

Open Contracting Scoping Study

SYNTHESIS REPORT

West Africa Open Contracting Assessment Project

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Scoping Studies on Open Contracting in West Africa: Synthesis Report

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Executive Summary

According to the World Bank, public procurement accounts for nearly 15 percent of GDP per capita in Sub-Saharan Africa.¹ How governments spend this money has a significant impact on the lives of citizens. Due to the potential for shared prosperity accrued to countries with strong procurement systems and their trade partners, the UK Foreign & Commonwealth Office (FCO) has supported the efforts of Development Gateway and the Open Contracting Partnership to conduct a series of open contracting scoping studies in 6 West African countries: Ghana, Nigeria, Guinea, Liberia, Senegal and Côte d'Ivoire. This initiative stems from the recognition that open contracting, which refers to a set of [global principles](http://www.open-contracting.org/get-started/global-principles/)² aimed at improving procurement data disclosure and citizen participation, supports shared prosperity through an emphasis on creating fair, competitive markets that increase value for money, improve service delivery and reduce corruption.

This synthesis report shares the findings from these 6 country reports, along with insights garnered through a report on *British Priorities and Interests* in relation to open contracting, which focuses on the opportunities and risks of investing in West African procurement markets as told by British and international companies. Our findings are summarized in the following recommendations:

1. Enact measures to ensure the independence of procurement and regulatory authorities.
2. Design targeted approaches to enhancing capacity of procurement staff.
3. Improve the bid evaluation process by empowering whistleblowers and complainants.
4. Strengthen legal requirements on procurement data collection, and open, proactive disclosure.
5. Put open contracting on the regional radar through local and international engagement.
6. Support the use of new technologies, including e-procurement, that strengthen legal compliance and the Open Contracting Principles.
7. Strengthening disclosure of information through all stages, but particularly once the contract has been signed.
8. Improve the practice of data collection and disclosure with specific user needs in mind.
9. Engage stakeholders routinely to improve the procurement process.
10. Support civil society engagement through strengthening capacity, resources and data.
11. Increased collaboration among international institutions can ensure that resources are effectively managed in the support of procurement reform.
12. Collaborate with small and medium enterprises (SMEs) to promote open contracting and other practical measures to ensure that procurement reforms respond to their needs.
13. A range of challenges create disincentives for participation of British and Western companies in West African markets, but ensuring a fair and competitive process would produce a valuable incentive to engage.
14. Lay groundwork for interoperability between procurement data and broader PFM infrastructure.

¹ See: <http://blogs.worldbank.org/governance/public-procurement-rich-country-s-policy>. Accessed: 12.20.16.

² <http://www.open-contracting.org/get-started/global-principles/>

² <http://www.open-contracting.org/get-started/global-principles/>

Introduction

According to the World Bank, public procurement accounts for nearly 15 percent of GDP per capita in Sub-Saharan Africa.³ How governments spend this money has a significant impact on the lives of citizens. Where governments can account for public spending, citizens are likely to receive better infrastructure and services. Free and fair competition among small and medium enterprises (SMEs) for government contracts helps to ensure that spending benefits local communities and grows the domestic private sector. Spending on contracts awarded to international business can improve international trade, bring in specific expertise, and foster diplomatic linkages.

Due to the potential for shared prosperity accrued to countries with strong procurement systems and their trade partners, the UK Foreign & Commonwealth Office (FCO) has commissioned a series of open contracting scoping studies in 5 West African countries: Ghana, Nigeria, Guinea, Liberia, Senegal. These studies, conducted by Development Gateway and the Open Contracting Partnership (OCP), aim to gauge the state of openness of public procurement processes in each country, to understand the capacities and interests of key procurement actors, and to identify opportunities for procurement reform and the adoption of open contracting principles. An additional study of *British Priorities and Interests* in relation to open contracting has been conducted to gain insights on the opportunities and risks of investing in West African procurement markets as told by British and international companies. This synthesis report seeks to highlight the principal lessons learned across these studies, as well as through an open contracting study in Côte d'Ivoire conducted by OCP for the British Embassy in Abidjan.

Open contracting refers to a set of [global principles](#)⁴ aimed at improving procurement data disclosure and recognizing the importance of public participation in the contracting process. This includes the publication of procurement data in open and structured formats that enable public use and reuse through advanced technologies without restriction.

Open contracting supports shared prosperity through an emphasis on creating fair, competitive markets that increase value for money, improve service delivery and reduce corruption. The commitment to transparency and public engagement engendered through open contracting creates an environment in which participants can have confidence that a fair opportunity was had by all. For SMEs, open contracting can be attractive as it enables monitoring implementation of policies that seek to support SME participation in public markets. For international or foreign companies, it can create confidence that underhanded or corrupt practices will not prevent them from having a fair chance, even if they are less known to procurement officials than local companies. The use of technology - including e-procurement - that accompanies the commitment to open contracting and implementation of the Open Contracting Data Standard (OCDS) - a schema for collection and publication of procurement data - assures businesses and the public that procurement is being conducted fairly and for the benefit of all.

