Open Contracting Compliance Ranking Project

Landscape Report Analysis

Image source: Infrastructure News
Acknowledgement

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About Present Lab

Present Lab is a non-profit and non-political organization located in Abuja. We conduct research at the intersection of social justice, state and non-state actors, behavior change and systems change and disseminate social justice research evidence to state and non-state actors pursuing more just societies through behavior change and systems change. We provide strategic advisory and experimentation services to governance reformers and civic advocates building better social structures.

About The Public And Private Development Centre (PPDC)

PPDC is a citizen sector organization that seeks to promote increased citizens’ participation in governance in a way that supports improved integrity in public sector governance systems through monitoring and reporting on public finance expenditure. As a nonprofit making organization, PPDC is duly registered under the Laws of the Federation of Nigeria.

About Open Contracting Partnership

The Open Contracting Partnership is a silo-busting collaboration across governments, businesses, civil society, and technologists to open up and transform government contracting worldwide. We bring open data and open government together to ensure public money is spent openly, fairly, and effectively. We focus on public contracts as they are the single biggest item of spending by most governments. They are a government’s number one corruption risk and they are vital to ensuring citizens get the services that they deserve. Spun out of the World Bank in 2015, the Open Contracting Partnership is now an independent not-for-profit working in over 50 countries. We drive massively improved value for money, public integrity, and service delivery by shifting public contracting from closed processes and masses of paperwork to digital services that are fair, efficient, and ‘open-by-design’.
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Introduction
Open Contracting, according to the Open Contracting Partnership (OCP), is about publishing and using open, accessible, and timely information on public contracting to engage citizens and businesses to fix problems and deliver results.

Open contracting aims at increasing disclosure and participation in all stages of public procurement, which includes planning, tendering, awarding, and implementation. It ensures greater value for money, efficiency in government service delivery, quality of services, fairer competition, and public trust in government.

**Background And Rationale**

This concept builds on gains recorded by the PPDC in the use of a ranking system to incentivize compliance, boost data quality and sustainability of open contracting in Nigeria. This stems from the gains of using the same ranking model in benchmarking Nigeria public institutions in their compliance and responsiveness to the Freedom of Information (FOI) Act 2011, which have progressively enforced compliance and competition of Ministries, Departments, and Agencies (MDAs) to fully disclose and put frameworks to support their disclosure practices. The FOI ranking which started in 2013 with just 13 MDAs grew to over 180 MDAs in 2018 with Anti-corruption Agencies, security agencies and non-compliant MDAs releasing their procurement record for the first time. The ranking also sparked the first-ever proactive disclosure of public finance expenditure in 2016 by the Bureau of Public Service Reforms (BPSR), in 2018, more MDAs improved on their responsiveness and the Corporate Affairs Commission for the first time proactively disclosed their contractual information. The ranking created a sense of urgency, and peer pressure amongst MDAs to comply with the Act, and also increased awareness amongst CSOs, media and the public on the provisions of the FOI, requirements and the compliance levels across MDAs utilizing public funds. These prompted several MDAs to request for Access to Information (ATI) training to improve their responsiveness and data culture. By 2019, the ranking gained a National recognition that was also used by the National Assembly to evaluate government agencies in their compliance with FOI guidelines in Nigeria. With this traction, in 2019, PPDC forged partnership with key CSOs working on ATI in Nigeria to make the ranking a National ATI ranking.

[https://www.open-contracting.org/what-is-open-contracting/](https://www.open-contracting.org/what-is-open-contracting/)
The project seeks to achieve the following:

1. Validate the conducted ranking in accordance with set parameters
2. Strengthen the open contracting ranking output, process, and methodology for current and future open contracting rankings;
3. Identify drivers, blockers, and relationships that influence open contracting compliance in Nigerian MDAs;
4. Define opportunities areas for institutions to advance open contracting compliance within current constraints and;
5. Suggest ways for PPDC to spur, measure, and track progress going forward.

