

Role of Civil Society Organisations (CSOs) in implementation of Open Contracting

BY

MOKUOLU Adesina

Bureau of Public Procurement, Presidency, Abuja

Open Contracting Global Principles

Preamble

- These Principles reflect the belief that increased disclosure and participation in public contracting will have the effects of making contracting more competitive and fair, improving contract performance, and securing development outcomes.
- While recognizing that legitimate needs for confidentiality may justify exemptions in exceptional circumstances, these Principles are intended to guide governments and other stakeholders to affirmatively disclose documents and information related to public contracting in a manner that enables meaningful understanding, effective monitoring, efficient performance, and accountability for outcomes.

Preamble

- These Principles are to be adapted to sector-specific and local contexts and are complementary to sector-based transparency initiatives and global open government movements

Affirmative Disclosure

1. Governments shall recognize the right of the public to access information related to the formation, award, execution, performance, and completion of public contracts.
2. Public contracting shall be conducted in a transparent and equitable manner, in accordance with publicly disclosed rules that explain the functioning of the process, including policies regarding disclosure.

Affirmative Disclosure (Cont'd.)

3. Governments shall require the timely, current, and routine publication of enough information about the formation, award, execution, performance, and completion of public contracts to enable the public, including media and civil society, to understand and monitor as a safeguard against inefficient, ineffective, or corrupt use of public resources.

This would require affirmative disclosure of:

- (a) Contracts, including licenses, concessions, permits, grants or any other document exchanging public goods, assets, or resources (including all annexes, schedules and documents incorporated by reference) and any amendments thereto;
- (b) Related pre-studies, bid documents, performance evaluations, guarantees, and auditing reports.

Affirmative Disclosure (Cont'd.)

- (c) Information concerning contract formation, including:
- The planning process of the procurement;
 - The method of procurement or award and the justification thereof;
 - The scope and specifications for each contract;
 - The criteria for evaluation and selection;
 - The bidders or participants in the process, their validation documents, and any procedural exemptions for which they qualify;
 - Any conflicts of interest uncovered or debarments issued;
 - The results of the evaluation, including the justification for the award; and
 - The identity of the contract recipient and any statements of beneficial ownership provided;

Affirmative Disclosure (Cont'd.)

- (d) Information related to performance and completion of public contracts, including information regarding subcontracting arrangements, such as:
- General schedules, including major milestones in execution, and any changes thereto;
 - Status of implementation against milestones;
 - Dates and amounts of stage payments made or received (against total amount) and the source of those payments;
 - Service delivery and pricing;
 - Arrangements for ending contracts;
 - Final settlements and responsibilities;
 - Risk assessments, including environmental and social impact assessments;

Affirmative Disclosure (Cont'd.)

- Assessments of assets and liabilities of government related to the contract;
 - Provisions in place to ensure appropriate management of ongoing risks and liabilities; and
 - Appropriate financial information regarding revenues and expenditures, such as time and cost overruns, if any.
4. Governments shall develop systems to collect, manage, simplify and publish contracting data regarding the formation, award, execution, performance and completion of public contracts in an open and structured format, in accordance with the Open Contracting Data Standards as they are developed, in a user-friendly and searchable manner.

Affirmative Disclosure (Cont'd.)

5. Contracting information made available to the public shall be as complete as possible, with any exceptions or limitations narrowly defined by law, ensuring that citizens have effective access to recourse in instances where access to this information is in dispute.
6. Contracting parties, including international financial institutions, shall support disclosure in future contracting by precluding confidentiality clauses, drafting confidentiality narrowly to cover only permissible limited exemptions, or including provisions within the contractual terms and conditions to allow for the contract and related information to be published.

Participation, Monitoring, and Oversight

1. Governments shall recognize the right of the public to participate in the oversight of the formation, award, execution, performance, and completion of public contracts.
2. Governments shall foster an enabling environment, which may include legislation, that recognizes, promotes, protects, and creates opportunities for public consultation and monitoring of public contracting, from the planning stage to the completion of contractual obligations.
3. Governments shall work together with the private sector, donors, and civil society to build the capacities of all relevant stakeholders to understand, monitor and improve public contracting and to create sustainable funding mechanisms to support participatory public contracting.

Participation, Monitoring, and Oversight (Cont'd.)

