open contracting whose goal is to provide the leadership, coordination,

conceptual and technical skills to review the current architecture of the open contracting agenda across Africa. This working group which was established in 2016 is comprised of CSOs representing 8 countries in Africa that strive to promote Open Contracting as means of improving transparency in public procurement. The Working group is constituted of 10 members, and Open Contracting Partnership as well as Hivos participate as observer and technical partners. These include Public and Private Development Centre (Convener) – Nigeria; Media Rights Agenda – Nigeria; Kenyan Section of International Commission of Jurists – Kenya; Article 19 East Africa – Kenya; Society for Democratic Initiatives - Sierra Leone; Open Democracy Advice Centre – South Africa; Ghana Anticorruption Coalition – Ghana; Centre for Human Rights Rehabilitation – Malawi; AFIC (Secretariat) – Uganda; AfroLeadership, Cameroon; Open Contracting Partnership (Observer/Technical Partner); and Hivos (Observer/Technical partner).

This initiative was inspired by the good practices and advance in open contracting agenda already happening in Nigeria and Uganda. Indeed, both Ugandan and Nigeria public procurement portals namely the Government Procurement Portal (GPP) and NOCOPO respectively were aligned to the Open Contracting Data Standard. Other good practices identified the need to approach the government with tangible recommendations emanating from OCDS mapping of existing public procurement portals

or concrete products that will add value to their work; demonstrate the benefits of open contracting initiatives on the overall performance of the public procurement regulator to execute its mandate; rely on government's commitments to advance your agenda, especially in the case of Open Government Partnership country members; and strengthen civil society engagement in monitoring public contracts

The working group therefore became a founding place for shared learning across the members and most importantly inspiring each other to do better. Through newsletters and articles shared online, members have been able to learn how their counterparts are faring. Indeed, through this process other countries on the project have already redesigned their procurement portals and improved their disclosure levels although they are yet to make them OCDS compliant. At the same time, the partners have been engaged in building the capacity of the public officials and citizens to be responsive in promoting open contracting. AFIC has played such an important role of supporting the partners by co-training with them the public



**“AFIC was able to hold over 10 training sessions online and in Uganda to reach out to the partners and ensure improved disclosure levels.”**



**Through this project AFIC has supported 4 countries Kenya, Malawi, Ghana and Nigeria to fast-track the implementation of the project while supporting 6 partners in these countries.**

officials and citizens to increase further awareness about open contracting. In the last two years alone, AFIC was able to hold over 10 training sessions online and in Uganda to reach out to the partners and ensure improved disclosure levels. AFIC also published a comprehensive training manual that will support partners to continuously train other stakeholders in their own countries.

AFIC further organised a project mid-term review with all the implementing partners from 3rd- 4th December, 2019 at Serene Suites in Kampala-Uganda. The two days were used to review progress of the project, share lessons and draw recommendations on how to deepen the project outcomes. The partners were able to enjoy peer and shared learning across countries and plan for progress to ensure Open Contracting becomes a norm on the African continent. During this meeting, partners were able to learn about unique experiences like the one of Uganda where the Procurement Authority has established a working

framework between themselves and civil society to ensure collaborative engagement. It was from these discussions that partners were able to go back and try to improve their working relationships with the various government agencies for improved disclosure.

“In Uganda, we have realized that monitoring public procurement requires partnership between civil society and government,” said Edwin Muhumuza, the Director of Corporate Affairs, PPDA who represented the Executive Director at the meeting.

In a bid to support the partners to be effective in implementing the project, AFIC secretariat invested in mission visits to the four countries to meet with the partners and understand the challenges faced as well as work with them to undertake OCDS mapping of the procurement portals. The mission visits strengthened further the partnership between AFIC and the partners to enable them further reach out and promote the need for disclosure of public procurement information. The continuous engagements between AFIC and her partners has been very instrumental in ensuring that all stakeholders’ capacities are well built and engagements are constructive towards improved disclosure levels in Kenya, Malawi, Nigeria and Ghana.

As a result of this support, there has been increased knowledge and awareness among CSOs, public contracting officials, the private sector and the citizenry about Open

Contracting in the 4 countries leading to an improvement in monitoring of public contracting processes by CSOs and public contracting authorities being more conscious in their actions, leading to improved value for money in public contracting. This capacity building has further improved the collaboration among CSOs, private sector and public agencies on improving public procurement. So far, all the countries have put in place procurement portals to disclose public procurement information. Uganda’s GPP and Nigeria’s NOCOPO are so far OCDS compliant while Ghana’s new e-procurement portal is being piloted to be OCDS compliant. Although Kenya and Malawi have not yet become OCDS compliant, their disclosure levels have improved with increased amount of information disclosed on these portals.



AFIC Executive Director, Gilbert Sendugwa addressing the OC Working Group Members during their first meeting in Nairobi Kenya

# The East African Public Procurement Authorities resolve to fast-track Open Contracting



The public procurement oversight agencies for Burundi, Kenya, Rwanda, Uganda and Tanzania have resolved to fast-track open contracting by proactively publishing data in Open Contracting Data Standards formats and promote monitoring of contracts by none state actors. They also resolved to promote participation in the participation of special interest groups like women, youth and people with disabilities in tendering processes.

The resolutions were made at the closure of the 12th East African Public Procurement Forum (EAPPF) held at the Arusha International Conference Centre Tanzania from 27th to 29th November 2019 under the theme, “Embracing Modern Procurement Practices for Sustainable Economic Development”.

While addressing the Forum, Mr Benson Turamye, the Executive Director of Uganda’s Public Procurement and Disposal of Public Assets Authority observed that governments need to recognize the positive contribution of civil society organizations in the monitoring public contracts and facilitate their work by disclosing needed information and implementing their feedback. He noted that procurement oversight authorities were under-resourced and cannot cover the whole country hence the need for CSOs and media to compliment them.

He strongly acknowledged the collaboration with the Africa Freedom of Information Centre (AFIC) and the Open Contracting Partnership which enabled PPDA to improve

disclosure and public monitoring of contracts through the Government Procurement Portal (GPP – <https://gpp.ppda.go.ug/>). He noted that through GPP, all procuring entities are required to publish Procurement Plans, Procurement Notices, the record of bid opening, Best evaluated Bidder Notices and Contract Award notices.

Mr Gilbert Sendugwa, AFIC’s Executive Director presented his organization’s experiences in monitoring contracts. He observed that through monitoring AFU+IC had identified issues such as collusion, cost and time overruns, “ghost projects”, dumping of inputs and lack of information about the project by communities. He revealed that the government had implemented nearly two-thirds of AFIC’s recommendations.