In general, study countries have exhibited substantial advancement in their public procurement policies and environments. The past decade has seen new policies and legislation focused on increasing the independence and fairness of procurement processes come into play, often creating new institutions (e.g. regulatory bodies, audit commissions) to oversee procurement processes. In most of the countries studied, interviewees suggested that the impact has been transformative. In **Côte d'Ivoire**, there have been 171 cases taken to court by the regulatory authority (ANRMP) since 2010, against 0

³ See: <http://blogs.worldbank.org/governance/public-procurement-rich-country-s-policy>. Accessed: 12.20.16.

⁴ <http://www.open-contracting.org/get-started/global-principles/>

prior. **Nigeria's** Bureau of Public Procurement (BPP) has gained respect as a procurement authority and regulatory body, while opening up to citizens by convening a civil society working group to facilitate collaboration in the development of an open contracting data portal.⁵ In **Senegal**, the regulatory authority (ARMP) has launched a master's degree program in public procurement, opened a public portal on procurement and tightened its governance of procurement processes significantly. **Ghana's** procurement authority routinely publishes a variety of important procurement data from planning, tender, award and contract phases on its website. Broadly speaking, far more attention is being paid by government institutions to ensure that procurement regulations are being respected.

Nevertheless, there remains significant room for improvement. Interviews suggest that relevant legislation and procurement procedures in most countries are not fully applied by all institutions, including by sub-national procuring entities (PEs), and smaller ministries and agencies. In most countries, skepticism remains around the application of procurement practices by institutions dealing with national security or the extractive industries. Publication of procurement data is often delayed, inconsistent, and provided in non-open formats that pose a challenge to citizen monitoring and private sector use. While many procurement authorities and regulatory agencies have issued helpful templates for data collection, there is a significant need for capacity building and the use of technology tools to streamline procurement processes, facilitate real-time monitoring by officials to prevent costly errors, and enable the use of data analytics to combat corruption and increase value for money. Despite new regulations to reduce direct contracting and increase competition, the resort to non-competitive contracting methods remains a problem in some countries.

Methodology

The methodology followed by the studies, divided into 7 parts and accompanied by an interview guide and annexes, seeks to aid study leaders to:

- Document current levels of openness in public contracting in targeted polities;
- Identify and assess existing systems and data sources (including non-public) within government for collecting, analyzing, and sharing procurement data;
- Map key stakeholders and their capacities and enthusiasm for advancing open contracting; and,
- Provide recommendations on realistic targets and use cases for open contracting moving forward.

The seven sections of the methodology covered by this study are: 1) institutional arrangement, 2) legal framework, 3) policy context, 4) technical and data systems, 5) user engagement, 6) stakeholder identification, 7) broader public financial management environment.

In each of the 6 country studies conducted by DG and/or OCP, between 15-25 interviews were conducted during October-November, 2016. In most instances, data collection was conducted by a local consultant with collaboration from an international consultant or staff person of DG and/or OCP. The British Priorities and Interests study was conducted around the same timeframe and included 17 interviews with British and international companies that conduct business in West Africa.

⁵ See: <http://www.nigeriaoc.org/>. Accessed: 03.09.17.

Results & Recommendations

Institutional Arrangement

1. Enact measures to ensure the independence of procurement and regulatory authorities.

Most of the government institutions with procurement or regulatory authority in the countries studied are intended to have institutional - both financial and administrative - independence from the political elements of government, in part to reduce actual and perceived conflicts of interest. In practice, this is rarely the case.

Recommendations: As in Senegal, where the director of the Public Procurement Regulatory Authority (ARMP) is selected among a pool of candidates by an independent jury, countries should take steps to select an independent head of procurement authorities. Where opportunities for reforming procurement laws exist - including with the West African Economic and Monetary Union (WAEMU) policies that govern 8 countries - providing support to enable civil society and private sector involvement can help ensure that discussions are inclusive and carry legitimacy.

Examples: In **Liberia** and **Guinea**, the heads of the regulatory authorities are directly appointed by the president, while the legal foundation for Guinea's procurement authority (ARMP) presents the body as an independent institution. Our research suggests that **Guinea's** institutional structure is most in need of reform, as efficiencies could be increased by reducing the number of bodies responsible for the procurement process (there are presently 4).

In **Nigeria**, the head of the procurement authority (Bureau of Public Procurement - BPP) should be selected by the National Council on Public Procurement (NCP), a multi-stakeholder group. As the NCP has never been formally assembled, the BPP Director General is appointed by the president. **Côte d'Ivoire's** ANRMP, which has some institutional autonomy, still reports to the president.