4. Governments have a duty to ensure oversight authorities, including parliaments, audit institutions, and implementing agencies, to access and utilize disclosed information, acknowledge and act upon citizen feedback, and encourage dialogue and consultations between contracting parties and civil society organizations in order to improve the quality of contracting outcomes.
5. With regard to individual contracts of significant impact, contracting parties should craft strategies for citizen consultation and engagement in the management of the contract.

The case for Open Contracting Data Standard (OCDS)

Standard, schema, guidance

- ✓ A **standard** for **what to publish** and **how to publish it** as open data.

Focussing on what users need.

- ✓ A **data schema** for validation of published data;

Ensuring the technical interoperability of data.

- ✓ Collected **guidance** on publishing and using data

To maximise effective use.

More about OCDS

- ✓ Information on all stages of the **contracting process**;
- ✓ An **open schema** based on JSON schema - updated through a multi-stakeholder governance process;
- ✓ Designed around **user need** and global interoperability;
- ✓ An **active user community**, building tools, extensions and applications;
- ✓ A developing data quality framework - and free help-desk service to support data validation;



Getting Started

Users and use cases

The Contracting Process

Building Blocks

Sections and structure

Building blocks: fields

Codelists

Releases and Records

Publication Patterns

Validation

Schema Reference

Implementation guidance

Extensions

Support and governance

Validator



Developed By

Open Contracting Partnership

Building Blocks

In mapping your data to OCDS, or using OCDS data, you will encounter a number of common data structures.



Sections and structure

An OCDS document is made up of a number of sections. In the procurement case, the main sections are:

- **meta-data** - contextual information about each release of data;
- **buyer** - information about the key public party;
- **planning** - information about the goals, budgets and projects a contracting process relates to;
- **tender** - information about how a tender will take place, or has taken place;
- **awards** - information on awards made as part of a contracting process;
- **contract** - information on contracts signed as part of a contracting process;
 - **implementation** - information on the progress of each contract towards completion.

These are represented in a JSON document as follows:

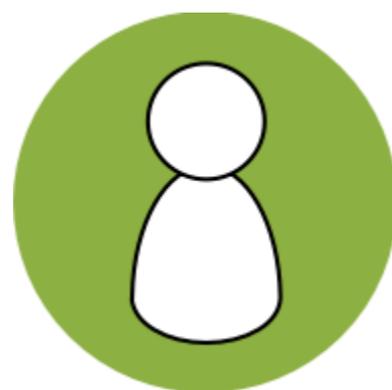
```
{  
  "language": "en",  
  "ocid": "contracting-process-identifier",  
  "id": "release-id",  
  "date": "ISO-date",  
  "tag": ["tag-from-codelist"],  
  "initiationType": "tender",  
  "buyer": {},  
  "planning": {},  
  "tender": {},  
  "awards": {},  
  "contract": {}  
}
```

Use cases

OCDS was designed around four distinct use cases:



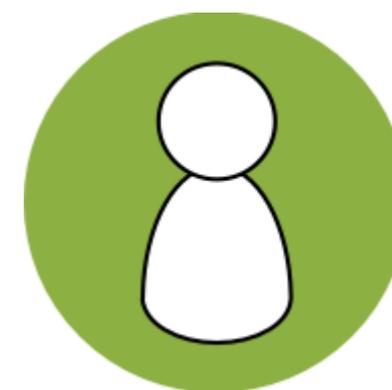
Value for
money



Detecting
fraud and
corruption



Competing
for contracts



Monitoring
service
delivery

Value for money

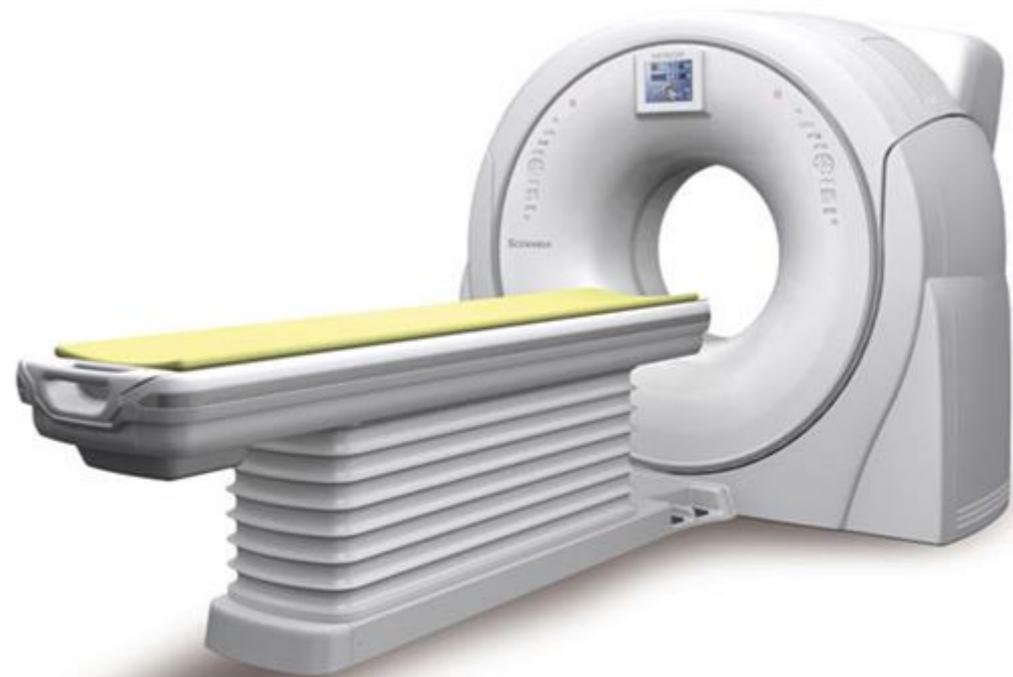
Problem Study: Slovakia

100
%

*Price difference
in identical CT
scanner
purchases*

68%

*Healthcare
tenders
attracting only
one bidder*



Source:

Transparency International Slovakia, 2013

<http://blog.transparency.org/2013/09/10/diagnosis-healthcare-corruption/>

Value for money

What?

- Achieving value in procurement
- Assessing value in concluded contracts

How?

- Price trend analysis
- Supplier performance trend analysis

Why OCDS?