#### Lessons from AFIC’s recommendations

- a. when citizens access information and engaged, ownership of projects is ensured.
- b. Constructive engagement yields results and strong partnerships between CSOs and Government
- c. CSO co-creation of solutions with Government builds trust and makes a big difference in promoting the performance of contracts
- d. commitment by procurement oversight agencies is critical for the effectiveness of monitoring of contracts by none state actors.

He noted that it was pleasing for the Government of Uganda to institutionalize CSO monitoring contracts as per the announcement of the Minister of Finance, Planning and Economic Development who on October 31, 2019, launched a national framework for CSO monitoring of contracts in Uganda and cited the positive collaboration with AFIC which inspired the new initiative. Mr Sendugwa made the call for the respective public procurement authorities to embrace open contracting. It was unanimously the adopted resolutions be implemented as soon as possible and each procurement oversight authorities committed to report on implementation at the 13th EAPF to be held in Kigali, Rwanda.

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## **Where is the value for money in public procurement? AFIC Produces an in-depth Analytical Report on the Status of Uganda's Public Procurement Disclosure**

Public procurement expenditure in Uganda accounts for 60% of the national budget according to the Public Procurement and Disposal Authority (PPDA). This expenditure that takes such a huge percentage of the budget should indeed translate into effective service delivery for the citizens. However, the data so far disclosed by the government agencies on the Government Procurement Portal (GPP) indicates that government is not only failing to disclose the information about this spending but they are also incurring a financial loss.

According to the most recent public procurement data report by the Africa Freedom of Information Center (AFIC), Government of Uganda has registered a financial loss of Sh370.4b in inflated prices for procurement of public

goods and services as well as infrastructural works by different government ministries. The report named "The quest for value for money in public procurement" covered four sectors that included health, education, works and transport as well as the agriculture was released on Friday 24th July, 2020 at Kampala Sheraton Hotel indicated that the government lost the money between the financial years 2016/17, 2017/18 and 2018/19. The report was based on four key indicators that included transparency, competition and efficiency in public procurement. The discussion was graced by representatives of key government accountability agencies like the Members of Parliamentary Accountability Committees, Office of the Prime Minister, Ministry of Finance, Planning and Economic Development, PPDA, Heads of Sectoral Agencies, PDEs

# Partnering with Civil Society to Improve Public Procurement



Ms. Abetyo Stell, the Chief Administrative Officer, Pakwach District presenting during the meeting panel discussion

from the analyzed sectors and Local Government Technical leaders.

Speaking during the release of the report in Kampala, Gilbert Sendugwa, the Executive Director AFIC, said prices for 7040 contracts for the procurement of the goods and services were above the market price in the four ministries mentioned above. In its report, AFIC stated that the total contract price of the contracts was Sh1.3 trillion, while the market price was Sh976.4b, leading to a total inflated cost of Sh370.4b, representing an inflated cost of 27.5%.

“This is a lot of money that could have been put to better use for improvement of service delivery under the sector,” Sendugwa said.

It is an offence under section 95 (1b) (b) of the Public Procurement and Disposal of Public Assets (PPDA) Act, for an accounting officer to sign a contract above the market price. According to the analysis report, the agriculture sector signed 570 procurement contracts, at 47b

whereas the market price was only sh35.1b. This according to AFIC, created a financial loss of Sh11.9b as a result of the inflated contract prices. The works and transport sector, signed 2,161 contracts at Sh316.9b ignoring the Sh142.8b market price, which lead to the loss of Sh174b. On its part, the education sector, signed 2,212 contracts at sh174.5b, despite the market price being Sh76.8b. This created a financial loss of sh97.7b. The health sector, according to the report, signed 2,097 contracts paying sh808.3b and ignored the sh721.6b market price, which lead to the financial loss of sh86.7b. Section 26(4) and (5) of the PPDA Act, provides that entities shall not enter into contracts with providers where the contract price is higher than the market price.

However responding to the report findings one of the stakeholders, Alex Kwizera, the Chief Administration officer (CAO) Kanungu district, who attended the launch, attributed the variance in contract prices to those on market, to lack of an official government market price to guide government agencies in procurement.

“If PPDA could give us a price list for all materials used in Uganda and beyond so that we are able to determine whether there is inflation in prices, because this is not happening for the first time. We can use that average price list to determine before the contracts are signed,” Kwizera said.

Representing the PPDA, Edwin Muhumuza, the Corporate



**Mr. Gilbert sendugwa the Executive Director AFIC presenting the report**

Affairs Manager PPDA acknowledged the inflation in prices for contracts by different government ministries. He noted that such challenges do still exist in some government systems adding that some market prices could have been changed. Muhumuza however noted that there is need for the government to create a standard price list, which can be used to determine contract prices.

“There is no standard price on government supplies such as vehicles and laptops. You find different government agencies buying the same type of laptop at different prices,” Muhumuza said.

AFIC further noted that only 7% of the values across the four sectors, was disclosed on the government procurement portal (GPP) in the period 2016/17, to 2018/19, suggesting a substantial level of lack of transparency. The report indicates that over the three years under review, the four sectors including agriculture, works, transport, Education and Health, disclosed contracts valued at Sh2.23 trillion, which is only 7% of the combined budget allocation of Sh30.6 trillion.

It was also revealed that only two sectors (health, works and transport) received over 10 bids in the period under review, suggesting bidders could be having challenges to bid in the other sectors such as Education and Agriculture. The report further discovered that at least 89% of procurement methods used to implement procurements in the sectors reviewed were non-competitive methods.

To enhance disclosure and foster transparency in the procurement system, AFIC recommended that PPDA expedite the implementation of the electronic government procurement (e-GP) system in the sectors analyzed since they together account for about 35% of the national budget. Regarding the procurement delays, PPDA should according to AFIC, cap procurement lead time and provide for sanctions for procurement delays. It should be noted that 60% of the national budget is spent on public procurement. The PPDA was also been advised to enforce the provisions of the PPDA Act sections

95(1b) (b) that prohibits an accounting officer to sign contracts above the market price. Districts were also been advised to fully embrace and step up the use of available disclosure mechanisms such as GPP and public notice boards to disclose procurement information.

One of the officials from the Office of the Auditor General confirmed that indeed the report findings were similar to what they had discovered in the national audits and thus there was a need to deal with the issues raised. Reacting to the report, Hon. Okin PP Ojara (Member of Parliament Chua West), the Vice Chairperson Parliamentary Committee on Public Accounts committee (PAC) attributed the challenges in public procurement to attitude by government officials and lack of public participation in procurement.