2. Design targeted approaches to enhancing capacity of procurement staff.

The request for assistance in raising the capacity of procurement institutions is universal. In all of the countries studied, staff would benefit from training to gain in-depth understanding of the relevant procurement laws, data collection and analysis, and use of information technology (IT) tools. Current efforts to train procurement staff vary from one-off trainings to online courses to graduate-level training programs. But these opportunities are not available to all procurement staff in all countries.

Recommendations: While each country would benefit from support for efforts to increase staff capacity, specific interventions must be designed around the opportunities available in each context (see specific country examples below). As these countries continue to adopt technology tools to aid their procurement management efforts, including e-procurement, capacity building efforts will need to change to account for the increased use of ITs. Here, as in other instances where international development partners are engaging on similar issues, coordination among them to ensure efficient use of capacity building resources is crucial.

Examples: In **Guinea**, where a World Bank report on 3 ministries found that just 13 percent of procurements met legal requirements, staff suffer from a lack of training and few opportunities to increase their knowledge and skill-sets. **Liberia's** most knowledgeable staff tend to be recent college graduates with degrees that may include some training on procurement or related subjects.

In **Nigeria**, the BPP offers a training program that results in procurement officers joining the procurement cadre, which ensures continued training opportunities and that they will not be poached by other parts of the public service. But the BPP is unable to provide in-depth training to all procurement staff and there remain PEs without dedicated staff with any formal training, a shared problem in many of Côte d'Ivoire's parastatals. Because **Côte d'Ivoire's** university curriculum does not offer degree programs in procurement, there is no certification and so the government is unable to develop a salary range for trained procurement specialists. A procurement official earning less than £170 per month may be invited to partake in committees discussing contracts of more than £24 million.

Meanwhile, with respect to ICT skills, the **Ghana** researchers found varied capacity levels within public sector PEs. Notably, while key personnel were trained in skills such as uploading procurement plans onto the PPA's portal, staff at lower level institutions, such as schools, did not have the same skill-sets.

Challenges to Doing Procurement Right	
All of the procurement systems studied can benefit from improving certain aspects of procedure. Here are some of the top issues that arose.	
Planning Phase	<p>Budget preparation and procurement plans: In a number of countries, the procurement process is delayed due to delays in budget preparation and approval. In some instances, post-adoption changes to procurement prevent the start of procedures for approved purchases. Lack of links between Integrated Financial Management Information System (IFMIS) and procurement systems slow down the process for procurement plan approval and certification of fund availability. As a result, procurement officials come under pressure to conduct procurement quickly, potentially reducing competition and inviting malfeasance.</p> <p>Conducting appropriate assessments and engaging beneficiaries: Few countries provide information on the results of needs assessments, environmental impact reports or other studies that may be undertaken in advance of a procurement. Affected citizens are not often consulted.</p>
Tender Phase	<p>Fair announcement of public tenders: Legal requirements related to the posting and timing of tender announcements are often not respected. In Ghana, the cost of international advertising often leads procurers to forgo the process; in Nigeria, the BPP struggles to enforce advertising time requirements. The adoption of e-procurement and use of public portals for tenders would resolve this shortcoming through automated validation, increasing opportunities for competition.</p> <p>Equitable pre-bidding procedure: Interviewees suggest that pre-bidding procedures are often used to narrow the specification of a project to the exclusion of some bidders on unclear grounds. Reducing the competitive field can result in the reduction of value for money. At times, international organizations have required re-bidding on projects using their funds due to the misapplication of pre-bidding procedures.</p> <p>Combatting informal tendering procedures: Businesses interviewed suggested the existence of parallel tendering procedures, whereby a formal process often gives way to closed-door negotiations.</p>
Award Phase	<p>Secrecy of the evaluation: Although evaluations must be conducted in secret, losing bidders should have an opportunity to understand why they lost, while participants should have an opportunity to blow the whistle when needed.</p> <p>Inadequate complaints procedure: Nearly all the countries have a formal complaints procedure,</p>

	but in few instances can complainants be sure that their concerns will be treated with impartiality.
Contract Phase	Lack of access to contract information: None of the participating countries provide public access to contracts, and few provide key information. A lack of public access to contracts and amendments altering the scope of work and/or increasing the budget present a significant opportunity for reduced value for money (due to “up charges”) or corruption.
Implementation Phase	<p>Delays in payment processing: Poorly functioning public financial management (PFM) systems and paper-based project management tools often result in long lead times for payments to implementing firms (often in excess of 90 days). These payment delays reduce the appeal of public procurement opportunities for international firms, and can be damaging to cash flow management of SMEs.</p> <p>Lack of information and a posteriori oversight: Little information is available about project implementation and payments, preventing citizens and governments from ensuring that procurement is resulting in efficient service delivery. In Nigeria and Guinea, auditing bodies lack capacity and resources to conduct audits that would help ensure service delivery and value for money. In Ghana, only performance audits are being conducted.</p>

Legal Context

3. Improve the bid evaluation process by empowering whistleblowers and complainants.

Confidentiality in the bid evaluation process is necessary to protect against undue influence of the selection process. However, the precedence of confidentiality should not prevent the adoption of measures that enable a posteriori review of bid procedure and decision-making.

