THE OPEN CONTRACTING JOURNEY IN NIGERIA
The Open Contracting Journey in Nigeria

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Karmo District, Abuja.
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Executive Summary

Governments all around the world, including in Nigeria, have the responsibility to provide public goods and services, typically funded by taxes. However, the efficient provision of these public goods often comes with its own challenges, especially from the perspective of avoiding waste, getting value for money, and minimizing corruption and mismanagement. From this perspective, various countries have instituted procurement rules and processes that aim to help governments, the private sector, and the general public, improve the efficiency of the supply of public goods.

This report chronicles Nigeria’s journey in implementing procurement rules, specifically focusing on the role the Public Private Development Centre (PPDC) through some of its programmes, has had on that journey. In Nigeria, the procurement process has evolved at the federal, state, and local government levels, with a slow transition from paper-based systems to
more transparent and technology driven systems. In the 1980s and through the 1990s procurement processes were mostly paper based and opaque. Reforms after the return to democracy in 1999 including a Public Procurement act and a Freedom of Information (FOI) act, however opened up the procurement process to a lot more scrutiny and improvement.

PPDC’s Freedom of Information Rankings have sought to take advantage of the FOI act to promote proactive disclosure of information by government ministries and agencies (MDA). The MDAs are ranked based on the proactive disclosure of information, the responsiveness to requests, and the level of disclosure. This report shows that despite significant improvements since 2014 many MDAs still do not disclose any information. Those that do disclose information however appear to be getting better at budgeting and procurement with a larger percent of their projects and contracts coming in under-budget.

The availability of detailed information on contracts was made possible by PPDC’s second major project, the Budeshi platform. The Budeshi platform seeks to promote transparency and accountability by publishing information on contracts obtained via freedom of information requests from MDAs. This information is typically detailed and includes budgeted and paid out amounts, contractors, and location if available. Since its start in 2016 the platform has published up to 2500 contracts valued at over N60bn in its best year, with over 8000 contracts since its inception. The data from Budeshi suggests that MDAs who respond to these FOI requests are getting better at budgeting. The data from the platform also shows that competitive contract award processes are much less likely to come in over budget compared to direct contract awards. Finally,
information from Budeshi has been used by various segments of society, from academia to non-government organizations.

The longer-term goal of PPDC is however to have MDAs at the federal, state, and local government levels, to proactively publish all its procurement data in a format that is easily readable by computers. To this end it has sought to promote use of the Open Contracting Data Standard (OCDS) as well as other kinds of support. At the state level in particular, PPDC has helped improve accountability and the data culture by supporting processes to improve capacity in procurement processes and systems, and in proactive data publishing.

Despite the improvements made in the procurement process in Nigeria, there is still significant room for improvement as most of the structural changes has not permeated down to many of the state and local governments. The risk of rollback of these important reforms is also present, and as with other reform processes, vigilance is needed to sustain any momentum.
As Nigeria and many other African countries seek to transition from commodity-exports-funded fiscal states towards taxation, the question of public accountability is increasingly important. This accountability is desired both from the perspective of tax collection and with public spending. This report focuses on the nature of public spending, specifically with respect to the role of transparency in the procurement process.

The report looks at the role of Public Private Development Centre (PPDC) in promoting transparency throughout the procurement process through its activism and platforms, and its efforts to assist governments at various levels to implement open contracting frameworks compliant with the Open Contracting Data Standard (OCDS). The report serves as a guide to public officials and civil servants on the logic, benefits, and mechanics of transparency in the public procurement process and open contracting. The report also serves as an update to professionals working on public procurement issues of the specific context.
The Open Contracting Journey in Nigeria

with regards to Nigeria’s journey towards transparency and implementation of the OCDS.

The report is broken into three major parts. First, the report lays on the theoretical case for transparency in the procurement process, discussing this in a simple context where public goods need to be delivered to citizens and implemented by private sector contractors. As explained in detail, information gaps can lead to inefficiencies of various forms and opportunities for rent-seeking. Corruption by both public sector officials and private sector contractors is the most popular way these inefficiencies perpetuate but other forms such as contract bidding riggings and over-costing can be consequences of a lack of transparency.

This political economy framework demonstrates how inefficient systems can remain despite willingness on the part of the government and the citizens to improve outcomes. The role of technology in changing the status quo can therefore be very important in achieving more efficient outcomes.

The second section looks at the journey of Nigeria in terms of the transparency of public spending and improving the procurement process. In general, continuous improvements have been made since the transition to democracy in 1999. The various governments have gone from ad-hoc budgeting processes to a much more transparent procurement backed by improvements in the legislative framework. PPDC has been instrumental in this process through its advocacy efforts, its utilization of the Freedom of Information Act, and its data publishing platform, Budeshi. Specifically, its Freedom of Information rankings and the Budeshi platform which publishes data on government contracts, have been an important part of this strategy – a strategy which is now also focused on helping the federal, state, and local governments
implement OCDS frameworks. Both programs, as demonstrated later in the report, have shown significant impacts. Regardless of these improvements, significant challenges remain especially with regards to implementation with MDAs, and with capacity gaps at the lower tiers of government.

The third section examines the challenges faced by different partners in improving the procurement process as well as potential pitfalls. As with most significant reforms, some benefactors of the status quo may lose out, or may fear losing out. These individuals will work hard to prevent change from happening and may go to great lengths prevent reforms. Strategies to handle this risk are an essential part of any reform. Significant capacity challenges also remain across many MDAs and across all tiers of government. Despite willingness on the part of government to make improvements, the capacity gaps continue to limit their efforts towards making improvements. Planning for improvement in capacity of the implementors is therefore essential to any reform, although the nature of that support will have to depend on the local context. There is also the risk of reversal of improvements if political conditions change and if improvements are not institutionalized. The robustness of improvements to changes in political conditions therefore needs to be front and center of any strategy for change. The importance of donor funding is also not forgotten. On the one hand donor funding has shown to be an important tool in incentivizing governments to undertake difficult reforms. However, the threat of reversal once donor funds are not available remains a key risk. Finally, involvement of citizens in the process continues to be a challenge as participation can sometimes be costly both in terms of time and money. The role of social intermediaries is therefore key in sorting and organizing procurement data and highlighting important areas for citizen action and participation.
A key component of every society is the provision of public goods. This typically includes goods that have a shared component with, perhaps, a social imperative. These goods include things ranging from security, to law enforcement, public parks, and even clean air. In most instances these goods are provided by governments or some type of public entity such as a community association. The modus operandi is typically for this government or public entity to collect some taxes or levies from all the benefactors and use those proceeds to fund the supply of those public goods.