- Comparable data
- Common classifications
- Unit pricing

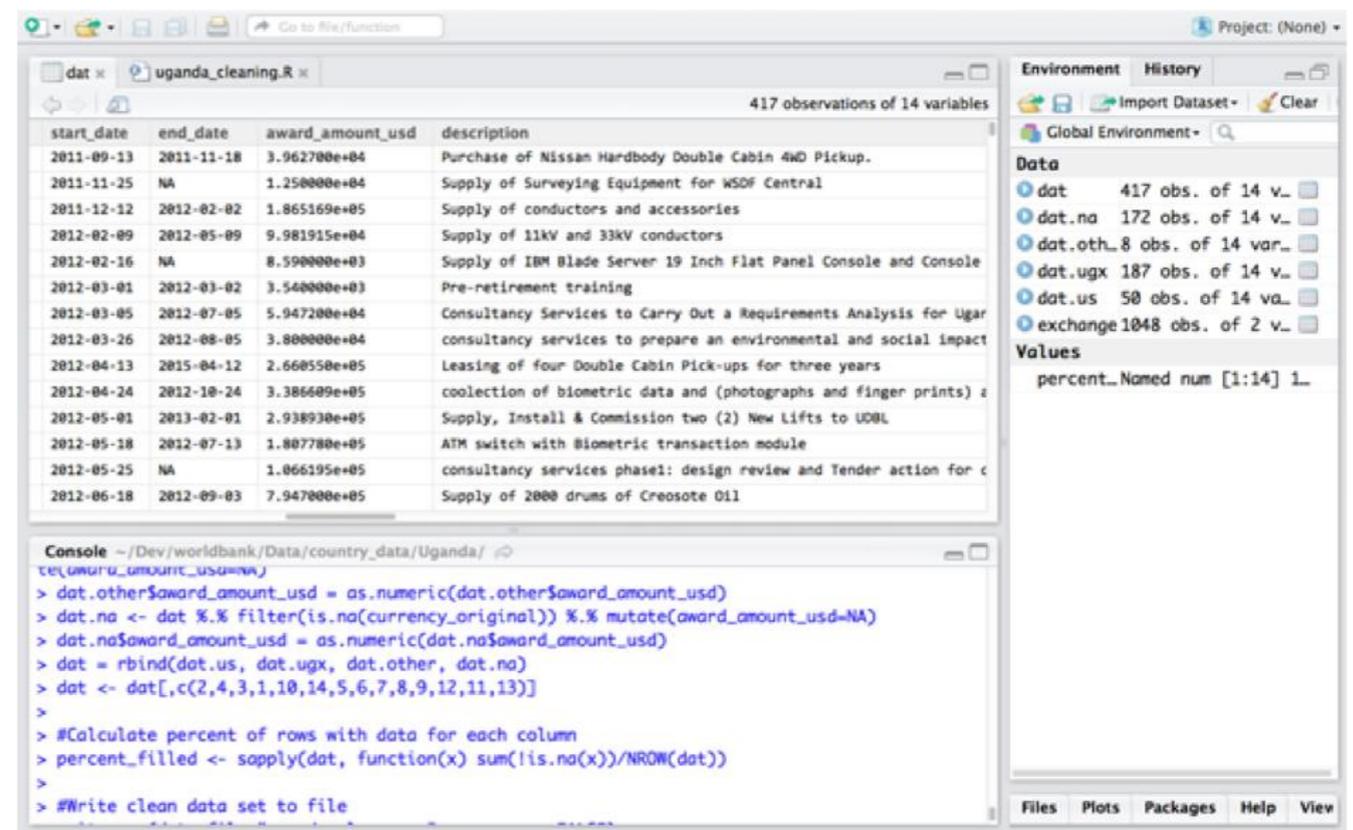
Detecting fraud and corruption

Problem Study:

Data Science For Social Good, World Bank Group, IHT and ICHA

“The variety of our data presents the greatest challenge.”

“A major preliminary task involves reconciling the differences and quality issues across many different data sets so that they can be combined and analyzed together”



```
Environment History
Global Environment
Data
dat 417 obs. of 14 v...
dat.na 172 obs. of 14 v...
dat.oth_8 8 obs. of 14 var...
dat.ugx 187 obs. of 14 v...
dat.us 50 obs. of 14 va...
exchange 1048 obs. of 2 v...
Values
percent_Named num [1:14] 1...

Console ~/Dev/worldbank/Data/country_data/Uganda/
> dat.other$award_amount_usd = as.numeric(dat.other$award_amount_usd)
> dat.na <- dat %>% filter(is.na(currency_original)) %>% mutate(award_amount_usd=NA)
> dat.na$award_amount_usd = as.numeric(dat.na$award_amount_usd)
> dat = rbind(dat.us, dat.ugx, dat.other, dat.na)
> dat <- dat[,c(2,4,3,1,10,14,5,6,7,8,9,12,11,13)]
>
> #Calculate percent of rows with data for each column
> percent_filled <- sapply(dat, function(x) sum(!is.na(x))/NROW(dat))
>
> #Write clean data set to file
```

Source:

Data Science For Social Good, 2014

<http://dssg.uchicago.edu/2014/07/11/clean-development-data-mining-for-corruption-risks/>

Detecting fraud and corruption

What?

- Scrutiny of procurement documents
- Identification of 'red flags'

How?

- Micro monitoring
- Systemic monitoring

Why OCDS?

- Disclosure of documents
- Interoperable data
- Globally unique identifiers

Competing for contracts

Case Study: Ukraine

1.4 -
2.1

*Historic average
bidders per
tender before
Prozorro*

15,600

*Suppliers
registered on
ProZorro
platform*

3

*Average
number of
bidders per
tender on
Prozorro
platform*



Sources:

Wall Street Journal, 2016

<http://blogs.wsj.com/riskandcompliance/2016/05/19/ukraine-looks-to-unmask-corruption-with-prozorro-e-procurement/>

Competing for contracts

What?

- Understanding the procurement pipeline
- Identifying opportunities

How?

- Review historic data to identify re-contracting opportunities
- Transparency on dates, pricing and deliverables

Why OCDS?

- Forward and backward looking data
- Unique identification of procuring entities

Monitoring Delivery

Problem Study: Uganda

99.3%

*Projects
exceeding
planned budget*

71%

*Projects not
completed on
time*

Uganda Contracts Monitoring Coalition uses open contracting data to **monitor whether development projects are delivered to specification.**



Source:

Public Procurement and Disposal of Public Assets Authority
Inspector General of Government
<http://www.africafex.org/access-to-information/afic-and-ppdc-launch-new-report-on-open-contracting-and-open-government-in-africa>

Monitoring delivery

What?