Recommendations: All country legal frameworks should include 1) clear evaluation criteria established prior to the evaluation process; 2) a public summary of the evaluation; 3) opportunity for losing bidders to receive feedback; 4) opportunity for evaluation members to blow the whistle on unfair practices, and; 5) opportunity for losing bidders - and even the general public, as in Guinea - to protest the award. For participants and citizens to have confidence in the complaints process, *complaints should be received by an independent body, with a public complaint and outcome summary, as in Nigeria.*

Working with procurement authorities in each country, along with relevant international bodies, such as the WAEMU, presents an opportunity for FCO to engage on the reform of regulations that can enhance the evaluation process. While some of the reforms suggested herein would require legislative changes, others can likely be enacted through regulations adopted by procurement authorities. Collaboration with civil society and the private sector to devise an advocacy strategy on this and other reform issues presents an opportunity to improve legislation and build citizen trust in procurement.

Examples: In most of the countries studied, complaints are reviewed by the same procurement authorities against which they are possibly being levied. **Guinea** and **Nigeria**⁶ are the only countries where the complaint could conceivably be reviewed by an independent third party. In **Guinea**, **Senegal**

⁶ Although some procurement entity staff in Nigeria are technically officers of the Bureau of Public Procurement, which responds to complaints, many procurement officers remain within the civil service.

and **Nigeria**, the rules stipulate a relatively short lead time for decisions from the first-tier review, compared to **Ghana**. However, in **Guinea**, our country study revealed *only 5 instances of cancellations* due to complaints and *zero audits have occurred*. While some countries, such as **Senegal**, allow for representatives of civil society and the private sector to sit in on complaint review committees, **Ghana** is the only country that mandates training for committee members.

Beyond complaints, there was little opportunity found for review of the evaluation criteria, despite a number of interviewees suggesting that procedures (such as reviewing technical proposals prior to financial proposals) were not always followed. Business representatives sometimes complained of the inability to receive feedback, and often not being told that their company had not been selected. Although legislation often stipulates that the evaluation criteria be publicly announced in the tender documents, there appears to be little recourse for participants in the evaluation committee when criteria are ignored. In **Guinea**, for example, an evaluation participant who suspects collusion, is to inform his/her supervisor(s), the ARMP, and the PE. No legal protection is suggested.

4. Strengthen legal requirements on procurement data collection, and open, proactive disclosure.

While governments have a duty to protect sensitive data from public disclosure, transparency and data use can prevent corruption and lead to increased efficiencies. None of the countries studied are currently publishing data in an open format, although Nigeria, which currently ranks as one of the least transparent contracting environments of the group (see table on page 8), is making significant strides towards publishing in OCDS.

Recommendations: The **adoption of e-procurement or other electronic systems that require PEs to report data to procurement authorities in order for procurement to take place will improve internal data collection.**⁷ While such tools can facilitate the publication of data through online data portals, **legislative requirements must be updated to ensure that this data remains public.** Concomitantly, **data collection systems should be updated to collect timely data on a rolling basis.** Publishing open data, in addition to the technical requirements of using an open and structured format, **requires unrestricted licensing so that data can be freely used and mixed by the public.** Although this is initially a concerning proposition to some public officials, providing procurement information as open data can have positive economic ramifications (e.g. through third-party engines that enable businesses to target specific contracts and through civil society monitoring that help identify collusion and other malfeasance).

Examples: **Nigeria's** procurement authority (BPP) only receives detailed data from PEs on an annual basis; more frequent reporting would enable enhanced use of data analytics for understanding corruption risk, the efficiency of their procurement processes, and value for money. While **Ghana's** Public Procurement Act (663 of 2003 and 914 of 2016) requires publication of tender announcements and final awards, and enables publication of contracts, it does not specify when or how this publication should take place. In **Liberia**, only tender notices and contract awards above a certain amount require publication. In **Guinea**, a summary report of procurement activities is made public on a quarterly basis after approval by the Ministry of Finance. In **Côte d'Ivoire** and **Senegal**, WAEMU disclosure regulations for the planning, tender and award phases require procurement plans be published annually by December 1, tender notices at least 7 days after the procurement plan, procurement statistics each

⁷ In Liberia and other locations where spotty Internet often results in the loss of data, online tools that automatically save data whether online or offline, can reduce data loss.

trimester, provisional award notices within 3 days of bid evaluation, and final award notices within 15 days of provisional award.

Policy Context

5. Put open contracting on the regional radar through local and international engagement.

Before policymakers can legislate “open” into law, they must know what it is. To date, Nigeria is the only country of the 6 with a strong understanding and plan to implement open contracting. However, other study countries may quickly come on board.