In terms of the actual practicality of supplying goods, the systems and processes involved are essential. In an ideal scenario, the government or public entity would collect the appropriate amount of taxes in an efficient manner, that is, one that minimizes the costs of collecting those taxes. It would then supply the relevant public goods, also in an efficient manner, defined as one in
which it supplies the public goods that the public desires at minimal costs both in terms of finances and time. Reality however lends itself to many scenarios that are not ideal, and that lead to losses both in terms of finances and time.

Take, for instance, a typical process for the supply of a typical public good such as the building of a school in a village by a government. The ideal scenario, from and efficiency standpoint, will allow for the government to build the school to the optimal standard using the least possible resources, as quickly as possible. The standard processes however would require the government to first budget for the school, find a contractor who will build the school, agree on a payment plan with the contractor and then supervise the contractor to ensure quality delivery before finally taking possession of the school.
This simplified example demonstrates the potential for significant deviations from the ideal scenario. First the government has to figure out the costs of building the school, for which it may have little information about. Secondly, it must budget for the school with its limited information about costs. Thirdly, because governments are run by individuals who may have their own private incentives beyond that of the government, there is the potential for instance, that the budget will be overstated with the hope of extra-budgetary balances that may be used for other things.

In essence there is the potential for private interests to deviate from the optimal public interest. Fourth, there is the possibility for contractors to over-inflate the actual costs of building the school, perhaps because they are aware of information problems on costs in governments, or because of collusion within the subset of contractors able to deliver the projects. Or perhaps incorporating kickbacks to individuals in governments who demand them to have contracts approved. Finally, there is the potential for contractors to sacrifice quality as a
means to reducing costs, assuming that governments may not be able to make adequate judgements on quality, or that the ultimate benefactors of the school may not know what was to be delivered in the first place.

This is a much-simplified example of the kind of challenges that can be witnessed in the instance of a government building a school in the village. This simple example demonstrates the potential for the real costs to far exceed the optimal costs and for the quality of goods to fall below what is required. In this example, even if the school is delivered, both the party paying for the school, the government, and the users of the school (the citizens) suffer from the inefficiencies. The government ends up with costs greater than normal and the citizens end up with a school with a much lower quality than desired.

The need to overcome the challenges associated with ensuring efficiency in public spending, both from a costs and quality perspective, is the foundation behind public procurement rules and legislation. In general, public procurement rules seek to implement a legal framework that enables governments to get value for money. Although many countries have implemented different sets of rules, they all seem to have a broad theme that typically includes the centralization of reporting on procurement – at least within the same governments – and the promotion of transparency throughout the procurements process. In some instances, the use of digital tools to streamline the processes are used. The crux of public procurement legislation is the use of legal force to achieve the broad objectives with regards to costs and quality.
The use of legal force is however a somewhat one-sided approach. Most legislations of procurement deliberately or inadvertently contain loopholes that allow participants circumvent legislation. For example, a set of public procurement rules that require budgets and contracts to be published without stating the medium of publication can easily be circumvented by officials choosing to only publish documents in obscure locations and in formats that make public inspection difficult.

However, rules that seek to force the behavior of all participants do little to incentivize those participants to voluntarily comply with the principles of those rules. To understand why, it is useful to dive deeper into the political economy of public procurement, specifically in the Nigerian context, and how the incentives of different agents can deviate from that of both the government supplying the public goods and the individuals using the public goods.
This chapter describes the major participants in the public procurement cycle and describes their various incentives and limitations with respect to their participation in the procurement process as well as how and if that deviates from the optimality goal.

Citizens

Citizens are the ultimate benefactor of public goods. They are the group for whom the public goods are provided. Ideally, since citizens pay for public goods through taxes, public goods should be supplied at a cost-effective rate and at the required quality. However, for a variety of reasons citizens may not be able to determine whether these public goods/services are supplied optimally. For example, they may have limited information on what kinds of public goods were approved in government
budgets, on what the costs are and what goods/services are to be supplied or on who is expected to supply the public goods/services. Citizens may also lack the organizational capacity to effectively demand for the efficient supply of public goods.

Using the school example, if the residents of the village in question do not know that a school was budgeted for and should have been built in their village then their capacity to request for cost effectiveness of quality is limited. Even if they do know that a school was budgeted for, if they lack information about the type of school, or the costs, or the implementing contractor, then, in the context of incentivizing cost effectiveness and quality, their options are limited. Even if they do know, the organizational capacity to demand for the kind of quality school that they want may also be limited.

Civil Society

Given that citizens may face all sorts of constraints in terms of gaining access to information on public procurement, and the spending plans of government, specific institutions sometimes step in to serve as a go-between. The institutions, broadly termed civil society, are typically non-profit organizations who choose aim to fulfill a public goal that may be beneficial but which the government or private sector has not fulfilled. In general, civil society organizations are networks of groups or societies that stand between individuals and the state with social objectives and without a specific private profit interest.

In the context of public procurement, these institutions play various roles in helping the public properly understand and make use of public procurement data, identifying gaps and problem areas, promoting compliance in terms of data availability,
synthesizing the information provided by public officials, and so on, towards the goal of ensuring better public service delivery.

Civil society organizations however typically face sustainability challenges in terms of funding. Given that they take on pseudo-public roles for which there is no private interest, mobilizing enough resources to sustain their core functions is typically challenging, especially in some instances where the importance of their work is not particularly clear to the public.

International non-governmental organizations are also technically part of civil society in the context of seeking to provide some public good without any real private gain.

The caveat however is that they are not directly accountable to the public in the recipient country, but to their funders be they other countries, private trusts, and so on.

**The Government**

At the other end of the spectrum is the government which in this instance refers to the state that delivers public goods. It is important in this instance to point out that the government is different from the individuals and agents who run the government. The government has the challenge of delivering public goods and services in an efficient manner, and with minimal losses during the process.
The government however faces different constraints in implementing this agenda. For instance, it may not have enough information about the true costs of supplying public goods and may need to rely on bidders or other intermediaries in figuring out costs. Secondly, it typically has to rely on a plethora of government officials and public sector workers who may have private incentives that are different from those of the government and may therefore seek outcomes which are less optimal to both the government who is providing public services, and the public who are the benefactors of these public services.

**Government Officials and Civil Servants**

The government itself is an abstract entity that, in most cases, needs to be run by government officials and civil servants. Importantly, these government officials have private interests and incentives that may be at odds with the abstract government’s interests. For instance, in democracies, elected officials may have incentives around winning the next set of elections and may take actions with regards to the distribution of public goods that are different from the optimal allocation. For instance, they may opt to allocate some resources through patronage to selected individuals, reducing those available for the general public. This would ordinarily not be condoned but enforcement challenges may allow it to continue.

Civil servants, who are employed public workers as opposed to elected ones, may also have private interests or incentives that are different from those of the abstract state. As with elected officials they may misallocate resources as a result leading to a less than optimal supply of public goods.