- Ensuring public contracting delivers value to citizens

How?

- Linking budgets and buying data to contracts and results

Why OCDS?

- Joined up data on budgets, contracts and implementation
- Disclosure at all stages: not just tender and award

Use cases: recap

Each use case has **different data needs**:

- Different fields
- Different documents
- Different publication frequencies
- Different data quantities

OCDS provides a common framework to maximise the number of user needs that can be met with data and document disclosure.

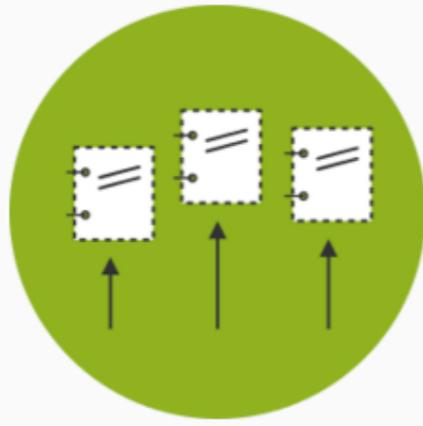
Schema: structure



Planning

Including:

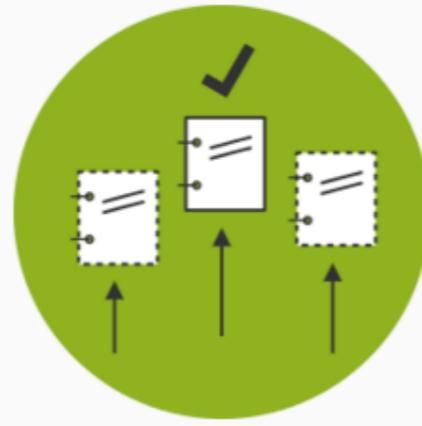
Budgets
Project plans
Procurement plans
Market studies
Public hearing info



Initiation (Tender)

Including:

Tender notices
Specifications
Line items
Values
Enquiries



Award

Including:

Details of award
Bidder information
Bid evaluation
Values



Contract

Including:

Final details
Signed contract
Amendments
Values



Implementation

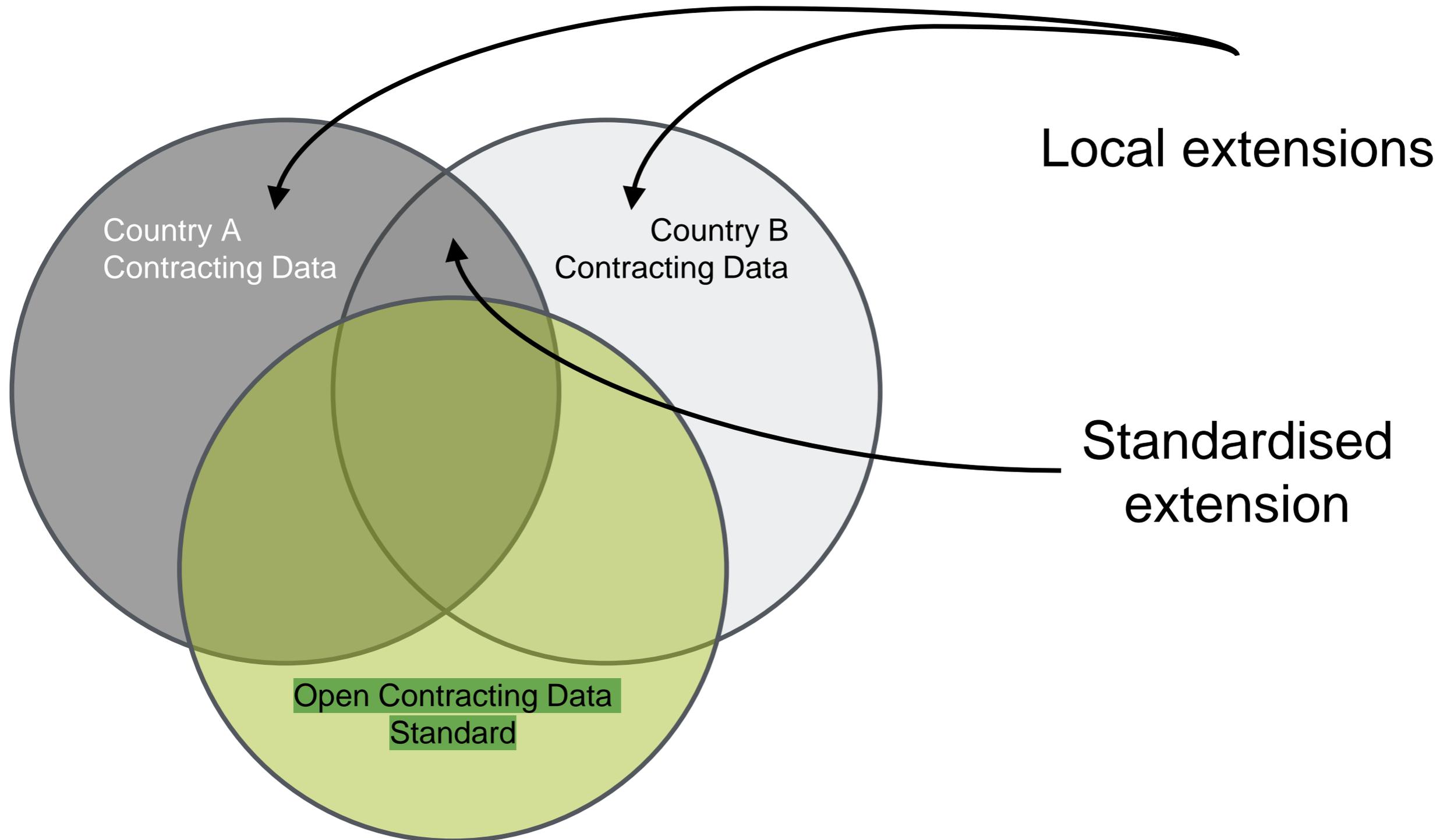
Including:

Payments
Progress updates
Location
Extensions
Amendments
Completion or
Termination info

Single contracting process identifier

Open Contracting ID (OCID)

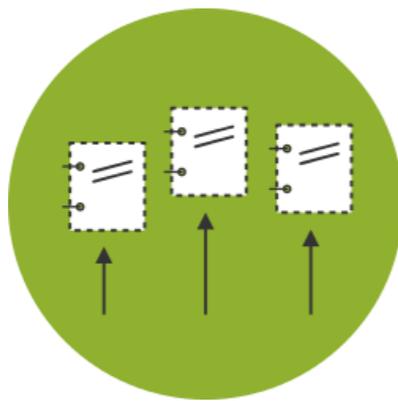
Schema: extensions



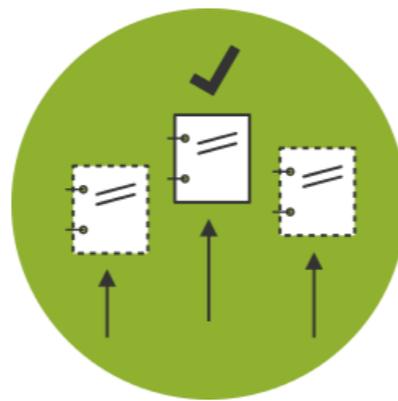
Guidance: real-time publication

We recommend publishing **a new release** of data whenever anything changes in the contracting process.

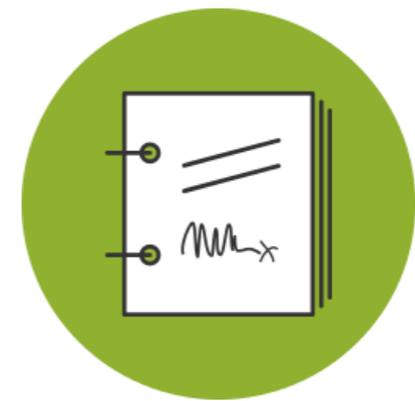
Worked example



15th Jan
Tender
issued



28th Feb
Award announced



15th March
Contract signed



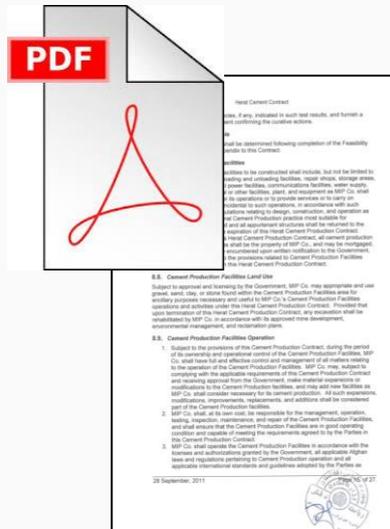
Option 1: Publish backward looking data after contract is signed;
Option 2: Publish a single record, updating every time things change;
Option 3: Publish individual releases as each event happens, along with an OCDS record to compile a snapshot of the whole process.