Recommendations: In some countries, notably **Nigeria** and the Ukraine, government awareness of open contracting has been largely initiated by engagement from local civil society, in the form of prototype digital tools for visualizing procurement data with OCDS. **FCO could provide support to local or international groups to develop simple tools using already-available data, which can then be presented to government to raise awareness.** This approach would most likely be appropriate in **Ghana, Nigeria, Côte d’Ivoire,** and **Senegal**, where civil society digital skills are more sophisticated. Alternatively, **engaging government and civil society representatives through international initiatives like the Open Government Partnership (OGP)⁸ can result in high-level commitment, which must then be followed by engagement at the technical levels of bureaucracy to further implementation.**

Examples: In the case of **Nigeria**, civil society actors led the push for open contracting by developing a tool that converts procurement data into OCDS. Using Budeshi,⁹ these activists were able to demonstrate the utility of OCDS and are now working directly with some PEs to convert their data on their behalf. They are also working with the BPP, which has embraced OCDS and open contracting principles. The BPP and civil society counterparts are releasing an open contracting portal in early 2017.¹⁰

Senegal has undertaken a variety of open data initiatives, largely led by the Ministry of Finance and the National Agency for Statistics and Demography. **Ghana’s** National Information Technology Agency has implemented an open data portal¹¹ and **Ghana’s** civil society has been advocating for data release in open formats for several years. In these countries, engagement with civil society and government directly would likely be fruitful. In **Guinea** and **Liberia**, where digital skills are less available, collaboration with international civil society actors engaged in open contracting could supplement local capacity.

Nigeria, Ghana, and **Liberia** are presently participating in OGP and both Nigeria and Ghana have made commitments to implement open contracting principles. **Côte d’Ivoire** has recently surpassed the participation criteria, although it has not formally signaled its intent to join. **Côte d’Ivoire’s** participation in a partnership of countries aiming to enhance government openness would provide validation of open data advocacy by local actors.

⁸ See: <http://www.opengovpartnership.org/>. Accessed: 12.21.16.

⁹ See: <http://www.budeshi.org/>. Accessed: 12.21.16.

¹⁰ See: <http://www.nigeriaoc.org/>. Accessed: 03.09.17.

¹¹ Available at: <http://data.gov.gh/>. Accessed: 12.21.16.

Technical Analysis

6. Support the use of new technologies, including e-procurement, that strengthen legal compliance and the Open Contracting Principles.

Even when effective institutions and legal frameworks are in place for procurement, timely reporting, proper data management, compliance monitoring, and proactive disclosure are likely to remain a challenge due to a lack of digital tools for procurement. A growing trend, e-procurement can enable open contracting, reinforce procurement law, streamline international participation through online bidding, and enable analytics for procurement efficiency and integrity.

Recommendation: While e-procurement represents a substantial investment, implementing e-procurement should be viewed as a priority in the countries studied. Where technologies are already in use, e-procurement can increase efficiencies and advance practices that are relatively familiar to staff involved (although training would be needed). Where technologies are partially in use or not at all, additional barriers to success would need to be accounted for (such as poor internet access, electrical connections or the lack of computers). In all cases where this has not taken place already, a **deep-dive technical and process needs assessment for e-procurement should be undertaken. These assessments should include analysis of how e-procurement systems can link with business and tax registries, and with government budget systems (see PFM section 7).** Similar assessments have been performed in many countries, including by British companies like Crown Agents. For British and international companies interviewed for this project, a particularly important area for technology and e-procurement was transparency and openness of the entire procurement process – they would like to see efforts by the British and host governments to build transparency into the system and to design corruption out of it.

Examples: Even with the use of advanced technology, managing the hundreds of agencies providing data to a single source, while engaging thousands of private businesses presents significant challenges. Yet it is little surprise that the three countries using technology tools to facilitate procurement management - **Ghana, Senegal, and Côte d'Ivoire** - are the countries providing public information on a routine basis (see the Key Data Categories table below).

Although none of the countries studied are currently using full-featured e-procurement systems, **Ghana** and **Nigeria** are soon to be tendering for such systems. There is a small, but growing, body of research showing that e-procurement can increase competition in public markets, such as by ensuring that all invitations to bid are posted on a unique portal.¹² It also increases efficiency by facilitating data transfer between procurement bodies. In **Nigeria**, interviewees from government and civil society were unanimously supportive of the adoption of e-procurement because it would force compliance with legal requirements. For instance, this would facilitate the procurement authority's (BPP) job of ensuring that competitive thresholds are respected, while saving PE staff from having to redo bids that fall short of requirements (e.g. advertisement obligations).

¹² See, for instance: <http://www.cgdev.org/sites/default/files/results-through-transparency-does-publicity-lead-better-procurement-working-paper-437.pdf>.