**Private Sector Contractors**

The third in the trifecta of key agents who participate in the process of delivering public goods are the private sector contractors who implement the delivery of public goods. These agents typically have a profit motive in the sense that they seek to win contracts to
deliver public goods at the highest price to the paying party, the government, but with the lowest cost of delivery. Issues such as quality of durability of public goods may be secondary to the private sector contractors.

In this context, the private sector contractors may include intermediaries who facilitate the process of the delivery of public goods. These third parties serve as a link between the private sector and the government, particularly in instances where the process of award of contracts or information on capable private sector participants are unavailable or limited. These intermediaries are typically politically connected individuals who have links to decision makers in government but who don’t have the capacity to deliver on contracts to supply public goods. Their incentives are to earn a fee on the facilitation of the contract’s awards process.
In the beginning of this section we sought to outline the importance of public procurement rules and why societies can get stuck in status quos that result in the sub-optimal allocation of resources and poor delivery of public goods and services. The various limitations and incentives of the actors involved in the public procurement process helps understand why countries can get stuck in this inefficient status quo.

The next few examples demonstrate scenarios in which the various participants in the procurement process can settle on outcomes that might be sub-optimal.

**Example 1: Kickbacks for contract inflation**

Governments, run by elected officials and civil servants, for instance may divert resources for private gain through the direct pilfering of public resources or the demand for kickbacks,
i.e. returning a percentage of money paid for contracts, from private contractors who implement the provision of these public goods. This can range from a scenario where public goods are delivered but at a higher cost that would have been if there were no kickbacks, to a scenario where their entire allocation is diverted, and the public goods are not supplied at all.

In terms of the trifecta of parties involved in the process, the government officials and the implementing private sector actors can be okay with that arrangement as they reap most of the benefits. The government officials receive their private benefits through kickbacks and the private contractors receive theirs by means of profits gained. The losing party in this instance is the public who, for a variety of reasons such as through information gaps, may be unable to seek retribution or punish the other two actors, the government or the private contractors, for their losses. In this instance a status quo that is suboptimal can continue as long the public is unable to act.

Governments, run by elected officials and civil servants, for instance may divert resources for private gain through the direct pilfering of public resources or the demand for kickbacks...
Example 2: Citizen Lethargy in Public Finance Enforcement

Demanding for the efficient supply of public goods can be costly to the public from an individual perspective, but the benefits of demanding for such efficiency only provides public benefit. In essence there is the classic “free-rider” problem where even though the public as a whole benefit, no one wants to pay the costs of demanding or enforcements. In theory, civil society institutions would serve as a solution opting to bear the costs and organize these enforcement actions, but what if such civil society organizations do not exist? In the absence of such organizations a status quo where the government and private contractors can remain in a sub-optimal status quo.

Example 3: Information problems in pricing public goods

Another example is in instances where the government, who seeks to supply these public goods, and the public, the benefactor, do not have information of the actual costs involved. Both parties, lacking this information must seek strategies that incentivize the private sector contractors to supply these public goods at the most efficient costs. Many governments try to deal with this by having private companies bid for the right to implement projects. Private sector contractors may however collude to artificially inflate their costs of implementing projects, appropriating more than normal profits to themselves to the detriment of both the government and the public. In instances where the government or the public cannot detect such collusion or cannot effectively punish such collusion then the sub-optimal scenario can continue. The situation is the same if there are only a very limited number of private contractors who can or can bid for projects.

Example 4: Quality supervision constraints

Private sector contractors faced with a profit motive may look to
implement contracts at the least possible cost by reducing quality. If the public or the government cannot effectively supervise and enforce a minimum quality standard, then a status quo where poor-quality public goods are consistently supplied can remain.

**Example 5:**

Inefficiencies in the procurement process, perhaps through the use of legacy paper-based systems can significantly slow down and complicate the procurement process. The result of these delays may be costs over-runs or sub-standard service delivery. In essence the absence of modern procurement systems can perpetuate these inefficiencies resulting in continuous sub-optimal outcomes.

A common theme around the previously mentioned examples that results in a sub-optimal status quo is the technology, information, and coordination gaps between the parties involved in the process of delivery and use of public goods. Whether it be gaps from the government's perspective in terms of the costs of delivering public goods, or from the public side in terms of information gaps on what was supposed to be delivered and the costs, or from the private side, in terms of the plans of government, information gaps can lead to all sorts of challenges in the procurement process. In the next section we discuss the role that transparency plays and how the introduction of simple rules on disclosure, such as those using the Open Contracting framework, can improve outcomes for all the parties involved.
A common theme that breaks out in most of the examples above on how public procurement can remain in a sub-optimal status quo revolve around information gaps between the various parties involved in the procurement process. Whether between the government and its employees, the elected officials and civil servants, or the citizens and their government, or the private sector contractors and both parties. A broad theme is that these information gaps allow one party to increase its private benefits to the detriment of another, typically the government or the public or both. Ergo, some of the most important strategies for improving efficiency in the procurement process revolves around the policies that improve the availability and effective use of information – thereby narrowing the gaps previously mentioned. Open Contracting fits directly into this context with the goal of making information on the procurement process, from start to finish, available in a format that can easily be accessed and used. This is important for the overall goal of improving
participation in the procurement process and using it as a tool for effecting positive change.

Before discussing the technical details on Open Contracting however, it is useful to detail what a typical procurement process looks like.

**From Budget to Public Good**

The procurement process starts with the government deciding what public goods it wants to supply and how much it expects it would cost to supply those goods. This is the start of the budgeting process where elected officials and civil servants, sometimes with input from private sector parties, decide in every budget cycle, what to do, and an overall spending plan. As part of the process the government needs to in some way figure out what its costs to supply the goods it wants supplied. Using the simple political economy setup discussed above it is not difficult to see how inefficiencies can creep in even during the budgeting process. Government officials or civil servants may have little information on the true costs or may inflate the expected costs in anticipation of extracting future benefits. Private sector contractors may also do the same if asked from cost estimates also in anticipation of extracting future benefits. Projects, which are not feasible may be inserted again with the sole aim of extracting future rents. The main losers from these inefficiencies in the budget process are the public who may not have proper information on the budget process or the associated costs of supplying the planned public goods or may not have the organizational capacity to influence the process. Even at this stage of the procurement process information gaps can already lead to significant inefficiencies.

The second stage of the procurement process is the contracting. Once spending plans and budget have been approved the process of delivering those goods needs to be
done. Government needs to decide which private contractor will implement the projects or if they will be done directly and needs to pay these contractors. The potential for inefficiencies is also rife in this part of the process. As mentioned in a prior example, legacy analog systems may slow down process with problems such as missing files, or improper tabulations causing significant delays and resulting in extra costs. Projects could also be arbitrarily allocated to cronies who may implement at a very high cost or not at all. Contractors may collude to manipulate the bidding process to overinflate the costs of projects. The opportunities for inefficiencies are numerous. The losers from these inefficiencies may also find it difficult to discover and deal with quickly. Governments may not have modern technology-driven bidding processes that restrain the actions of government officials and civil servants for instance. They may not have institutions to tackle collusion by the private sector. The public may not have information on the stages of the bidding process or the transition from budget to project might be blurred by analog bureaucracies. The potential for inefficiencies is numerous.