This report is geared towards understanding the factors that influence open contracting compliance in Ministries, Departments, and Agencies (MDAs) in Nigeria. It portrays a comparison in the factors that either aid or impede compliance amongst the high, medium, and low ranked MDAs in the the previous 2020 open contracting ranking by ANEEJ. The previous ranking and the 2021 open contracting ranking by PPDC which informed the methodology of the research. It looks at how the tenure of procurement personnel within the MDAs, their experience in procurement, their knowledge of open contracting processes, their motivation towards work and compliance, as well as efforts made towards capacity building, affects their performance towards compliance. It also examines how MDAs are equipped to publish data on the NOCOPO and how they are technologically equipped to operate the upcoming Electronic Government Procurement (eGP) system. The rest of the report shows the findings from the research.
Present Lab designed a research methodology through structured interview questions designed to examine the effects of institutional capabilities on how MDAs comply with open contracting principles. A total of 15 interviews were conducted and respondents were drawn from 15 MDAs pulled from 3 categories: high, medium, and low-performed in the previous ranking done by ANEEJ to understand the distinguishing factors that aid compliance amongst these bands of MDAs.

Figure 1: Number of MDAs interviewed across each category. 5 MDAs were selected and interviewed from each of the categories (high, medium, and low respectively)
The interviewees covered those directly responsible for open contracting processes with the MDAs: directors of procurement, managers of procurement department/units, and procurement officers.

Gender

Figure 2: Percentage of Interviewees disaggregated by gender. The interviewees consisted of 12 males and 3 females.
The interviews focused on assessing MDAs' understanding of the requirement of compliance, their access to resources for compliance, the impact of compliance on the MDAs, as well as the perception held by MDAs about the processes and workload for open contracting compliance.

Figure 3: Number of Interviewees disaggregated by portfolio. The interviewees consisted of 8 Procurement Officers, 3 Directors of Procurement, 1 Director of Regulation and Database, 1 Assistant Manager of Procurement Department, 1 Head of Procurement Unit, and 1 Tender Board Secretary.
Research Findings
The interviews were conducted for a period of four (4) days and the following takeaways are particularly important in understanding the factors that influence open contracting compliance in MDAs:

Factors That Drive Open Contracting Compliance Within MDAs

During the interviews, it was observed that the following factors aid in increasing MDAs open contracting compliance;

The project seeks to achieve the following:

1. Some MDAs conduct internal and external capacity building for staff to ensure continuous knowledge and capacity development.

*The high and medium-ranked MDAs* conduct internal capacity building for their staff or send them out for external workshops. These training and workshops entail topics such as economic efficiency, transparency, and accountability, and getting value for money in government expenditure through procurement processes. These officers also carry out personal research and enroll in external training to help build their knowledge and capacity on open contracting. The motivation for this is that despite the little to no budget for personnel capacity building with the MDAs, there is a willingness of the staff to learn and adapt to due processes and the MDAs ensure that the staff is well equipped through procurement-related training.
2. There is a general understanding of Open Contracting and its processes within and across MDAs in Nigeria especially amongst the procurement officers and other staff who are responsible for making compliance happen.

This understanding was developed through the practical aspect of their work and the numerous training they have undergone by procurement bodies such as the Bureau of Public Procurement (BPP), and stakeholders such as the World Bank, as well as personal research and capacity building.

3. MDAs are provided with working tools and systems

such as computers and internet services for ease of work and other tools/materials needed to aid their work.

4. The strict adherence to internal and external open contracting guidelines and procedures to aid compliance.

Procurement and Open Contracting policies, guidelines, and procedures have been put in place within the MDAs and by BPP to aid compliance. However, these policies, guidelines, and procedures seem to only be complied with by the high and medium-ranked MDAs.
Factors Influencing Open Contracting Compliance

There are relationships within and outside the MDAs, especially for the high and medium ranked MDAs, that drive open contracting compliance and they include the following;

5. The procurement officers within the high and medium-ranked MDAs are given adequate support and mentorship from superiors and team members.