Key Data Categories						
The following information types are among those that procurement authorities made public online for January-June, 2016. (A = Always; S = Sometimes; N = Never)						
Planning Phase	Senegal	Guinea	Liberia	Ghana	Nigeria	Côte d'Ivoire
Unique IDs for contracting processes	N	N	N	A	N	N
Procurement plans	A	N	A	S	N	A
Consultation documents	S	S	A	S	N	N
Tender Phase						
Tender document	S	S	S	A	S	S
Bidding document	S	S	N	S	N	S
Bidder names	S	S	N	A	N	S
Tender dates	S	S	S	A	S	S
Bidder blacklist	A	N	N	N	N	A
Award Phase						
Supplier(s)	A	S	S	A	S	S
Award Amount	A	S	A	A	S	S
Reasons for award	N	S	N	S	N	S
Complaints procedure	A	N	S	A	A	A
Contract Phase						
Contract documents	N	N	N	N	N	N
Contract amount	N	N	S	A	S	N
Contract dates	N	N	S	A	S	N
Implementation Phase						
Milestones	N	N	N	N	N	N
Payments	N	N	N	N	N	N
Evaluation results	S	N	N	N	N	N
Procurement process statistics	A	S	N	N	N	N

7. Strengthening disclosure of information through all stages, but particularly once the contract has been signed.

As shown in the table above, even the countries most proactive in disclosing procurement data display noticeable gaps in data publication. Disclosure in the contracting and implementation stages, where service delivery and payment takes place, is particularly weak.

Recommendation: Providing online, useable procurement information supports the mission of procurement authorities to conduct efficient and effective procurement. While increased transparency can deter some corruption and foster more robust engagement by businesses, public trust waxes on the ability of the public (including civil society and the media) to confirm that official results comply with on-the-ground realities: a school procured should be a school built. **Procurement authorities - and PEs that maintain post-award data - should make contracts and amendments, as well as implementation details, available to the public as open data.** As governments worldwide cope with the changing expectations of citizens for how governments should operate and the results achieved, **procurement authorities should engage civil society and private sector stakeholders to understand their needs and the challenges they face in using these data for monitoring and feedback.**

Examples: The table above highlights the challenges to online disclosure of procurement information in all of the countries studied. The lack of disclosure is evident in all phases of the procurement process:

- Planning: While **Senegal**, **Liberia**, and **Ghana** always or sometimes publish procurement plans and consultation documents, only **Ghana** has unique project identifiers and the capacity to track project implementation across other phases of the procurement process.
- Tender: **Ghana** publishes tender documents online consistently, while all of the other countries publish sometimes. Publishing tenders online, including key information about tender dates and qualifications, is key to ensuring fair competition by businesses.
- Award: All countries publish award amounts and supplier names always or sometimes. In most instances, the complaints procedure is also available.
- Contract: Only **Ghana** always publishes contract amounts and dates; **Nigeria** and **Liberia** do only for contracts above certain financial thresholds.
- Implementation: The across-the-board lack of implementation data online prevents citizens from understanding if procurement money is being used appropriately, including if contract amendments alter the budget and scope of work of procurement to benefit the winning bidder and reduce value for money.

User Engagement

8. Improve the practice of data collection and disclosure with specific user needs in mind.

When procurement authorities collect data, they should understand how various stakeholders might use it. Engaging with various user groups (government, civil society, and private sector) can help to identify key gaps in existing data collection and inform efforts to improve data systems (including the design of any e-procurement solution).

Recommendations: The adoption of open contracting principles can help procurement authorities meet their own data needs, as well as those of external users. By **engaging with civil society, the private sector and other agencies and entities within the government, procurement authorities can begin to understand the various ways in which data can support various needs.** Through **collaboration with international organizations, such as OCP, and engaging in initiatives to develop tools for analyzing procurement data,** procurement authorities can also explore data use from a variety of perspectives. **These stakeholder engagements should feed into any efforts to scope and design e-procurement systems,** ensuring that investments in digital tools meet the needs of users.

Examples: Procurement authorities themselves may be most interested in using data to ensure that their procurement operations are smooth and efficient, and that they are receiving value for money. Civil society groups focusing on access to education or healthcare may be interested in data on service delivery. Businesses may care about competitiveness and statistics about contracts to SMEs or international firms.

Our research found a diversity of needs by different data users, many of which support the core missions - value for money, competition, efficiency, etc. - of procurement authorities who are the data owners. Nevertheless, we found that even these data owners do not always collect sufficient data to meet even their own objectives. For instance, some procurement authorities are not collecting data on losing bids, such as the names and identifiers of bidding companies and the amounts of these bids. This information is critical to the use of analytics for identifying the risk of bid rigging, collusion and fraud. The use of unique identifiers - for projects (as **Ghana** does), companies, items being procured and procuring entities - also boosts the utility of data that can be used for assessing the value of procurement deals and the efficiency of these processes. A key driver of **Nigerian** procurement

authority's (BPP) interest in open contracting is the recognition of the value they can gain from running analytics on procurement data.

9. Engage stakeholders routinely to improve the procurement process.

Developing effective policies for procurement processes requires a broad perspective that extends beyond government to incorporate views from civil society (with an interest in ensuring fair and effective procurement and service delivery) and private companies (with an interest in ensuring a level playing field and efficient processes that reduce transaction costs). Experiences in study countries point to possibilities for inclusive, collaborative policy design.