The final stage, once the contractors have been picked and the payment plans have been finalized, is the implementation and delivery of projects. The private sector contractors must implement the programs while the governments and the public take receipt of them. As mentioned in the discussions above, private sector contractors who have a profit motive, will typically seek to deliver on the projects at the most efficient cost to them, but may be incentivized to skimp on quality. If the contractors know that appropriate quality cannot be inferred by the public or the government then they may opt to sacrifice quality in the name of profits. However, high cost projects can also result not only from the private sector sacrificing but perhaps from non-competitive bidding processes that result in high cost firms winning contracts. The public, who is the one losing party, may not be aware of what projects are to be delivered or what
contracts were signed with the government and so may not be able to enforce quality standards. They may also not have the organizational capacity to do so. The same might apply to the government who may face similar quality control systems.

Open Contracting

Open contracting seeks to help ease some of the challenges in public procurement by promoting the disclosure of information related to each stage of the process to all stakeholders/key agents. By tracking all the data and information (including money spent, companies involved etc.) in the procurement process, open contracting seeks to provide a common base from which to engage governments, private sector contractors, civil society organizations, and the public and drive systematic change. Overall, open contracting seeks to enable governments to get better value for their money in terms of the supply of public goods, fairer competition for private sector contractors who want to implement government projects, higher quality public goods, and preventing fraud, corruption, and inefficiencies.

The public procurement process can however become very data intensive with millions of transactions being performed each year. For context, if the public sector were a regular economic sector it would be the largest sector in most countries. Even in countries with relatively low levels of government expenditure like Nigeria, government spending is still significantly larger than many other sectors. For example, according to the National Bureau of Statistics (NBS), government expenditure was equivalent to just over six percent of GDP in 2019. The
implication, especially with paper-based public procurement processes, is that transparency and monitoring can become very labor intensive. For instance, if a country of Nigeria’s size with over 1000 ministries and agencies at the federal government level alone, still used paper documents for its public procurement process, it could easily generate hundreds of thousands of procurement related documents every year. This could become difficult for any individual or civil society organization to process without significant resources at their disposal. The potential for transparency to make a meaningful contribution in that scenario would require significant effort to collect and make sense of all that information. Any party who wanted to promote full transparency in that scenario would have to have hundreds of workers simply collecting and managing the process.

**Open Contracting Data Standard**

To overcome this labor-intensive challenge while trying to promote transparency in procurement systems, open contracting seeks to leverage technology to streamline processes. The use of technology however gets complicated if governments manage their data in different ways or different formats. Open contracting therefore promotes the use of a standard data format for governments in their procurement processes. The Open Contracting Data Standard (OCDS) seeks to enable governments to structure their data and information in a way that is machine-readable and consistent, and to follow standardized protocols for tracking throughout the procurement process, from budgeting to implementation.
<table>
<thead>
<tr>
<th>Open Contracting ID</th>
<th>A globally unique identifier for this Open Contracting Process. Composed of an ocid prefix and an identifier for the contracting process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Release ID</td>
<td>An identifier for this particular release of information. A release identifier must be unique within the scope of its related contracting process (defined by a common ocid).</td>
</tr>
<tr>
<td>Release Date</td>
<td>The date this information was first released, or published.</td>
</tr>
<tr>
<td>Release Tag</td>
<td>One or more values from the closed releaseTag codelist. Tags can be used to filter releases and to understand the kind of information that releases might contain.</td>
</tr>
<tr>
<td>Initiation type</td>
<td>The type of initiation process used for this contract, from the closed initiationType codelist.</td>
</tr>
<tr>
<td>Parties</td>
<td>Information on the parties (organizations, economic operators and other participants) who are involved in the contracting process and their roles, e.g. buyer, procuring entity, supplier etc.</td>
</tr>
<tr>
<td>----------------</td>
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</tr>
<tr>
<td>Buyer</td>
<td>A buyer is an entity whose budget will be used to pay for goods, works or services related to a contract. This may be different from the procuring entity who may be specified in the tender data.</td>
</tr>
<tr>
<td>Planning</td>
<td>Information from the planning phase of the contracting process. This includes information related to the process of deciding what to contract, when and how.</td>
</tr>
<tr>
<td>Tender</td>
<td>The activities undertaken in order to enter into a contract.</td>
</tr>
<tr>
<td>Awards</td>
<td>Information from the award phase of the contracting process. There can be more than one award per contracting process e.g. because the contract is split among different providers, or because it is a standing offer.</td>
</tr>
<tr>
<td>Contract</td>
<td>Information from the contract creation phase of the procurement process.</td>
</tr>
<tr>
<td>Release language</td>
<td>The default language of the data using either two-letter ISO639-1, or extended BCP47 language tags.</td>
</tr>
<tr>
<td>Related processes</td>
<td>The details of related processes: for example, if this process follows on from one or more other processes, represented under a separate open contracting identifier (ocid). This is commonly used to relate mini-competitions to their parent frameworks or individual tenders to a broader planning process.</td>
</tr>
</tbody>
</table>
The goal of the OCDS is to allow government, civil society, private contractors, and general public make use of public procurement data easily, and to build applications and platforms that allow the use of technology in promoting the transparency and use of public procurement data.

Having been introduced to the challenges in public procurement and the role of open contracting, and the open contracting data standards, the next sections will explore Nigeria’s journey in the procurement process and will explore the role of PPDC and the Budeshi platform in particular, in that process.
A good place to start in Nigeria’s current journey with regards to public procurement and open contracting is during the military era. Prior to 1999 Nigeria had long periods of military rule with occasional stints of democratically elected governments. Although military rule cannot always be described as totalitarian, the scales are typically tilted away from the public in terms of accountability and civil activism, and towards the governments whose goals often revolve around regime stability. The Nigeria context was particularly complex due to the oversize impact of crude oil income on public spending. Crude oil production and exports provided a relatively easy source of income that dampened whatever efforts the public had pushing for transparency and accountability. In that context the status quo in public procurement tilted away from transparency and accountability, and towards secrecy.

This secrecy was, to some extent, characterized by a light and ad hoc budgetary process. According to Ogunyemi (2017),
the budgets prior to 1999 were “no more than an attempt at obeying the routine of budgeting .... rather than an attempt at serious short-term fiscal planning”. In fact, they argue that during parts of the military regimes, expenditure was more in breach of than in compliance with approved budgets with extra-budgetary spending the order of the day. If spending was that ad-hoc then the procurement process itself was even more so. Contracts were awarded without tenders with monitoring and enforcement severely lacking.