This not only ensures that the public procurement stages are uploaded from start to finish on the NOCOP, but also provides a learning ground for those involved, as well as a conducive working environment for staff.

6. MDAs ensure transparency by inviting Civil Society Organizations (CSOs) and citizens to the bidding process.

MDAs claim the bidding process is not a closed room chat but ensures that CSOs and citizens are invited to participate as a way of ensuring that the process is transparent and open to all.

7. MDAs’ engagement with external stakeholders such as contractors.

Since MDA compliance to open contracting, the relationship between MDAs and contractors has improved as they want to keep doing business with the MDAs. However, MDAs claimed that they often experience a lack of confidence from the contractors. An assistant manager noted that: “sometimes, we experience situations where some bidders do not accept that they have lost, they always want to win. They normally confront us with their concerns and we explain the situation to them. These bidders lose because according to one procurement officer: “they do not properly read the bidding guidelines and instructions which leads them to do the wrong thing many times.”
Factors That Impede Open Contracting Compliance Within MDAs

During the interviews, it was observed that the blockers of open contracting compliance within MDAs derive from the low level of knowledge and capacity especially amongst the medium and low ranked MDAs. Below are the findings of the factors that impede compliance;

8. There is a lack of consistency in training to cover the capacity gap within the MDAs, especially for officers who get transferred to or are recruited in another MDA.

It is not novel that people get transferred from one MDA to another or quit an MDA for another. However, when this happens, officers with in-depth knowledge and who have been trained on open contracting processes in a Ministry, for instance, leave to join another Ministry, and another officer without the basic training or knowledge of the job is brought in thereby creating a capacity gap within the Ministry. The capacity gap however reduces the productivity of staff and affects the MDA’s compliance to open contracting.

9. The medium and low-ranked MDAs are not equipped to build the capacity of their staff due to a lack of funds.

These MDAs depend solely on the Bureau of Public Procurement (BPP’s) annual training to build the capacity of their staff. **One procurement officer explained that her organization is not able to conduct training of the staff due to lack of funds:** “We have been telling the bosses about training but it’s not easy and there are no funds. We have staff and we need to be trained to renew our knowledge and get acquainted with the open contracting processes”.

10. Staff is unenthusiastic about open contracting compliance due to bureaucratic systems.

Cronyism plays a role in Nigerian public procurement. During the contracting process, unqualified candidates are sometimes chosen by those high up in authority or the requirements are tailored to suit specific contractors. This however leads to the poor performance of contractors due to their lack of capacity to deliver on services. Because of this, the staff is unenthusiastic about their work, thereby portraying a lack of interest in complying with the requirements of open contracting.

Other findings include how the open contracting implementation within some MDAs has influenced compliance and improved service delivery, as well as the effect of compliance in the individual lives and work of the procurement officers, directors, and managers.

**Policies, Processes, And Procedures**

11. There is increased transparency and accountability in MDAs’ processes.

The high-ranked MDAs confirmed that the feedback received from external stakeholders about open contracting compliance has been positive and they have been encouraged to be more open in their processes. One assistant manager of the procurement department noted that: “It has improved our image as a regulator in transparency and accountability. It has saved the Commission scarce resources that would have been unnecessarily spent. The bidders commend our transparent procurement processes during the evaluation period. As a regulator, this sets an example to the regulated entities that open contracting and transparency is expected of them”.

12. MDAs have recorded swiftness in procurement and Open Contracting processes.

Since open contracting, MDAs confirmed that they have not experienced a delay in their procurement and Open Contracting processes.
Efficiency In Life And Work

13. Procurement officers have noticed changes such as improved professionalism, job satisfaction, added personal values, improved lifestyle, and a positive attitude towards work.

This is especially true for high-ranked MDAs.