Recommendations: While relations between government and external stakeholders are often combative, the experience in **Nigeria** and other countries studied suggests that this need not be the case. **By establishing working groups and other mechanisms of routinized collaboration among the various stakeholders, procurement authorities can broaden their perspectives and find means of working towards collective goals.** Where civil society and business interests groups are active on procurement issues, such initiatives can result in the adoption of regulations that meet user and create dynamic relationships that lead to improved oversight. **Support for such initiatives would be best operationalized in conjunction with support for the implementation of initiatives that result from such discussions, including the development of tools for using procurement data.**

Examples: Beyond filing complaints, the countries studied are engaging with stakeholders in a variety of ways. In **Senegal**, civil society and private sector representatives sit on the regulatory authority's (ARMP) Regulatory Board and Committee for Settlement of Disputes. In **Guinea**, members of the Conseil National des Organisations de la Société Civile (CNOSC) participate in the evaluation of bids, as well as in regulation commission of the regulatory authority (ARMP).

Nigeria has adopted a number of measures for stakeholder inclusion. PEs are legally required to invite civil society and professional bodies to observe every procurement process. But the procurement authority (BPP), going beyond the satisfaction of legal requirements, provides PEs with a list of accredited civil society organizations so that they can be contacted whenever there is a bid opening process. With respect to policy development, BPP hosts consultative meetings during revision processes for standard bidding documents and an annual national procurement conference where civil society, private sector and the various arms of government hold robust discussions and devise recommendations to further reform the procurement process. The BPP has recently formed a working group with civil society to facilitate its adoption of open contracting principles as part of an OGP commitment.

Stakeholder Identification

10. Support civil society engagement through strengthening capacity, resources and data.

In study countries, civil society organizations expressed an interest to engage with procurement data and processes, but often lack the technical skills, procurement knowledge, and/or resources to do so effectively.

Recommendations: In all of the countries, civil society organizations are active on procurement or related issues, such as monitoring the extractive industries or financial management. **Support for increasing capacity, particularly on the minutiae of procurement processes,** was noted as a need for

some. In other instances, **support could focus on the development of technology tools to facilitate monitoring activities**. Key challenges to procurement engagement for civil society are the need for training, resources to support programming, and for updated data.

Examples: In some instances, due to the lack of procurement data, civil society monitoring of public projects are obliged to use budget data to compensate, which can cause inefficiencies and confusion. This is a challenge faced by CODE in **Nigeria**, which has staff in each state who help support the organization's efforts to monitor implementation of public procurement. Civil society can also play a convening role: the **Ghana** Anti-Corruption Coalition (GACC), through its Dialogue on Open Contracting,¹³ has brought together civil society and procurement authority leadership to help bridge multi-stakeholder voices on open contracting.

11. Increased collaboration among international institutions can ensure that resources are effectively managed in the support of procurement reform.

Recommendations: **International institutions have played an invaluable role in assisting the creation and maturation of procurement authorities and regulatory bodies in the region.** The World Bank and African Development Bank (AfDB) are among the institutions that have been supporting procurement initiatives in West Africa over the past decade. As additional development partners seek to support open contracting and procurement reform, coordination among these various groups is critical. **FCO should engage with these leading supporters to create country-level donor working groups on procurement, combined with coordination of agencies at the regional level. In particular, FCO should consider support to, or engagement with, the multi-donor Public Procurement Support Project in the WAEMU.**

Examples: Throughout the region, the World Bank and the African Development Bank were routinely mentioned among the institutions focused on procurement support. The World Bank has supported the reform processes in each of the countries studied. It was key in the creation of the procurement authority (BPP) in **Nigeria** and the adoption of the Public Procurement Act in **Guinea**. The World Bank conducts audits in some of the countries and engages through its Benchmarking Public Procurement initiative, which assesses procurement systems based on specific criteria. The World Bank has been involved in discussions on support for e-procurement implementation in a number of the countries studied.

AfDB supports the adoption and strengthening of regional norms and standards in public procurement. AfDB is engaged in the *multi-donor Public Procurement Support Project in the WAEMU*, which aims to modernize and harmonize public procurement systems in the region. In **Senegal**, AfDB focuses on strengthening procurement systems and institutions for governing public resources, including in collaboration with the regulatory authority (ARMP). In **Côte d'Ivoire**, AfDB is a strong supporter of procurement reform, including forging more effective and transparent procurement systems, both on a country and regional level. This comes through policy and institutional support programs, and events such as regional public procurement forums.

¹³ For more information, see:

http://www.gaccgh.org/details.cfm?corpnews_scatid=7&corpnews_catid=7&corpnews_scatlinkid=35#.WE7Ov_mLTIU. Accessed: 12.22.16.