The absence of transparency was further incentivized by laws such as the Official Secrets Act which, among other things, made it a criminal offense to divulge most government records without prior authorization. In the context of public procurement, this made detailed information on spending, contracts, and processes difficult to access. Although many countries have similar acts to protect sensitive information, the scope and scale of Nigeria’s version essentially made almost all government activity state secrets, including information on public procurement. From the discussions in previous sections it is easy to see why this kind of opacity would serve as boom to parties seeking to extract rents from the public purse. Less information about everything from budget details to contract awarding processes to financial disbursement implied that the inefficiency in procurement should have increased dramatically. Indeed, according to the former president Obasanjo, Nigeria was losing an average of $10 billion annually due to various abuses associated with public procurement and contract awards.

The challenges in procurement were not limited to the absence of transparency and political regime type. Significant logistical
challenges were also present. The modern technology driven information era was almost unimaginable. Budgets still had to be compiled and collated by hand, information still had to be sent and received with physical memos and letters, announcements still had to be pasted on notice boards and sometimes in newspapers. In general, even without ulterior motives, making information available and accessible to the general public on a frequent basis would have been logistically difficult.

**Transition to Democracy**

The transition to democracy in 1999 brought about a broad societal change in terms of the demand for accountability in government, and the freedom of civil society actors to pursue social objectives. In the public procurement space, things tilted away from secrecy and towards more transparency and accountability, although from a very low starting point.

Significant reforms were made in public procurement in phases.
The first of these was the setting up of the Budget Monitoring and Price Intelligence Unit (BMPIU) within the presidency in 2003. The unit was saddled with the responsibility of doing due diligence on all the federal government’s procurements and awards. The goal of this unit was to try to improve the efficiency of the procurement process. The unit was however a temporary measure as it was set up via executive fiat and operated without any real legal backing.

To enshrine the ideas of the BMPIU, Nigeria’s first Public Procurement Act (PPA) was sent to the National Assembly in 2003 and was eventually passed in 2007. The bill sought to enshrine standard international best practices as part of the procurement processes from federal, state, and local governments. The PPA sought to promote competition in the bidding process for government contracts, with advertising for tenders mandated. The PPA also sought to promote transparency in the contract and bidding process although it fell short of international standards by not being clear on the processes and the thresholds for valid tenders. The PPA also tried to make improvements in terms of transparency surrounding the rules of the bidding process, the verification of enforcement of documents, in record keeping and in dispute resolution.

Finally, the Freedom of Information Act was passed in 2011. The purpose of the Act was to make public records and information, including that from the procurement process, more freely available. The Act also sought to provide for public access to public records and information, to protect that information to the extent that it is consistent with the public interest and the protection of personal privacy, and to protect serving public officers from adverse consequences for disclosing certain kinds of official information without authorization.

Despite the various reforms in the public procurement process and the related promotion of transparency and access, many challenges still exist. Perhaps
the most important of these has to do with the distributed structure of government in Nigeria with the federal, state, and local government all operating relatively independent of each other. This is important as the states and local governments combined spend almost as much as the federal government. The distribution of government has made it difficult to enforce some of the procurement and transparency laws enacted as many states and local governments have argued that those laws need to be domesticated in their states before they become valid. A condition that has been slow to improve.

The challenge of implementation of the various laws, even at the federal government level, has proved difficult with many ministries and agencies still not following properly laid down procedures or making information freely and easily available. The logistical challenges also remain with many agencies, both at the federal, state, and local government level, sometimes lacking the necessary skills or technical know-how to properly implement procurement procedures. Finally, the procurement landscape, from the perspective of the use of technology has changed significantly with further changes to the PPA needed to really take advantage of modern tools to improve the procurement process.

Regardless of these challenges and setbacks, the reforms enacted have opened the space for civil society and non-governmental organizations to implement strategies to improve the public procurement landscape.
The return to democracy and the introduction of reforms around public procurement and transparency opened the space for civil society and other non-government organizations to pursue various socially beneficial activities. Public Private Development Centre (PPDC) is one of such institutions. It was founded in 2003 with the goal of assisting and empowering ordinary people to capture public space and to participate in governance and development in a way that prevents corruption. Its major activities are in the area of governance, public finance expenditure and advocacy, corruption prevention, and monitoring, promotion of popular participation in governance and development. In the context of public procurement, PPDC tries to implement programs targeting both the government, and the public aided by civil society.

From the governments' perspective its overall goal is to incentivize and assist the government improve the efficiency of its spending
by promoting the adoptions of technology and standards in its procurement process. From the public perspective, it tries to make information of public procurement available to citizens and civil society through a variety of programs that synthesize and present government procurement data. In this section we will outline three of those programs, the freedom of information rankings, the Budeshi platform, and work on promoting the open data compliance standard, and explain how each of the programs tries to improve efficiency in public procurement within the Nigerian political economy context.

**Freedom of Information (FOI) Requests**

The passing of the Freedom of Information Act in 2011 meant that, for the first time in Nigerian history, citizens could demand for information from government that was not ordinarily categorized as sensitive, and the government had no option but to oblige. The enactment of the law was a watershed moment in the quest for transparency in public procurement in Nigeria. The enactment was however only one step in the long journey. Citizens still needed to formally request for information and government agencies and departments still had to agree to release requested information. As with most laws, the question of it will be obeyed remained unanswered.

From the political economy perspective, there are many reasons why, even despite the law, the needle may not be moved on transparency. For example, if government officials and private sector contractors settled at a status quo where they were both benefiting from the absence of transparency, then may have incentives to prevent the requests for information from being attended to. They may delay the process through bureaucratic means, may simply just ignore requests, or may even threaten
retribution through other means. On the side of the public, the actual process of requesting for information can be difficult, expensive, and time consuming. And if the government refuses to disclose the information request, the costs seeking redress in court can also be expensive. These costs are difficult for any single individual or company to bear.

PPDC therefore saw a role in acting as an intermediary for the public in this respect. It officially requested for information that may be useful to the public from ministries and agencies using the proper procedures as laid down by law and following up these requests with court processes if the agencies did not comply. Requesting information was systematically provided to the public at zero cost. PPDC has so far sought redress in court 12 times against ministries or agencies who refused to honor freedom of information requests.

**Freedom of Information Ranking**

Despite the enactment of the Freedom of Information Act, the spirit of the law suggests that ministries and agencies should be proactive in terms of disclosing information. They should not have to wait for a formal request or a court summons to disclose information that should be in the public domain. To incentivize voluntary disclosure
PPDC launched an annual freedom of information ranking. The ranking seeks to highlight the agencies who perform well in terms of the availability of information and to shame those who do not.