An assistant manager noted that open contracting has changed the way they conduct procurement within his MDA: “It has broadened the way we see procurement processes, instilled transparency, discipline, integrity, and productivity in the way we conduct procurement processes.” He also explained how open contracting has added value to his personal life: “It has added to how I conduct my personal procurement. It has made me value transparency and open contracting in the procurement process.”

One director noted that: “I have learned a lot about contracting. Organizing contract activities helped me as a person to develop and in my future plans. I have gained knowledge and experience.”

14. MDAs have experienced improved efficiency in the delivery of their various functions.

a. Technology:
Introducing technology into the Nigerian Civil Service has improved the government’s efficiency in its service delivery. One head of procurement noted that: “A lot has changed. The system is upgraded. Being a survey-based organization, it was all paperwork, now we use configured tablets called CAPI (Computer-Assisted Personal Interviewing) to suit whatever we want to do. We consistently release data about what is happening in the country, especially the country’s economy and this is a success for us.” She also noted that technology has made it easy for her to do her work from anywhere: “It is easier for me to carry out my work. If I am not in the office and my attention is needed, I can sit somewhere and use my phone at my comfort and this has taught me more about technology because you cannot do open contracting without the knowledge of ICT”.

b. Data publication:
MDAs claim that open contracting has improved their transparency in terms of access to information to the public. One manager noted that: “We only published procurement plans before, now we publish from planning to finish for public viewing and scrutiny. We ensure that there is access to information by public contractors and civil society on all procurement-related processes by providing an effective response to Freedom of Information (FOI) requests on procurement matters.”
Comparative Findings Across The Bands Of MDAs

Across the bands of MDAs interviewed (high, medium, and low-ranked MDAs), the following are the comparative findings from the process;

**Figure 4: Tabular representation of the comparative findings across the bands of MDAs.**

<table>
<thead>
<tr>
<th>Findings</th>
<th>High Ranked MDAs</th>
<th>Medium Ranked MDAs</th>
<th>Low Ranked MDAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tenure and experience of procurement personnel across the MDAs</td>
<td>4 - 12 years</td>
<td>4 - 28 years</td>
<td>less than 4 years</td>
</tr>
<tr>
<td>2. Knowledge and understanding of open contracting principles and processes</td>
<td>Adequate understanding and knowledge of the open contracting principles and processes.</td>
<td>Some have an adequate understanding of open contracting processes while others have an average understanding.</td>
<td>Minimal knowledge of open contracting policies and processes.</td>
</tr>
<tr>
<td>3. Capacity building for procurement officers</td>
<td>- Most of the MDAs train the procurement officers quarterly or every 6 months through consultants, - Send the officers for external workshops, - Personal capacity building amongst staff, - One MDA: only BPP’s training.</td>
<td>- For two of MDAs, the training occurs every six months, - Two of the MDAs train their staff quarterly, while - For one MDA, the training is inconsistent.</td>
<td>- Two of the MDAs get trained by BPP once a year and training is organized internally for the staff through consultants. - Others confirmed that they have not received any form of training in 2 years.</td>
</tr>
<tr>
<td>4. Motivation of staff toward open contracting compliance</td>
<td>Exhibited a high level of enthusiasm toward the process and the exposure open contracting has given them and their MDAs and want to do more to ensure full transparency and accountability of their organizations.</td>
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</table>
1. Tenure and experience of procurement personnel across the MDAs:

Procurement personnel within the high-ranked MDAs have experience in procurement for a period of 4 - 12 years. For the medium-ranked MDAs, the officers have procurement experience for a period of 4 - 28 years. While officers in the low-ranked MDAs have less than 4 years of experience in procurement.