On his part, Jonathan Odur, a member of the Parliament's committee on public accounts local government said; "It is worrying that disclosure level is at 8% as parliament we face the same challenge you go to these districts and you cannot access information, I find it very worrying".

By the end of the meeting, nearly all agencies had committed to disclose further the information on the GPP while the accountability agencies committed to pay more attention to the issues raised in such reports generated by civil society and ensuring that action is taken decisively.

**02.**

# **NIGERIA**

# Freedom of Information Ranking Improves Disclosure Practices of Tertiary Education Trust Fund (TETFund)



In recent years, Nigeria has prioritized human capital development and one way to improve the human capital index is through adequate infrastructural provisions, social welfare and alike. The Nigerian government has supported this effort through an increase in the education budget in addition to donor support to tertiary and basic education sectors in Nigeria. Among other interventions, the Federal Government of Nigeria set up the Tertiary Education Trust Fund (TETFUND).

The Tertiary Education Trust Fund was originally established as Education Trust Fund (ETF) by the Act No 7 of 1993 as amended by Act No 40 of 1998 (now repealed and replaced with Tertiary



The PPDC staff addressing the public during a radio talkshow to raise more awareness about the FOI analysis

Education Trust Fund Act 2011). It is an intervention agency set up to provide supplementary support to all level of public tertiary institutions with the main objective of using funding alongside project management for the rehabilitation, restoration and consolidation of Tertiary Education in Nigeria. The main source of income available to the Fund is the two percent education tax paid from the assessable profit of companies registered in Nigeria. The Federal Inland Revenue Services (FIRS) assesses and collects the tax on behalf of the Fund.

The funds are disbursed for the general improvement of education in federal and state tertiary educations specifically for the provision or maintenance of Essential physical infrastructure for teaching and learning;

Institutional material and equipment; Research and publications; Academic staff training and development and; Any other need which, in the opinion of the Board of Trustees, is critical and essential for the improvement and maintenance of standards in the higher educational institutions.

Despite the huge sums within its proposal and the need to be accountable to the Nigerian populace on the expending of these resources, the TETFUND had retrogressed in its disclosure practices. Such was seen in the annual Freedom of Information (FOI) ranking the Public and Private Development Centre (PPDC) conducted showing that in the last two years, the institution had not been compliant with the Access to Information (ATI) law . More so, the Basic Right Watch (BRW), a CSO with focus on benchmarking and improving the utilization of education funds (tertiary) also highlighted this decline in their analysis and in 2018/2019 partnered with the PPDC to find approaches to improve disclosure practices of the Fund.

The Freedom of Information (FOI) ranking is an annual report undertaken by PPDC to show the compliance of public institutions with the Freedom of Information Act, 2011. The program started with 15 institutions in 2013, rising to 67 in 2014. In 2019, 191 institutions were ranked. Among those ranked was the Tertiary Education Trust Fund. Figures alone indicate that more and more Nigerian organizations are complying with or trying to comply. The parameters for the ranking are; Proactive disclosure,

Responsiveness in the request for information, Level of disclosure and FOI training.

Furthermore, the ranking is not limited to ensuring accountability and transparency in public sector institutions by ensuring that MDA publishes data and people have timely and unlimited access to public information, but also enhancing disclosure practices that have a positive impact on how public resources are handled and used. The success of the FOI Ranking program has given rise to the National Freedom of Information Ranking and a total of 203 public institutions, inclusive of the security sector.

To ensure adequate step is taken to this regard, in 2019 PPDC relying on its FOI analysis report commenced advocacy and intensive follow up with the institution under the Strengthening disclosure and citizen participation to improve value for money in public contracting in Africa implemented in partnership with AFIC with support from the Hewlett and Flora Foundation. This included physical visits,



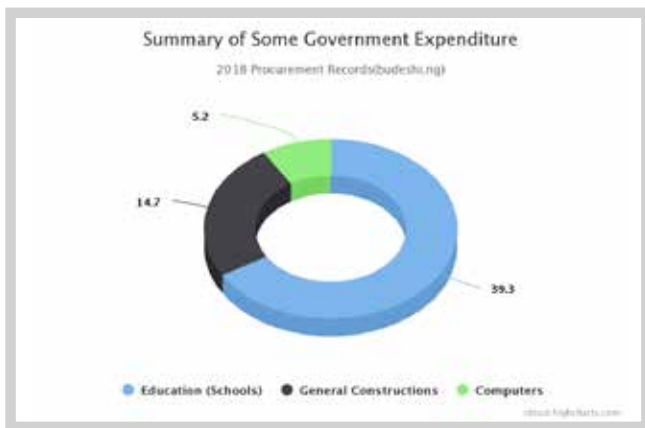
**The Freedom of Information (FOI) ranking is an annual report undertaken by PPDC to show the compliance of public institutions with the Freedom of Information Act, 2011. The program started with 15 institutions in 2013, rising to 67 in 2014.**



radio programs that shed light on the poor performance of the institution, as well as drawing public interest in understanding how the institution judiciously expend tertiary education funds, the matching services being delivered and the processes undertaken.

In mid-2019, the institution for the first time in years provided full disclosure of all requested information on capital warrants, list of 2018 projects and its 2019 procurement plan. The provided data was analyzed and published by the PPDC on the Budeshi platform for public use. This improved their position on the ranking and subsequently improved their compliance and data publication on the NOCOPO platform making them one of the most responsible MDA publishing their procurement data on the portal.

The Federal Government of Nigeria publicly committed to full implementation and adoption of the Open Contracting Data Standards (OCDS) at the 2016 London Anti-corruption Summit. Since then, the Industry Regulator- Bureau of Public Procurement (BPP) has consistently worked with stakeholders to drive the process of its implementation by setting up a multi-stakeholder forum - the Procurement Monitoring Working Group (PMWG). Between 2016-2018, the BPP deployed the first Nigeria open contracting portal <http://nocopo.bpp.gov.ng/>. During the first phase, the BPP was meant to pilot within 8 agencies, and whilst efforts were being made in the deployment of the portal, not much data was being put out on it, thus limiting enthusiasm, trust and the right of citizens to benchmark government and their performance in providing public services.