The ranking is based on three major criteria:

1. **Proactive disclosure**
   Ministries and agencies are graded on a scale from best to worst with those who voluntarily disclose information on one end, those who only partially voluntarily disclose information in the middle, and those who do not voluntarily disclose information at the other end. A full proactive disclosure is attained when information on the procurement plans and capital expenditure of a public institution is found on the website of the ministry or agency.

2. **Responsiveness to requests for information**
   Where there is no full proactive disclosure, a request for information is made. Responsiveness to requests for information is ranked based on the timeliness of response with procurement information. Ministries and agencies are graded on a four-point scale ranging from: information released within seven days, information released between seven and 14 days, information released after 15 days, and if information is not released at all.

3. **Level of disclosure to requests for information**
   The third grade is based on the level of information released. The type of information release is judged based on three categories. The list of capital projects, the list of contracts awarded in the previous fiscal year, and the procurement plan for the current fiscal year. Ministries and agencies get a full score if all three
are released, a middle score if any of the three are released, and a bad score if none is released. Despite the three major categories, points are deducted if multiple requests are sent before a response is received. Ministries and agencies who respond on the first request therefore score higher than those we receive multiple requests before responding.

The rankings have been published every year since 2014 with five rounds done so far. Overall, the scores are getting better and better. In 2014 no ministry or agency had a perfect score based on the ranking methodology. By 2017 one agency had a perfect score. In 2014 no agency had a proactive information release schedule. By 2017 three agencies proactively released information and 22 agencies partially released information proactively, up from nine in 2014.

Despite some of the gains observed in information disclosure by ministries and agencies, many still fell short. The number of ministries or agencies who released no information increased from 34 (50 percent of those observed) in 2014 to 105 (56 percent of those observed) in 2018. This suggests that a lot of work still needs to be done in getting these agencies to disclose information. Common excuses given for not disclosing information include the information being third-party information, national security, subject matter of request being in court and so on. Most of these excuses have been debunked by experts in many circumstances.

The improvements observed are also at risk of backsliding as can be observed in the performance of some agencies. Despite the improvements some agencies went from fully disclosing information proactively to only partially disclosing information proactively. In essence, the improvements in transparency do not seem to be permanent but there seems to be the risk of reversal.
Budeshi Platform

The requests for information from ministries and agencies are only useful if they are accessed by the public. However, the piecemeal way in which various MDAs responded to requests provided an accessibility challenge. MDAs would frequently release information as response letters and in PDFs or other formats that were not standardized. As mentioned in the political economy section, there can be significant costs to the public in terms of finding and sorting through public information to find those that are usable towards whatever social objective. The mounting catalogue of information is providing a challenge in terms of synthesizing it and making it useful for public use.

The Budeshi platform was set up by PPDC in collaboration with the School of Media and Communication, Pan-Atlantic University and Premium Times Centre for Investigative Journalism as a template for how such procurement information could be made available for public use. The Budeshi platform involved the standardization of information on procurement received from various MDAs and making it available on an online portal for anyone to access.

**Summary**

<table>
<thead>
<tr>
<th>Total number of projects</th>
<th>Total contract sum</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,137</td>
<td>226,738,475,118</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Highest contract amount</th>
<th>Lowest contract amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,017,619,048</td>
<td>8,670</td>
</tr>
</tbody>
</table>

Screenshot from projects dashboard on Budeshi.ng
Procurement information was manually encoded into the following data structure:

1. The title of the project
2. The Government implementing the project (Federal, State, or LGA)
3. The name of the contractor
4. The amount officially budgeted for the project.
5. The amount of the contract awarded
6. Year
7. The Ministry or Agency awarding the contracts for the project.
8. The method of procurement (ranging from competitive bidding to direct awards)
9. The start and end date of the tender process
10. The dates the contracts were awarded, signed, and the dates the implementation should start and end.

The platform also seeks to display basic summary statistics on projects through customizable infographics as a way of making the compiled data more usable to the public.
Budeshi Platform Trends

The Budeshi platform has compiled significant data on procurement in Nigeria and some of that data demonstrates the importance of transparency in improving the efficiency in public spending.

In terms of the scale of the platform, it has uploaded information on almost 9000 contracts. At its peak in 2016, the platform had information on over 2500 contracts. Keeping in mind that information on the platform still must be released by ministries and agencies. In terms of the value of contracts, the platform has information on over 200 billion naira worth of contracts signed. However, the growth in information uploaded to the platform appears to have plateaued.
## Sample Budeshi Data

<table>
<thead>
<tr>
<th>Title</th>
<th>Location</th>
<th>Year</th>
<th>Contractor</th>
<th>Budget Amount</th>
<th>Contract Amount</th>
<th>MDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production &amp; Airing Of Jingles &amp; Announcements For Nsdc On Fight Against The Spread Of Covid-19 (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>Goodwise Global Services</td>
<td>N/A</td>
<td>15,840,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
<tr>
<td>Procurement Of First Aid Kits -334 Pieces (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>Preferred Of Nations Enterprises</td>
<td>N/A</td>
<td>11,680,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
<tr>
<td>Procurement Of Camp Bed -1006 (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>Eko &amp; Olive Investment Ltd</td>
<td>N/A</td>
<td>20,120,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
<tr>
<td>Procurement Of Antiseptic 3500 Litres (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>Akakaa Global Services Ltd</td>
<td>N/A</td>
<td>29,750,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
<tr>
<td>Procurement Of Infrared Non-contact Thermometer -372 (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>Alhaji Bello Maikusa &amp; Sons Ltd</td>
<td>N/A</td>
<td>46,500,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
<tr>
<td>Procurement Of Liquid Soap -10000 Millilitre Per Kilogram (covid-19 Emergency Procurement)</td>
<td>N/A</td>
<td>2020</td>
<td>B M Gold Ltd</td>
<td>N/A</td>
<td>18,000,000.00</td>
<td>Nigeria Security And Civil Defence Corp</td>
</tr>
</tbody>
</table>
Government Impact

As mentioned in the previous section, one of the major objectives of initiatives that promote transparency in public procurement is to improve efficiency in the supply of public goods and cut waste. The basic idea is that providing information to parties who suffer the losses from inefficient procurement systems can help them initiate action against third parties who may extract rents from the process. The practical implication, with respect to the Budeshi platform, is that publishing information and making this information available to the public should lead to more efficiency for those MDAs who are publishing information.