12. Collaborate with small and medium enterprises (SMEs) to promote open contracting and other practical measures to ensure that procurement reforms respond to their needs.

A key public procurement challenge is to ensure that SMEs have an equal opportunity to participate, a priority that should be balanced with ensuring a competitive environment.

Recommendations: Development or Prosperity projects could focus on helping host governments to open public procurement to participation by more SMEs, by: **building capacity of SMEs to participate in public tenders and providing training for SMEs in basic compliance and responsible business techniques, including how to resist corruption.** Engagement of SMEs should also focus on the **potential of open contracting to help them monitor regulations that aim to support their interests.** From the perspective of British and other foreign companies, this agenda would enhance competition and drive growth, as well as improve the risk profile of international companies' supply chains.

Examples: In **Ghana** and **Senegal**, private sector groups expressed concerns about competition faced by international and foreign businesses. Senegal's private sector groups have requested the government modify the procurement code's definition of a "national company" to include only Senegalese companies, as opposed to all of those registered in WAEMU states. Protectionist policies have already been ratified in **Côte d'Ivoire**, where a recent reform requires that 30 percent of all procurement bids be reserved for SMEs. Additional requirements for involvement of local partners by international companies also passed.

13. A range of challenges create disincentives for participation of British and Western companies in West African markets, but ensuring a fair and competitive process would produce a valuable incentive to engage.

Our research shows that while no single risk to participation in a country's market – such as corruption, an uncertain procurement environment, geography, etc. - is disqualifying, the combination of these and other factors will have a detrimental effect on a company's appetite for investment. In the end, for many businesses the choice to participate in a given country is a matter of other markets appearing to be more attractive.

Recommendations: **There are a number of measures that FCO and British institutions can take to enhance the participation of British companies in West African markets.** Interviews with British companies suggested that the support of the French and German governments for investment in Sub-Saharan Africa could be replicated. While British posts and British Council are seen as making efforts, there was a view that **additional measures could be taken, including: trade delegations to and from the West African countries, a more relaxed visa regime, positive press and a pragmatic approach to business.**

Examples: Corruption risk is a significant deterrent to doing business. But there are many factors, in addition to corruption risk, that could discourage foreign companies from investing in or trading with a particular country. These include the state of the economy or economic policies (e.g. **Nigeria's** foreign exchange restrictions and artificially high exchange rate), political instability and security risks (e.g. **Liberia** during or post-civil-war), health risks (e.g. **Liberia's** and **Guinea's** outbreaks of Ebola), relative gross national income (GNI) (e.g. **Nigeria's** GNI per capita of \$2950 compared to **Liberia's** \$400) and population size (e.g. **Nigeria's** 179 million compared to **Liberia's** 4 million). Foreign companies

interviewed for this report also cite a number of other factors, such as language barriers (British business peoples' poor knowledge of French in francophone), that could discourage participation.

Broader Public Financial Management Environment

14. Lay groundwork for interoperability between procurement data and broader PFM infrastructure.

The procurement process is a central element of public financial management: procurement planning and budget formulation should be closely integrated, while contract implementation and treasury payments are closely linked. Investments in procurement systems should consider interoperability and future integration with government budget (IFMIS) and implementation monitoring functions.

Recommendation: As study countries continue to take efforts (e.g. e-procurement, policy reforms on data disclosure) to modernize procurement legislation, processes, and technical systems, **careful analysis and preparation should take place to ensure the feasibility of linkages with relevant PFM systems.** This includes setting clear data standards for core elements using the same classifications used in the IFMIS Chart of Accounts (CoA), including **organizations (PEs and suppliers), programs, regions/districts, and funding source (e.g. government budget and official development assistance).** Where possible, **links with business and tax registries should also be pursued by using the same identifiers and synchronizing data across both systems.** To facilitate this, **any e-procurement system design should include an in-depth technical assessment with a detailed evaluation of the CoA.**

Key benefits of this approach include: ability to validate appropriate tax status of any supplier; verification of company capacity (e.g. number of staff), prior qualifications, and corporate blacklists; verification of availability of funds prior to issuance of tender documents; integration of procurement plans and budget preparation to increase efficiency of budget execution, and; validation of payments against contract documents to ensure timely payment and prevent over-payment of suppliers against contract amounts.

Examples: In **Liberia**, procurement plans are submitted as part of the budget preparation process, but the planning data are not integrated between procurement systems and the IFMIS. In **Nigeria**, the IFMIS system is preparing to add backwards compatibility with procurement data, including procurement plans, tender, and contract awards data, the use of a data standard like OCDS can facilitate interoperability. In **Senegal**, the government is in the process of implementing its 2011 reform, including new budget classifications - implementation is anticipated to be completed in 2017. This classification modernization presents a strong opportunity for learning and interoperability in the procurement system. In **Guinea**, no IFMIS system is currently in place, posing a challenge for budget planning and execution, although with an opportunity for concurrent investments in IFMIS and e-procurement with mutual interoperability designed from initiation of design.