Civil Society Organisations in Nigeria have been engaged in advocating for transparency and accountability in public procurement and also working with PBB to ensure full disclosure. The Public and Private Development Centre (PPDC) has been taking lead on this through holding several media campaigns and tweet chats targeted at creating awareness on Nigeria's open contracting commitment and gaps within the implementation and compliance by MDAs. Through their weekly radio programs, PPDC invited several open contracting enthusiasts to talk about open contracting and foreseen challenges. Several advocacy visits were done to key policymakers including the OGP secretariat. PPDC further supported the PMWG to develop an open contracting strategy document that captured what progress the Bureau has made, where the challenges and gaps are, what sort of efforts are needed and by whom to advance the Nigeria's open contracting agenda. This was started off during an open contracting workshop with the Industry Regulator, CSOs and the media organised by PPDC in February, 2019 to discuss gaps and challenges impeding the successful implementation of open contracting in Nigeria. This strategy document tremendously helped stakeholders to understand what progress has been made and their role in attaining more progress. This approach will ensure non-state actors leverage their expertise and experience to support and track government



programs using published data. Subsequently, PPDC continued periodic check-ins with the Bureau of Public Procurement (BPP), to ensure feedback from MDAs was addressed. For example, one key recommendations from one of the stake-holder open contracting roundtables was for the BPP to conduct regular open contracting training for MDAs to address challenges they face and ensure adequate skills are acquired.

The PBB was able to take up this recommendation and started a series of activities in September, 2019 that included targeted training for MDAs on open contracting. The trainings aimed at improving several data and digital and technical gaps. This has greatly influenced the progress Nigeria has made on open contracting as the NOCOPO has more structured data and is OCDS compliant for CSOs to conduct contract monitoring and data analysis.

PPDC has thus analysed the data published on NOCOPO in 2019 and 2020 that indicated that only there has been improvement in disclosure with 450 projects published on NOCOPO in 2019 which increased in 2020 with 611 projects disclosed. However, OCDS compliance was still at 27% and most of the published projects were not specific on location details and contract amount and lacked data across the procurement chain as seen from the 2020 NOCOPO Contract Monitoring Data Analysis Report. The BPP has continued using several consistent advocacy means and has also commenced the development of the Private Sector segment of the NOCOPO portal and will commence user engagement of the organized private sector.



## The Chief Executive Officer, PPDC, shares their Open Contracting journey in Nigeria

As part of its National Action Plan 2017-2019, Nigeria is currently implementing 14 commitments. Public and Private Development Center (PPDC) is the leading civil society organization championing Open Contracting work and monitoring the progress of Nigeria's National Action Plan implementation.

Ms. Nkem Ilo is also chairperson of AFIC's Open Contracting Working Group. AFIC Newsletter team caught up with Nkem Ilo, Chief Executive Officer-PPDC, to share PPDC's Open Contracting story and journey.

***Qn. Nigeria is seen as a champion of Open Contracting having signed up to the OGP. What has the journey been like?***

The journey of Open Contracting in Nigeria has been very interesting and enlightening, and it has also provided us with learning opportunities. The need for Open Contracting in Nigeria and indeed Africa, cannot be overemphasized as reports have revealed that public procurement is the number corruption risk in the world, as it is prone to all manner of waste when not carried out transparently. In May 2016, after continuous and relentless advocacy by PPDC, President Muhammad Buhari, at the London Anti-Corruption Summit, committed the country to adopt open contracting to deepen the administration's Anti-Corruption Reform.

After its adoption, Nigeria Open Contracting Portal (NOCOPO) was launched by the Bureau of Public Procurement (BPP), which has been making efforts at ensuring that MDAs in Nigeria comply with open contracting data standards at the national level and populating the portal.

PPDC having successfully advocated for the adoption of Open Contracting at the national level, we have now taken similar campaign/advocacy to the subnational level. Currently, we are supporting six states which have successfully adopted open contracting in their state.

We are offering technical support to states by building an open contracting portal for them and training their state procurement officers from their various MDA's at No Cost. Our main incentive is to ensure that they disclose procurement data so that citizens can access and use it.

Kaduna State, one of the six we have supported has a functional open contracting portal which is accessible to the public. The portal has allowed citizens see projects that have been awarded and this has enabled the indigenes, particularly the civil societies carry out project monitoring across the states to ensure proper implementation according to specification as provided by the contract details.

We are still offering technical support to the other states, who would soon launch their open contracting portals, at the same time we are still advocating and encouraging more states to take advantage of this opportunity and adopt open contracting as this would go a long way to curtail waste in procurement in the state and ensure value for money and efficient service delivery.

***Qn. Do you see any progress being made in disclosure of public procurement information by procurement entities?***

Definitely. There has been a tremendous growth in the level of disclosure of public procurement information in recent times. This I would attribute to the emergence

of the Freedom of Information (FOI) Act of 2011, which mandates procurement entities to disclose such information as there are public information. Using the FOIA, we write to various MDA's requesting for their public finance expenditure and when the responses are received, they are analyzed and simplified using the Open Contracting Data Standards and uploaded on our open contracting platform 'Budeshi'" for public consumption.

***Qn. PPDC has taken lead on monitoring the commitments of OGP National Action Plan, how would you describe your relationship with government during this process?***

PPDC is not a lead in the monitoring of the commitments of the OGP NAP. There are government agencies and other stakeholders with the responsibility of monitoring and who are working to ensure that the commitments are met, information captured and published.

***Qn. What more can be done to harness the participation of citizens in public procurement process?***

Citizens participation is the most essential prerequisite for any democratic society to function optimally. 'Ignorance, apathy and disempowerment are recurring drivers of impunity', hence eliciting citizen participation is a promising way to assess public service quality, and monitor projects, ensure value for money and denounce

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corrupt practices. Therefore, citizens' participation in public procurement process is very vital for any serious nation that wishes to grow. Citizens, particularly those in the local communities, need to be further educated and enlightened on their roles and how they can collectively bring about positive changes in their community.

**Qn.** *Tell us more about the work on the Freedom of Information (FOI) analysis and your next plans having launched the first one.*

On September 28, 2013, following the adoption of the FOIA, 2011 in Nigeria, PPDC launched and unveiled its first annual FOI compliance ranking which was aimed at measuring compliance of Ministries, Departments and Agencies to the Freedom of Information Act (FOIA). We started with 15 pilot public institutions. In 2014, it was increased to 66 public institutions. In 2015, the ranking was split into two, ranking for Public Institutions and Security Sector Institutions with 116 Public Institutions and 14 Security Sector institutions. In 2016, 131 public institutions and 12 security sector institutions were ranked, in 2017, 166 public institutions and 12 security sector institutions were ranked, and in 2018, 187 public institutions and 11 security sector institutions.