One potential measure of efficiency is in the final costs of contracts relative to budget amounts. MDAs that opt for transparency should, in theory, get better prices for projects as different suppliers try to compete on costs. Data from the platform somewhat supports this argument.
One way to look at this is to observe the monetary difference between money budgeted for projects and actual contract awards. If a ministry budgets N10bn for a project for instance, but after a competitive process, spends only N6bn on the project then it has gained from that competitive process in relation to what it thought it would spend. On an absolute level, the Budeshi platform data suggests that significant “savings” were made, with a peak in 2017 where over N25bn was saved from just over N40bn worth of contracts awarded. The dynamics in the budget versus actual value may however be explained by things other than transparency in the procurement process. They could be explained through revenue shortfalls and weak budget implementation for instance. For context, given that Nigeria has gone through significant revenue challenges in recent years, then this could also explain the variation. The difference between budgetary and actual contracts could also be explained by changes in costs between when the budgets were drafted and when the contracts were actually awarded. No doubt many other explanations can be thought of. However, further analysis of the data from the Budeshi platform suggests that transparency has had an impact.
For instance, the percent of contracts that have come in under-budget has been falling almost consistently through the period. This implies that MDAs who report data may be getting better at properly evaluating their projects and making budgets that are close to reality. This has been happening while the percent of contracts that were over budget was relatively stagnant.

Overall, this suggests that MDAs who are reporting data are reaping some rewards from transparency.

The same implications can also be seen when observing the budget versus actual outcome based on the type of contract award procedure. Almost 20 percent of all contracts were awarded through some method that is equivalent to a direct award, presumably without a competitive bidding process.
However, more than 13 percent of contracts awarded using a direct award of similar process come in over budget, compared to less than two percent for contracts awarded using a more standard competitive process. On the other hand, 39 percent of contracts awarded using competitive methods come in more than 10 percent under-budget whereas 44 percent for contracts awarded using direct means comes in under-budget. Overall, that data suggest that more competitive awards processes are associated with more efficient budgets and contract awards, assuming efficiency means being as close to the original budgeted amount as possible.

Finally, comparing the data from the MDAs who performed well in the freedom of information rankings to other MDAs supports the notion that the transparent MDAs are better off, but also highlights the information gaps and selection bias by MDAs who do not voluntarily make their information available. For the FOI ranking “winners” we can examine those MDAs who appeared in the top five MDAs at least twice for the period in which the rankings have been done. This leaves us with the Infrastructure Concession Regulatory Company, the Bureau of Public Service Reform, the Nigeria Extractive Industries Transparency Initiative, and the National Insurance Commission.
Comparing these “top performing” MDAs suggest that these top MDAs are performing worse in terms of the difference between budgets and actual awarded contracts.

![Top MDAs based on FOI Ranking](image)

The top MDAs tend to have a larger percentage of contracts that come in under-budget and have a larger percent of contracts that come in over-budget too, compared to other MDAs. This may be because the other MDAs who do not comply as voluntarily are only sending their best projects. For instance, if an MDA voluntarily publishes all its contracts then both “good” and “bad” contracts will be publicly available. On the other hand, if an MDA only makes contract data available on request then there is higher probability of that MDA hiding bad contracts and only making good contracts public. Overall, there is some anecdotal evidence that the platform has had some positive impacts on the efficiency of public procurement.
Public Impact

Determining the effect of the Budeshi platform on the public is a bit more difficult to measure mostly due to data constraints. However, the usage statistics allow us to observe how the public is interacting with the platform.

In the two years prior to March 2020, the platform got over 3000 hits with traffic spread out across the period. The data on usage however shows an interesting phenomenon. First, most users access the website from desktop computers. According to the website tracking data, 68 percent of users access the website from desktop computers while only 29 percent access via mobile phones. This is at odds with the distribution of internet access in Nigeria where mobile phones are by far the default means
to access the internet. Secondly, only 50 percent of the traffic on the platform originates from Nigeria. The rest of the traffic comes from a plethora of countries with the United States and France significant. This may signify interest from international partners who may have even less access to MDAs and therefore must rely on easy to access sources like the Budeshi platform. Combined, the data suggests that the major users of the platform may not be the public directly but other intermediaries. This is not at odds with the idea that civil society and other social intermediaries play an important role in organizing and identifying important themes using public procurement data and organizing communities to act on relevant new information.

Public Use Cases

Various examples of the general public and civil society using the platform to collect underlying data towards some social objective has also been observed. The use cases have come from a diverse array of individuals and institutions from media to academia. A few examples are highlighted below.

1. In 2017 an investigative reporter used information from the Budeshi platform to identify so-called “ghost projects”. Contracts for primary health-care centers were awarded but the projects were not implemented. The journalists used records from the platform to identify and follow up on projects that should have been completed.

2. In 2019, economists at the University of Maiduguri in Borno state used data from the Budeshi platform as part of their research on the role of Islamic finance in managing the humanitarian crisis in the region. They used the data from
the platform to estimate a reference cost for building primary healthcare centers in Borno state. Data which was taken from actual contracts.

3. In April 2020, “Follow The Money” a non-governmental organization that tries to incentivize citizens to follow up on public spending, used data from the platform to train government officials and members of civil society on tools for following up and tracing government projects.

4. In 2019, “Follow The Money” also used data from the platform to follow up on construction of classrooms in Delta state. Contracts has been signed and the team used information from the portal to identify what should have been built and in encouraging local communities to ensure delivery.

5. The One campaign, as part of its to get citizens to vote and participate in the democratic process used the platform as one of the tools citizens could use in demanding accountability from their politicians and governments.
These example use-cases are not exhaustive but demonstrate instances where the platform has been used as enabler of information flow from government to the public with civil society acting as intermediaries in some instances.

**Labour-intensive Processes**

The Budeshi platform is built on PPDC converting information requested via freedom of information requests into a standardized format that is easily searchable and usable by the public. One downside of this approach is that it is relatively labour-intensive requiring PPDC to manually convert the documents received into clean data. This process can become very difficult as in any given year there may be thousands of documents across different levels of government. This challenge can easily be overcome if government MDAs publish their data in an OCDS compliant framework. This is the focus of PPDC’s new line of programming.

**Open Contracting Data Standard Support**

As mentioned in previous sections, the costs of filling freedom of information requests and other forms of requests for government procurement data both by the public or social intermediaries like PPDC can get very expensive, especially in time costs. One option to deal with these costs would be for MDAs to voluntarily disclose information. However, this does not deal with the costs of sifting and analyzing this information as thousands of documents could be published in any given week. It is difficult to imagine a member of a community having to sift through thousands of documents to find those that are relevant. One way to deal with this cost problem is to have government publish its procurement
information in a standard format that is machine-readable, i.e. can be read by computers. This opens the possibility to use technology to analyze and identify specific data that is useful for any given objective.

There are however significant constraints in the implementation of Open Contracting Data. Government officials may not be aware of the options or processes in adopting such a framework. They may also not have implemented business strategies to deal with the costs of implementing such a framework. Alternatively, government insiders and private sector contractors who stand to lose from the increased transparency that comes with the implementation of such a project might frustrate the process and fight for opaquer status quo. There may also be logistical challenges with regards to staff skills and equipment. Civil servants may not have the necessary training or may not have the infrastructure like computers and data servers to implement such a protocol. This is particularly true in the Nigerian context where government exists not just as a centralized federal government, but in state and local governments who may be further behind in the innovations in procurement.

