

WHY OPEN CONTRACTING IS ESSENTIAL TO OPEN GOVERNMENT

Unlocking the public benefit of government dollars and deals

Open contracting cuts across all sectors of government to:

- Improve delivery of goods and services to citizens
- Save governments time and money

- Detect and deter fraud and corruption
- Create a better, fairer playing field for businesses
- Foster entrepreneurship and innovation
- Decrease transaction costs
- Build trust

Read on to find out why it should be a central part of your OGP National Action Plan and what your key proposals to government could be.

The case for open contracting

Governments spend vast sums of money – some US\$9.5 trillion, or 15% of global GDP – every year on deals and contracts with companies to deliver goods and services to citizens. These procurements are the bricks and mortar of public benefit, where taxpayers' money gets converted into the roads, schools and hospitals that citizens care about. It is the key stage at which government promises to citizens either materialize, or fail.

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

Open contracting can help address these risks. Transparent and participatory procurement can cut costs, ensure better value-for-money, reduce fraud and corruption, provide more opportunities for businesses, and empower citizens to hold local and national government accountable.

The evidence is clear. Openness pays huge returns on investment. South Korea's transparent e-procurement system KONEPS saved the public sector US\$1.4 billion in costs. It also saved businesses US\$6.6 billion. Time taken

to process bids dropped from 30 hours to just two. In Slovakia, full publication of government contracts led to a significant increase in competition for other contracts subsequently, encouraging small businesses and public innovation. Civil society monitoring projects in Afghanistan were able to resolve 80 percent of the problems uncovered.

Transforming public procurement and deal-making

Two out of three Open Government Partnership member countries have realised how vital this area is for open government. So far, some 38 countries have made 93 procurement commitments in their National Action Plan. They are: Albania, Argentina, Armenia, Brazil, Canada, Colombia, Costa Rica, Croatia, Czech Republic, Dominican Republic, El Salvador, Estonia, Georgia, Greece, Guatemala, Honduras, Hungary, Indonesia, Jordan, Latvia, Macedonia, Malta, Mexico, Moldova, Mongolia, Montenegro, Netherlands, Paraguay, Peru, Philippines, Romania, Serbia, Slovakia, Tunisia, Turkey, the UK, Ukraine, Uruguay. The main objectives for reforms are improving access to contracts and creating or improving a country's digital management of procurement processes or e-procurement systems.

Some 47 of these commitments have been assessed by the Independent Review Mechanism. The IRM found that 22 of these led to major changes in public procurement. Covering nearly half of

all commitments and significantly more effective than other commitments, it underscores the point that public procurement is essential for open government.

That said, significant gaps remain.

- Only six of the 47 procurement commitments included engagement with civil society or public participation.

Another six had no public facing elements and focused on government internal changes only. Engagement and use of information is vital to and ensuring real impacts. When citizens and government close the feedback loop, tangible changes are delivered; service improvements result from disclosing contracts and irregularities in deals get fixed. This is probably the biggest gap in how OGP governments are reforming their contracting processes.

- Only one NAP of those reviewed by the IRM, that of the Czech Republic, has mentioned specific open data principles in their commitment to transparent public contracting. Including an open standard is key as it will enhance quality, usability and interoperability of the data.
- Only 15 of the 47 commitments have actually been completed. Whilst this is a higher than average completion rate within the OGP, it still means that more than half of the reforms are behind schedule and falling short. None of the completed reforms include civic participation. Lack of civic engagement could have been a factor contributing to losing the momentum for reform.

Three transformative action points for OGP governments

We suggest three key steps to unlock the power and the promise of open contracting in every National Action Plan:

1. **Make public contracts open by default:** Governments should publish contracts and make deals open by default, as is the case in Slovakia, where a government contract is not legal until it is published. This includes putting an unambiguous public disclosure clause in all government contracts and publishing data on contract milestones and performance.
2. **Provide machine-readable, reusable open data** on public procurement and how deals are reached. The Open Contracting Data Standard provides a handy schema to help civic administrations do this. Governments can then perform smarter analysis of data, helping them detect red flags or assess value for money. Businesses can better check previous contracts and identify new opportunities. The more governments automate the publication of information on planning, procurement and implementation of contracts, the easier it is for the market to consume, analyze and innovate around these.
3. **Provide engagement channels to fix problems in contracting:** Engaging citizens, businesses, technologists and journalists in contracting is crucial. Public participation can help define better contracting terms, manage expectations of everyone engaged, and

provide oversight and feedback for better delivery of good and services.

Government, contractors and citizens have to work together to address irregularities and problems that are being identified through the feedback.

Open contracting, the use of data, disclosure and engagement throughout the full procurement cycle, is an essential, but still fairly new concept in open government.

Only a few countries, such as Canada, Mexico, Romania, and the UK have already included open contracting in their action plans. We are also beginning to see ambitious reforms such as implementing the Open Contracting Data Standard in countries as diverse as Canada, Colombia, Mexico, Paraguay, Romania, Moldova, UK, Ukraine, Vietnam and Zambia. Next year's OGP Chair France has including open contracting concepts in its new National Action Plan.

There is great potential for innovation in managing government contracting under the OGP umbrella. And we see it as our job to help you deliver on that potential, drawing on lessons from countries like the Czech Republic and Slovakia, that enshrined open as the default in their procurement laws, or from Georgia, which introduced an exemplary complaint mechanism. In Mexico and the Philippines, the law requires that citizen observers are invited to monitor bid and award proceedings.

Our mission at the Open Contracting Partnership is consistent, transformational success in public procurement and government dealmaking.

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

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