In April 2019, PPDC in its effort to improve the rankings by giving it more Visibility and Credibility reached out, and formed partnerships with (pilot) civil society's working in the transparency and accountability space who also make use of the Freedom of Information Act (FOIA) to unveil and launch the first-ever national freedom of Information compliance and transparency rankings. The rankings are unveiled on September 28th to commemorate the 'International Right to Know Day, which is now the "International Day for Universal Access to Information".

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**03.**

**MALAWI**

## The Open Contracting Multi Sectoral Group (OC-MSG) enables CSOs in Malawi to speak with one voice



Members of the OC -MSG during the Inception Meeting held at Segocoa Golden Peacock Hotel in Lilongwe on 19th December 2018

“The journey for advancing Open Contracting in Malawi can only be successful if we all come together to speak with one voice,” indicated Michael Kaiyatsa, the Centre for Human Rights and Rehabilitation (CHRR)’s Ag. Executive Director at the end of the first multi stakeholder meeting for Open Contracting Stakeholders that was held at Sogecoa Golden Peacock, Lilongwe on the 19th of December 2018.

The establishment of the Open Contracting Multi-Stakeholder Group (MSG) is one of the outcomes of the stakeholders’ training workshop that CHRR, with support from AFIC, earlier conducted in November, 2018. The workshop focused on ATI laws, Public Procurement Legislation, Open Contracting, the Open Contracting Data Standards. This was followed with mentorship and coaching on how to use these instruments for our advocacy work. During the workshop, participants expressed the need for the establishment of a platform that would bring together relevant actors and create space for open discussion and dialogue around open contracting in Malawi. This process was spearheaded by CHRR, the Malawi Economic Justice Network (MEJN) and HIVOS; meetings were held thereafter, which resulted in the development of draft Terms of Reference.


The OC-MSG was thus formed on the 19th of December 2018 and formally launched on 29th August 2019. The secretariat is comprised of CHRR, CoST Malawi, Civil Society Education Coalition (CSEC), the Council for Non-

Governmental Organizations in Malawi (CONGOMA), Office of the Director of Public Procurement (ODPP), and the Media Institute for Southern Africa (Malawi Chapter). The MSG, according to the ToRs, among other things reflects and brainstorms procurement and open contracting issues, through periodic and regular meetings held for planning and review i.e. for disclosure of open contracting data, the timely publishing of information related to the planning, procurement, and implementation of public contracts, action on feedback and redress for matters related to public contracting and other Open Contracting related issues.


The Group provides a neutral platform where these key stakeholders pursue shared objectives to improve compliance with open contracting commitments in Malawi. Through the OC-MSG has been very instrumental in advocating for transparency and sharing generated ideas with the relevant government officials to take action. They have been able to monitor contracts implementation and call on government to improve its disclosure. Through this advocacy, PPDA has been able to respond by building a new website that will contribute to improved disclosure of public procurement information. PPDA has also developed its own tender portal to disclose procurement data with a provision to disclose procurement plan information, tender notices, and award information. However, the portal remains non- OCDS compliant and still has no data published in the various sections of disclosure.

With the global disruption of COVID-19 pandemic in 2020, governments have been involved in various response mechanisms that require emergency procurement of various goods and services. The responses however, have come with a number of transparency loopholes especially in Sub-Saharan Africa that require civil society to provide checks and balances and ensure that services reach those they are intended for. In Malawi, CHRR in collaboration with the OC-MSG and other CSOs, came up with efforts to demand for transparency in the management of COVID-19 resources. This was done through media statements and physical meetings with responsible actors.

On 5th May 2020, CHRR, along with other members of the Human Rights Defenders Coalition (HRDC), engaged the ministers of health and information, Hon. Mark Botomani and Hon. Jappie Mhango respectively, and other senior government officials, seeking clarification on allegations that the ministers and other members



**Since then, citizens have witnessed increased proactive disclosure of information, as far as COVID-19 response is concerned.**



of the cabinet committee on Covid-19 were pocketing hefty allowances in regard to the tasks related to the COVID-19 response. In that meeting, commitments were made, and the ministers' budget on monitoring visits in regard to the COVID-19 response in Malawi. Since then, citizens have witnessed increased proactive disclosure of information, as far as COVID-19 response is concerned.

The Public Procurement and Disposal of Assets Authority (PPDA) has also put in place measures to ensure transparency in COVID-19 related procurement. It is now a requirement that all Covid-19 procurement will have to follow open tendering through publications of invitations to tender on the PPDA website. Upon signing the execution of the contracts, the procuring entity shall publish the details of the awarded contracts on the PPDA website, including the name of the successful company or business, beneficial owners and directors of the company, details of the products or services offered, value of the contract and status of the contract.

“Our calls for increased transparency in the use of COVID-19 resources have also seen the Department of Disaster Management Affairs of Malawi increasingly disclosing information related to COVID-19 expenditure,” expressed Michael.

According to expenditure details released on 6th May 2020, 47% of the total expenditure has so far been utilized

by security agencies; the Malawi Police Service and the Malawi Defense Force. This has triggered debate amongst the citizens, questioning why security, and not medical supplies, is being prioritized, especially considering that healthcare workers have been staging sit-down strikes in a bid to force the government to provide them with adequate personal protective equipment (PPE).



## Citizens' monitoring of public contracting leads to improved service delivery in Malawi



The ESCOM building whose demolition contract was cancelled

Malawi like any other African country grapples with the challenge of corruption having slipped from 120 to 123 on the global Corruption Perceptions Index (CPI). The country is still reeling from the crisis triggered by the infamous 2013 corruption scandal dubbed 'cashgate' in which up to US\$250 million of taxpayers' money was lost through fraudulent payments to private contractors for services that were not rendered. Currently, there are numerous alleged cases of procurement-related corruption in Malawi involving public institutions. In 2017, a US\$34.5 million maize procurement scandal led to the dismissal of

former agriculture minister, George Chabonda, following an investigation into claims that the country had 'paid too much' for delivery of maize from Zambia. A leaked report by the Anti-Corruption Bureau (ACB) accused Malawi's President Peter Mutharika of receiving a \$195,000 (K145million) kickback from a contract to supply food to the police.

Other audits have shown that corruption is not limited to the central government. It is an equally serious affair in local councils. The abuse by local councils of the Constituency Development Fund (CDF), a fund established to accelerate development at constituency level, is an example of the level of corruption that exists in the councils. The results of a recent audit by the Treasury carried out in some councils indicates gross misappropriation of the CDF by Members of Parliament and council workers. These results are indicative of serious transparency and accountability issues in public procurement. The lack of transparency means that citizens are unable to track and monitor public procurement processes and to hold public officials to account for poor delivery of services.