From this perspective PPDC is working with government at various levels to move them further down the path to procurement transparency through improving their procurement frameworks, voluntarily publishing data, and eventually the implementation of OCDS. This work involves advocacy, making the case for OCDS, trainings, and technical support in implementing OCDS standards.

From the federal government’s perspective some progress has been made in terms of the goal of making procurement data completely available in the OCDS framework and in moving towards a more transparent procurement process. In 2016 Nigeria as a member of the Open Government Partnership (OGP), and along with 14 other countries pledged to implement the
The Open Contracting Journey In Nigeria

Since then it has made some efforts to implementing the standard and making procurement data more available. In 2018 it launched the Nigeria Open Contracting Portal (NOCOPO) which is managed by the Bureau of Public Procurement (BPP) and is intended to publish OCDS data framework for some procurement. It also launched the Open Treasury Portal in 2019 managed by the Accountant General of the Federation. This portal seeks to publish all government financial transactions as well as the accounts of ministries and agencies.

These portals however still both have limited coverage as the implementation has been done in a phased approached. The portals currently only capture a small number of federal MDAs. This phased approach is understandable but means that there are risks the ministries will delay the process and let it drag on for a long time. There are also risks of reversal if the political will to continue the reform process wanes as the implementing agency, the BPP, is still limited in its capacity to enforce compliance, even though there is an existing directive for MDAs to publish data on the platforms. On the part of the MDAs there are still significant knowledge and information gaps at the MDAs as many are new to digital procurement systems and data publishing. Finally, from a technology standpoint, the portals still leave a lot to be desired in terms of digital access. Whereas both portals have a public interface that allows people search for information, they lack application programming interfaces (API) which are key to allowing digital access to the data. A key feature of the OCDS standard is making procurement data machine readable and APIs are an important part of that process. Both federal government portals however still lack this. NOCOPO is also not a fully fledged e-procurement portal but only a publication portal, although upgrades are reportedly planned.
At the state level the situation varies across state governments. Some states have done a lot in terms of launching data portals and implementing the OCDS standards. A lot of the progress seems to have been induced by the potential to access donor grants, although this is not the case in every instance. There is however evidence that the progress made in some states might be reversed if donor funds cease to be made available or if the political climate changes. Many states, despite making commitments towards open contracting and implementing some procurement reforms, have failed to domesticate the Freedom of Information Acts in their states. Building a robust framework that allows open contracting and transparency in the procurement process to flourish at the state level regardless of the political climate remains a key challenge. Regardless, one common theme across states is the capacity gaps in terms of implementation. Many state MDAs are even further behind the federal government in terms of their capacity to implement open contracting and OCDS frameworks even if they wanted to. Personnel in many MDAs lack basic digital skills and the necessary equipment, such as computers. States are trying to deal with these challenges using different strategies and flexibility in terms of approach is necessary.

The situation at the third tier of government, the local government, is the most challenging. Basic information is mostly unavailable and plans to be more transparent are few and far between. In some states, the state governments wield significant influence on local governments and have tried to incorporate them into their open contracting frameworks. However, given the political climate and the push towards more operationally independent local governments, they cannot be left out of the broad push towards transparency, especially since they account for roughly 24 percent of all public spending.
Retribution by Losers

Improving transparency in the procurement process reduces the potential for corruption and reduced the private benefits that can be gained by government officials, civil servants, and private contractors who previously took advantage of the opacity. As with every system that changes the power dynamics, the losers are bound to look for opportunities to frustrate change or seek retribution through some other means. This is more dangerous given that some of the same parties might have access to other instruments of the state such as the police or other security apparatus.

Given the repercussions of pushing such a potentially power-changing agenda, it is of utmost importance to ensure that change-agents follow the law and due process and do not engage in any activities that can be used as leverage by parties
seeking to frustrate change. From an institutions perspective this will include things like ensuring tax compliance, having strict audit processes, being transparent on funders, ensuring staff are not compromised and so on.

**Capacity Challenges**

The goal of cutting corruption is often the primary motivation for promoting transparency in public procurement, with the tacit assumption if there is enough political will across the spectrum then objectives can easily be achieved. In practice there are often many logistical constraints to achieving the desired objectives. Government officials and civil servants may not have the technical capacity to implement new processes, or they may not have the equipment or other necessary requirements. The implication is that working closely with government in building technical capacity and other support can have significant positive impacts on the procurement process.

However, working directly with the government may seem at odds with the mandate of fighting corruption through transparency in government. The latter tends to be more aggressive and confrontational, however an aggressive and confrontational posture might reduce the opportunities for partnerships to reduce some of the very real logistical and capacity challenges. An important lesson here for NGOs and other civil society who need to both work with and fight against the same government entities is to be stern and honest, but also understanding and willing to help. Institutions need to find a balance between fighting for change and working with the government agents to change. In this context a focus on facts and less reliance on personal attacks can help strike the balance.
Institutional Absence and Risk of Reversal

Improvements made towards achieving the desired objectives are always at risk of reversal. For instance, transparency improvements which were made by previous change agents in MDAs may be undone once a new set of actors replace the old ones. Change is a constant theme in government with appointed officials frequently replaced or with tenures in office expiring. Ensuring that improvements made are institutional, that is outlasting the individuals who make the improvements, should therefore be a priority from the start.

Donour Funding Impact

International donours, who may have large pools of funds available for government projects, typically desire the kind of accountability that comes with transparency in public procurement processes, although it must be noted that transparency does not always lead to accountability. Government officials, keen to access these funds, may therefore be induced to adopt more transparent processes because of these funds. However, there is the risk that any improvements are rolled back once the incentivizing funds are no longer available. Donor agencies therefore may be making a more significant and longer lasting impact if there is collaboration with domestic civil society and NGOs in implementing public procurement reforms. This, combined with more institutional reforms, increases the likelihood that improvements will not be lost once the incentivizing funds are no longer available.
Citizen Participation

A fundamental part of the sustainability of improvements in the public procurement system depends on the participation of the public. The public are the biggest losers from inefficient and opaque processes and therefore stand to gain the most from any improvements. “Indignation on the ground, if pervasive, stops corruption dead”. Advocacy towards citizens participation is therefore a fundamental part of ensuring the sustainability of any improvements and ensuring that improved efficiency in public procurement translates into the supply of better and more desirable public goods.

In this respect civil society and other NGOs can play an important role in making sense of the large amounts of procurement information and transmitting it to the public in a format that can garner public attention. Working with civil society and NGOs should therefore be an important piece of the overall puzzle in incentivizing public participation.
For any enquiries, please contact the Public & Private Development Centre (PPDC) on 0800 283 3744 (Toll free) or 0706 661 8896 and via email: ppdc@procurementmonitor.org

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