2. Knowledge and understanding of open contracting principles and processes:

Amongst the procurement personnel interviewed, across the high ranked MDAs, there is an adequate understanding and knowledge of the open contracting principles and processes. Some of the medium-ranked MDAs have an adequate understanding of open contracting processes while others have an average understanding. This level of knowledge and understanding was derived throughout the course of their work, their ample years of experience in procurement, and internal, external, and personal capacity building. For the low ranked MDAs, there is minimal knowledge of open contracting policies and processes. This limited level of knowledge is derived from the meagre amount of experience in procurement as some of the procurement officers are either just coming into procurement or have been in procurement for less than 4 years with little to no open contracting process carried out.

3. Capacity building for procurement officers:

Apart from the yearly training by BPP, most of the high ranked MDAs internally train the procurement officers frequently (quarterly or every six months) through consultants, externally by sending the officers for workshops, and there is also personal capacity building amongst staff. However, one MDA confirmed that apart from the training by BPP, the staff do not receive any other training. For the medium ranked MDAs, they claimed that the training is not consistent enough or even non-existent. For two of MDAs, the training occurs every six month, two of the MDAs claim that the training is done quarterly, while one claims that it is rather inconsistent. For the low ranked MDAs, two of the MDAs confirmed that they get trained by BPP once a year and training is organized internally for the staff through consultants. However, the others confirmed that they have not received any form of training in two years.
4. Motivation of staff toward open contracting compliance:

During the interview process, interviewees from the high ranked MDAs exhibited a high level of enthusiasm toward the process and the exposure open contracting has given them and their MDAs and want to do more to ensure full transparency and accountability of their organizations. Amongst the medium and low ranked MDAs, there seem to be a minimal level of enthusiasm in open contracting compliance. Some say this has to do with the bureaucratic process which affects compliance negatively, others say the lack of enthusiasm comes from the little to no effort for capacity building.
1. Minimal knowledge of the open contracting process and procedures:

The procurement officers within these MDAs have a minimal knowledge of the open contracting processes and procedures which come from their little to no experience in public procurement.

2. Uploading procurement data on the NOCOPO:

The medium and low ranked MDAs reported a low level of training on how to use the NOCOPO to enable them to frequently upload and update their procurement data on the platform.

3. Budget for internal capacity building for personnel:

The medium and low ranked MDAs reported the lack of funds to conduct capacity building for staff to ensure that they are equipped with the knowledge and skills needed to advance open contracting compliance.

The high-ranked and some of the medium-ranked MDAs who are performing better see capacity building as a factor that aids their performance in open contracting compliance. One assistant manager noted that: “internal and external capacity building are part of our success factors to open contracting compliance”.

During the course of the interviews, it was observed that one significant factor that impedes open contracting compliance across the medium and low-ranked MDAs is capacity building. The gaps span across the areas of;
Analysis Of Findings
1. Having experience in procurement plays a role in the level of knowledge and understanding of open contracting processes that a procurement personnel has, which in turn plays a role in the MDA’s compliance performance.

When procurement personnel have the required knowledge and understanding of open contracting policies and processes, it positively affects the compliance performance of the MDAs.

2. These MDAs believe that if they are frequently trained, they will be able to grasp the processes and procedures of open contracting and will be better able to comply.

Those who are frequently trained see it as a success factor to their open contracting compliance. This is because when they are equipped with the knowledge and skill, it improves their productivity and zeal in performing their duties as well as the capacity to upload the required data to the NOCOPO platform.

3. The motivation of staff towards compliance comes from a great deal of support from superiors and consistency in capacity building.

The findings also show that bureaucratic processes (cronyism) affect the level of enthusiasm of staff.
Recommendations
And Conclusion
From the research, the following are recommendations that can be adopted in ensuring open contracting compliance across MDAs. The recommendations are in three (3) parts: recommendations towards improving the capacity gap within and across MDAs and opportunity areas for MDAs and other stakeholders towards improving open contracting compliance.