Despite the various transparency gaps, civil society has been at the forefront of demanding for accountability and ensuring that service delivery is eventually effective. Through the Strengthening disclosure and citizen participation to improve value for money in

public contracting in Africa project in Malawi; a project implemented by CHRR in partnership with AFIC, CSOs have been very instrumental in monitoring contracts and engaged government agencies towards improved service delivery.

### **Cancelation of ESCOM K675m house demolition contract**

In April 2020, the Electricity Supply Corporation of Malawi (ESCOM) Limited was compelled to cancel plans of awarding a K675 million (USD935, 000) contract to demolish ESCOM House in Blantyre after CSOs raised concerns about the exorbitant cost of the exercise.

Following a document that was circulated on social media, which showed that some bidders had offered to undertake the exercise at a much lower cost, CHRR, in partnership with the Human Rights Defenders Coalition platform, wrote a letter to ESCOM demanding an explanation about the inflated cost of the demolition exercise. CHRR also engaged the media to raise awareness about the anomaly. This action forced ESCOM to cancel the contract. In a statement released to the media, the power utility company said it had decided to cancel the contract "in the public interest."

## Collapse of a multi-million bridge – CSOs hold contractor accountable

A multi-million Kwacha bridge over a stream running from Area 23 to Chilinde in Lilongwe collapsed following heavy rains in January 2020. The bridge, which had recently been constructed by SAWA Group, a Kenyan construction company, was clearly substandard. A short video, which had been trending on social media, showed the embankments of the bridge losing strength to running water along the Chidzanja road in Lilongwe. CHRR mobilized other CSOs and the media to go and visit the bridge. Through the 'noise' that ensued in the media following the visit, SAWA Group was prompted to embark on maintenance works on Kwacha bridge.

However, in April 2020, CHRR received information from a whistleblower that government had earmarked SAWA Group for another contract to supply solar panels. CHRR obtained information on the tender notice and observed that the specifications of the contract had indeed been deliberately framed in favor of the SAWA Group in an effort to exclude other bidders. CHRR raised concerns with the government, making reference to their previous works on Kwacha bridge. Following this action, government revised the specifications, making it open to everyone.

## CHRR and other CSOs sue Blantyre City Council, ruling DPP over 'secretive' procurement of Mayor's House.



In May 2020, CHRR led other CSOs to sue the Blantyre City Council and the ruling Democratic Progressive Party (DPP) over the secretive procurement of Blantyre

City mayor's house at K65 million. The money used to buy the house, as admitted by DPP publicity secretary Nicholas Dausi, was part of a K145 million donation from Pioneer Investments, a company entangled in the Malawi Police Service (MPS) food rations deal. CHRR and the other CSOs suspected corruption, unfair favoring of one political party, money-laundering, and breach of public procurement laws in the deal. The procurement process was shrouded in a veil of secrecy, other political parties, private citizens or businesses were not given a chance to bid for the property. While the matter is yet to be decided by the court, the progress made by the civil society in ensuring transparency in Malawi is highly recognized.

**04.**

**KENYA**

## Public Contracting in Kenya – Is there political will to realize the promise of Open Contracting in Kenya?



H.E Uhuru Kenyatta: He signed the Executive Order No. 2 in 2018 to promote transparency in public procurement

In recent years, the issue of public procurement is one that has captured national attention and one that has consequently necessitated the attention of the highest office in the land as envisaged by the various public pronouncements made with regard to public procurement in Kenya.

These public pronouncements were made ostensibly to assure citizens of government's intention to deal with the menace of corruption through malpractices perpetuated in public contracting processes and address the loss of millions of taxpayers' money that resulted from these malpractices.

In 2013, President Uhuru Kenyatta launched the Access to Government Procurement Opportunities (AGPO). This initiative advocated for the amendment of procurement rules to allow 30 per cent of contracts to be given to youth, women and persons with disability without competition from established firms. The program sought to address the issue of competition and monopoly perpetuated by well-established and large entities which were influential and against whom disadvantaged groups could not ordinarily compete with for tenders. Through this, women- owned enterprises, youth and persons with disabilities (PWDs) would be able to benefit from government opportunities.

This directive was to be implemented by both national and county governments and it was expected that

women, youth and persons with disabilities, will have provided goods and services to both national and county governments amounting to Kshs. 30 billion shillings. The program was intended to facilitate the realization of fair, equitable, transparent and cost-effective public procurement as required in the Constitution.

In 2018, the President made even further reaching directives that sought to curb the rampant corruption that was being perpetrated through illegal public contracting practices by establishing transparency measures which were to be streamlined into public contracting practices. This was specifically, through the provision of all relevant information that relates to the issuance of public contracts in Kenya.

The Executive order no 2 of 2018 was most indicative of this. The order directed all public procurement entities to maintain, continuously update and publicize through websites, information on public tenders awarded. On a positive note, this directive mirrored provisions of proactive disclosure contained in Section 5 of the Access to Information Act 2016, which requires public entities to ensure publication of information upon signature of contracts. The Access to Information Act requires publication of information relating to : the public works, goods acquired or contracted services; the contract sum, name of the service provider or contractor who won the contract.


The Executive order accordingly went even further in its requirement for information to include information for instance on the reasons for the award and the capacity of the awardee to undertake the contract, and more importantly, required the provisions of beneficial owner information, that is for every contract awarded, the list of directors, shareholders and beneficial owners of companies that had been awarded with contracts.

The Order also mandated the National Treasury to ensure seamless integration of all procurement entities to the e-procurement module under the Integrated Financial Management and Information System (IFMIS), and to ensure that all procurement entities are making their procurement through the e-procurement module.

Though these are regarded as positive steps, open contracting advocates should draw attention to the fact that the Executive order also makes provision for public contracting information which would be exempt from publication. The exemptions would include procurement



**The Order also mandated the National Treasury to ensure seamless integration of all procurement entities to the e-procurement module under the Integrated Financial Management and Information System (IFMIS), and to ensure that all procurement entities are making their procurement through the e-procurement module.**



information related to essential utilities such as electricity, water and fixed line telephones; procurement arising from declaration of national emergencies and national disasters, procurement of a classified nature and low threshold procurement as prescribed by law.

While it can be appreciated that such envisaged scenarios do arise that may require immediate and speedy action, there are levels of information that should still be provided in order to ensure transparency and accountability and standards should be developed and implemented as safeguards where such situations arise.

It can be summarized therefore that the issue of open contracting therefore is not one of lack of policy but one of inadequate practice. The public procurement regime in Kenya is governed by the Public Procurement and Assets Disposal Act and the attendant Regulations. The above orders and presidential directives seek to buttress the legal framework and go further in recognizing the peculiar

challenges that are experienced when undertaking public contracting in Kenya, and the illegal practices that have caused serious hemorrhage of public funds in numerous scandals that have been witnessed by Kenya citizens over the years.

That said, for open contracting to become a reality in Kenya, there is need to go beyond public pronouncements to real and tangible action through actual implementation and vigilant oversight. The directives give some hope that there is political will to address the issue of corruption through public contracting and if implemented would go a long way to seal the loop holes that are so often exploited through illegal practices, that have resulted in the loss of billions of shillings that are intended for development and public service delivery to citizens. Through the Strengthening disclosure and citizen participation to improve value for money in public contracting in Africa project implemented by Article 19 and ICJ-Kenya, civil society was able to engage extensively with the government to improve disclosure of government information especially in public procurement.

Through the project implementation process Article 19 and ICJ Kenya engaged in mentoring public servants on how they can enhance the implementation of The Executive order No.2 of 2018. In May, 2019 ICJ Kenya, jointly with Article 19 Eastern Africa held a meeting with civil society organizations in Nairobi to popularize the findings of the OCDS compliance report. During the training, the participants were introduced to open contracting and

OCDS. Their capacity to navigate online platforms on OCDS was also enhanced. Article 19 further held a two-day digital workshop held on the Zoom platform sought to train media, CSO and public officials from Nakuru County on access to information laws, public procurement legislation, open contracting and sensitization on open contracting data standards in June, 2020. ICJ Kenya and Article 19 also held a meeting with the Director of Procurement at the National Treasury to discuss the findings of the OCDS report. The Director welcomed the research by ICJ Kenya and expressed the need for skill transfer on OCDS to the PPRA. ICJ Kenya has been working to promote for disclosure of prospecting information and revenues in the extractives sector.

The project presented an opportunity to revisit the discussion on disclosure of oil and gas contracts, at an opportune time when Kenya joined the league of oil exporting countries amid conflicts and tension. To this end, ICJ Kenya held a meeting a meeting with the Commissioner in charge of Access to Information at the Ombudsman to discuss the status of disclosure in the sector. The Commission committed to work with ICJ Kenya on the information requests that had been submitted to different agencies, to provide redress to the affected communities.

With the engagements ongoing between CSOs and government, it is possible to mobilize the political will to improve public procurement through implementing open contracting.

# Corruption: How Kenya is fighting back through Open Contracting

In December 2019, the Open Contracting Partnership (OCP) invited Africa Freedom of Information Centre (AFIC) to share its experience of working with Public Procurement and Disposal of Assets Authority (PPDA) to promote Open Contracting at a workshop in Nairobi. OCP conducted the workshop in collaboration with the Public Procurement Regulatory Authority (PPRA) and Hivos East Africa. Michael Chengkuru, AFIC's Open Data Specialist attended the meeting on behalf of AFIC and he shared his experience with the story below:



Michael Chengkuru the AFIC Open Data Specialist Sharing his Experience with the Kenyan Experts

## The Ksh 22 million bathroom towels

On my way to the Intercontinental Hotel, where the workshop took place, I had an exciting talk with Odhiambo James, a taxi driver, about the state of corruption in Kenya. He spoke of his disgust at the government's purchase of towels at Ksh22 million. His outrage came from the \$19 million Mega Dam scandal where it was claimed that one company was paid Ksh8 million for cutlery while another company was paid Ksh22 million for towels. Odhiambo wondered what role towels played in building a dam.

Despite recent controversies, in my own analysis, Kenya has taken significant strides in making public procurement transparent in recent months, notably the launch of the newly redesigned Kenya Procurement Portal.

This workshop was prepared on the backdrop of the Kenya government's commitments to open contracting and to the Open Contracting Data Standard (OCDS) in several international fora.

**His outrage came from the \$19 million Mega Dam scandal where it was claimed that one company was paid Ksh8 million for cutlery while another company was paid Ksh22 million for towels.**

In recent months, the government, and PPRA in particular, have worked aggressively to make open up public contracting data to the private sector, citizens, oversight agencies and the government.

The workshop was intended to discuss challenges and opportunities for implementing open contracting in Kenya; ensure participants become familiar with the published Kenyan procurement data and what it contains; generate insights from the Kenyan procurement data by collaborating with other interested parties; and discuss next steps to ensure increased contracting data publication and use in Kenya.

The training was indeed very interactive and practical. There were different groups of people that shared different perspectives on how to best use disclosed data and provided valuable feedback to the government. Essentially, that's what open contracting is all about.

The training was also an opportunity for Uganda to share how it has been championing open contracting in the region and the strides taken. In my presentation to the participants, I shared Uganda's experience of collaboration working engagements between CSOs and government in promoting open contracting and transparency of public procurement. I showcased how data can be cleaned before it can be analyzed to make informed decision making. I further emphasized that data cleaning is an essential step in public procurement information analysis and can affect the quality of the reports generated. From the feedback shared by the participants, these three things ideas became apparent at the end of the sessions.

### **Disclosure on its own is not enough**

When disclosed information cannot be reused or if people do not know how and where it can be obtained, the effect will not be felt. Citizens should be able to use this data and provide valuable feedback to the government to have an impact.

### **Completeness and data quality remains a significant challenge**

Higher-quality contracting data is imperative. Most of the available data disclosed are historical. Timeliness and completeness are essential for a more significant impact.

### **Gender inclusion continues to be a significant challenge in public procurement**

While Kenya has made great strides towards enforcing beneficial ownership measure e.g., through publishing provider's register, women remain largely excluded from public procurement. Indeed there were no gender-disaggregated data in the data analyzed at the workshop.

However, it was great to see that, amid all these scandals, government entities like PPRA are working with partners like OCP and CSOs like Hivos and AFIC to fight corruption through open contracting.

THE WORKSHOP WAS INTENDED  
TO **DISCUSS CHALLENGES  
AND OPPORTUNITIES FOR  
IMPLEMENTING OPEN  
CONTRACTING IN KENYA;**  
ENSURE PARTICIPANTS BECOME  
FAMILIAR WITH THE PUBLISHED  
KENYAN PROCUREMENT  
DATA AND WHAT IT CONTAINS

**05.**

**GHANA**

# Ghana introduces OCDS compliant Electronic Government Procurement Platform to digitize public procurement in the country

**GHANEPS**  
Emu Da Ho

Ghana Electronic Procurement System

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- Statistics

**Welcome**

GHANEPS (Ghana Electronic Procurement System) is a web-based, collaborative system, developed in accordance with the requirement of public procurement laws, to facilitate public procurement processes in Ghana. It offers a secure, interactive, dynamic environment for carrying out procurement of all categories, complexity or value.