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Capacity Building

1. The need for well performing MDAs to support BPP to provide training for other MDAs:

BPP, according to its regulatory function under section 5 of the Public Procurement Act 2011, coordinates relevant training programs to build institutional capacity for MDAs. Currently, there are over 700 Federal MDAs across the country, and for the Bureau to sufficiently train this number, it requires huge resources and manpower. However, there are opportunities for collaboration and peer to peer learning within and across sectors to further support other agencies and parastatals under them on OCDS. The performing MDAs can also support the BPP in designing training based on identified gaps and capacity needs identified through this peer to peer learning sessions and ensure these needs are met using the most effective method of knowledge transfer. Also, procurement Officers across the high performing MDAs according to the ranking can be paired with Officers across the medium and low performing MDAs to share knowledge and learn each other’s unique processes and incorporate them into their own processes. Officers within each MDA can also learn from each other to make sure that if one person is transferred to another MDA, it does not create a vacuum. This is to ensure that the capacity gap is closed and there is continuous learning across all MDAs and the system.

2. Assign newly transferred staff and new recruits to older staff:

Another effective way to close the capacity gap within and across all MDAs is to ensure that when new staff are employed, they should be assigned to older staff members to learn from. Also, when a staff is transferred from one MDA to another, he/she is assigned to an older staff member within the new MDA. This is to make sure that there is a continuous learning process of MDAs unique processes.

3. The need to digitize training to prevent consistent travels in the COVID-19 era and for all MDAs to have access to the training yearly:

To prevent excess travels by trainers, overcrowding during training sessions and to ensure that the sessions are not divided in order to adhere to COVID-19 compliance and to save cost, the training can recorded and distributed to all the MDAs. Recordings can be updated when

Opportunity Areas For MDAs

4. For continuous advancement of open contracting compliance, there is a need to publicize significant changes.

For instance; when there is waste reduction and savings especially in how businesses used to be conducted. **One Director of Procurement noted that:** “since open contracting, we have experienced a lot of waste reduction in the system”, **another assistant manager noted that:** “it has saved the Commission scarce resources that would have been unnecessarily spent”.

Publicizing these significant changes is especially important knowing the current economic situation of the country. When governments operate in a transparent and inclusive manner, it ensures public trust in the government and the system.

5. **MDAs can leverage on their relationships with CSOs in the various sectors to advance open contracting compliance**

by requesting for partnerships in public procurement and capacity building support.

6. **Develop an effective mechanism for reporting and feedback from stakeholders.**

By developing a feedback and reporting system, stakeholders can report discrepancies and violations across the procurement processes as well as monitor MDA open contracting compliance. The feedback from stakeholders should be reviewed and addressed regularly and incorporated to improve the open contracting processes and ensure more transparency and accountability. This can also influence the design of the eGP system.

7. **Regulatory agencies can make use of this report and the ranking data**

to ensure that other MDAs improve in the open contracting processes and regularly upload their data on the NOCOPO. This will ensure that the MDAs are better prepared for the eGP system.
Opportunity Areas For Stakeholders

8. PPDC can develop a tracking system to measure MDA progress towards open contracting compliance, aside from the ranking.

Using the mechanism for reporting and feedback from stakeholders, PPDC can have access or request for the reports and feedback quarterly. This will give PPDC an idea of MDA performance in the eyes of other stakeholders and will be able to provide support where necessary.

9. Civil Society Organizations (CSOs) should apply the findings of this report to advocate and support the MDAs in ensuring a transparent and fair open contracting and procurement processes.

CSOs in the different sectors can use the data on the NOCOPO to advocate for more openness in the public procurement processes and find ways to give feedback and support to BPP and other MDAs, especially in the provision of training and support in the design of the upcoming eGP system.
Based on the findings of this research, it was observed that MDAs are well positioned technologically to publish public procurement data on the NOCOPO. This is seen as a stepping stone for them to be able to perform well with the eGP system coming up in the future. However, to ensure that there is continuous advancement of open contracting compliance, there is a need for MDAs to leverage on existing relationships with stakeholders - CSOs and contractors, and for CSOs in the various sectors to support MDAs and advocate for more transparency and accountability in the Nigerian public procurement processes.