GHANEPS supports processes of procuring Goods, Works, Consultancy, Non-Consultancy and Disposal of assets. The system supports various public procurement procedures including user registration, tender notification, tender preparation and submission, online tender evaluation, contract awarding, creation and management of catalogue, creation and management of framework agreements and auctions and payments. The system procedures will be implemented in accordance with guidelines issued on the use of the system.

**Quick guide**


- Register yourself and your organisation in the system
- Obtain access to the [user manuals](#)
- View the [latest tender](#) publications
- Find a specific tender by [searching](#) the tender registry
- View the details of a tender and navigate through all the available documentation
- Download available documentation

**Why register?**

- Become an eligible supplier and receive email notifications for new tenders
- Obtain full and unrestricted access to documentation of published tenders
- To receive reminders and notifications for important tender activities
- Participate actively in tenders. Submit your bids and request for clarifications

According to Ghana's Public Procurement Authority (PPA), public procurement accounts for about 29% of imports into the country. Ghana has a fairly robust legislative framework for public procurement. However, lack of enforcement of procurement laws and regulations has led to myriad procurement related corruption, costing the nation millions of Ghana cedis. The country has a very active civil society (including the Media), but the dearth of public contracting information means that there is very little to work with in uncovering corruption within procurement. The corruption cases that have been uncovered in procurement have come as a result of painstaking and expensive investigative journalism work.

In June, 2018, the Ghana Anti-Corruption Coalition, with support from Hewlett and Flora Foundation and in partnership with Africa Freedom of Information Centre (AFIC) started implementing the strengthening disclosure and citizen participation to improve value for money in public contracting in Africa project to promote overall transparency in public procurement. Unlike other countries' experience where the relationship between state institutions and CSOs is not strong, this project has been able to strengthen the relationship between GACC and the Public Procurement Authority (PPA) to work closely to improve procurement data on the PPA website. The commitment of officials of the PPA was very vital to achieving results.



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As part of this intervention, GACC in collaboration with AFIC conducted an assessment of procurement data on the PPA website. The data available was found to be scanty and difficult to download for further analysis. A mapping report outlining the gaps identified and recommendations for addressing the gaps was discussed with the PPA. The PPA responded that it was working on a new procurement system and has therefore considered the recommendations, especially the issues of Open Contracting Data Standards (OCDS).

On April 30, 2019 the Public Procurement Authority (PPA) launched a new electronic procurement system known as the Ghana Electronic Procurement System (GHANEPS) [<https://www.ghaneps.gov.gh/epps/home.do>], designed in OCDS format. The system is currently being piloted with 5 institutions. The first phase of the project, involving five government agencies being piloted, has already started, while the second phase – which will include all 34 of the country's ministries, as well as public universities and metropolitan assemblies will begin at the end of June. The roll-out will continue until the end of 2020. When fully operational, the system will hold OCDS-compliant procurement data on all public institutions. The system will also allow for procurement and public contracting to be done online, reducing the human interface that is so auspicious for corruption.

With such a transparency mechanism in place, Ghana which has already been trending fairly well in the corruption perception index at a score of 41/100, there is hope that the West African country is likely to be much more accountable and able to deliver services to the people effectively. In his own words,



A participant makes her contribution during the website launch

Ghana's vice president, Dr Mahamudu Bawumia, said at the launch that the e-procurement system will allow the public to track any tender application in real time confirming the importance of such an initiative.

## Stakeholders equipped with Open Contracting Data Standards skills to enhance effective monitoring of Ghana's procurement process



A participant makes his contribution during one of the trainings

Capacity Development helps to strengthen institutions to perform better and manage the change. It is important to consider not only the Public Procurement Authority staff in implementation of this project, but also every other stakeholder involved in the entire procurement process particularly at the demand and supply side: public servants, private sector and citizens including CSOs and the media.

While implementing the strengthening disclosure and citizen participation to improve value for money in public contracting in Africa project, GACC ensured that the capacity of key stakeholders is well built especially in understanding key concepts like OCDS. Ms. Beauty Emefa Narteh, the Executive Secretary, GACC, said a study by the World Bank suggests

that about 70 percent of government's budget goes into procurement, which means that majority of public funds was channeled through procurement. Prior to this intervention, staff of key public institutions and some journalists had no idea about the Open Contracting Data Standards (OCDS) and deep knowledge on the procurement process. The few public institutions that published procurement data did so in formats that were difficult to re-use for analysis. This intervention has created awareness and increased knowledge among stakeholders on the need to disclose comprehensive procurement data in a form that complies with international best practice (OCDS).

GACC in collaboration with AFIC, the Open Contracting Partnership (OCP) and the PPA equipped over 150 stakeholders comprising selected Directors and procurement officers within the ministries, departments and agencies, CSOs and journalists with the needed knowledge on open contracting, procurement and the OCDS framework through a participatory approach workshops.

Beauty further noted, "This is why the GACC is collaborating with the Public Procurement Authority (PPA), to deepen participants understanding on how public procurement processes could be made more open to the public,"

Stakeholders trained demonstrated increased in knowledge by analyzing data on the PPA website and as

well incited a participant to further obtain training in the subject area. This means when Ghana's new electronic data system (GHANEPS) is fully operational, staff within the institutions trained will fully understand and appreciate the demand for OCDS data for the GHANEPS.

Mr. Thomas Bondzi, Chief Manager, Information Technology Support Services, PPA, in his presentation on GHANEPS (Ghana Electronic Procurement System) in one of the trainings, said the web-based collaborative system, was developed in accordance with the requirement of public procurement laws, to facilitate public procurement processes in Ghana.

Civil society and journalists trained will also be able to follow up to demand for OCDS data on the GHANEPS and other avenues where procurement data from public institutions are published. This will help to improve citizens' participation in the procurement process and effective monitoring of public contracts to improve value for money.

According to Ms. Faustina Djabatey, the Acting Communications Officer, GACC, the main aim of the project was to increase government's commitment to the open contracting principles it signed unto under the Open Governance Partnership (OGP). This has already been started to be actualized through government's commitment to disclose procurement data in OCDS formats on the new e-procurement website- GHANEPS.







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