Release and records in review

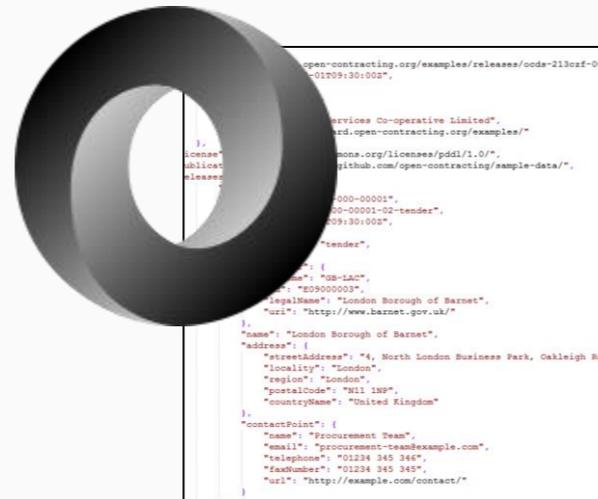
- Real-time and historical data;
- An audit-trail for each contracting process;
- Allowing integration of data from different systems;

Publication: data & documents

Documents



JSON



CSV / Excel



Direct URLs

Individual releases

Bulk download

Long-term archival

API

Segmented data:
month, year,
department etc.

Bulk downloads

Open License & Publication Policy

Progressive publication: disclosure

Basic:

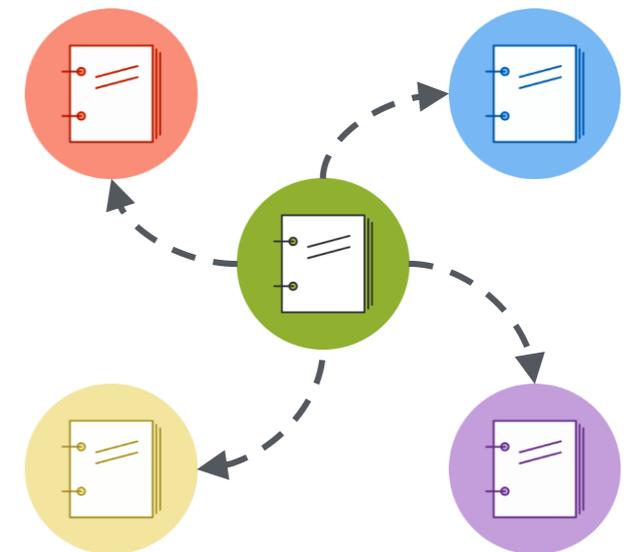
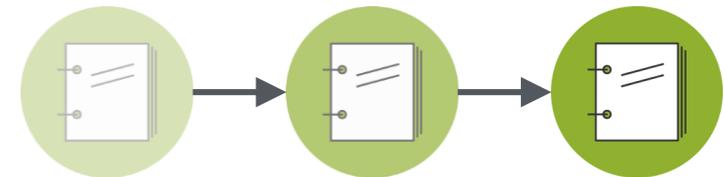
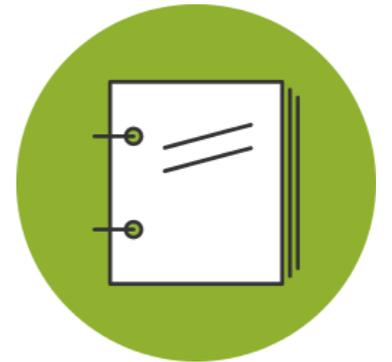
- Overview of contracting process
- Available in most contracting data systems

Intermediate:

- Changes in a contracting process over time
- May require extra steps to join data from different systems

Advanced:

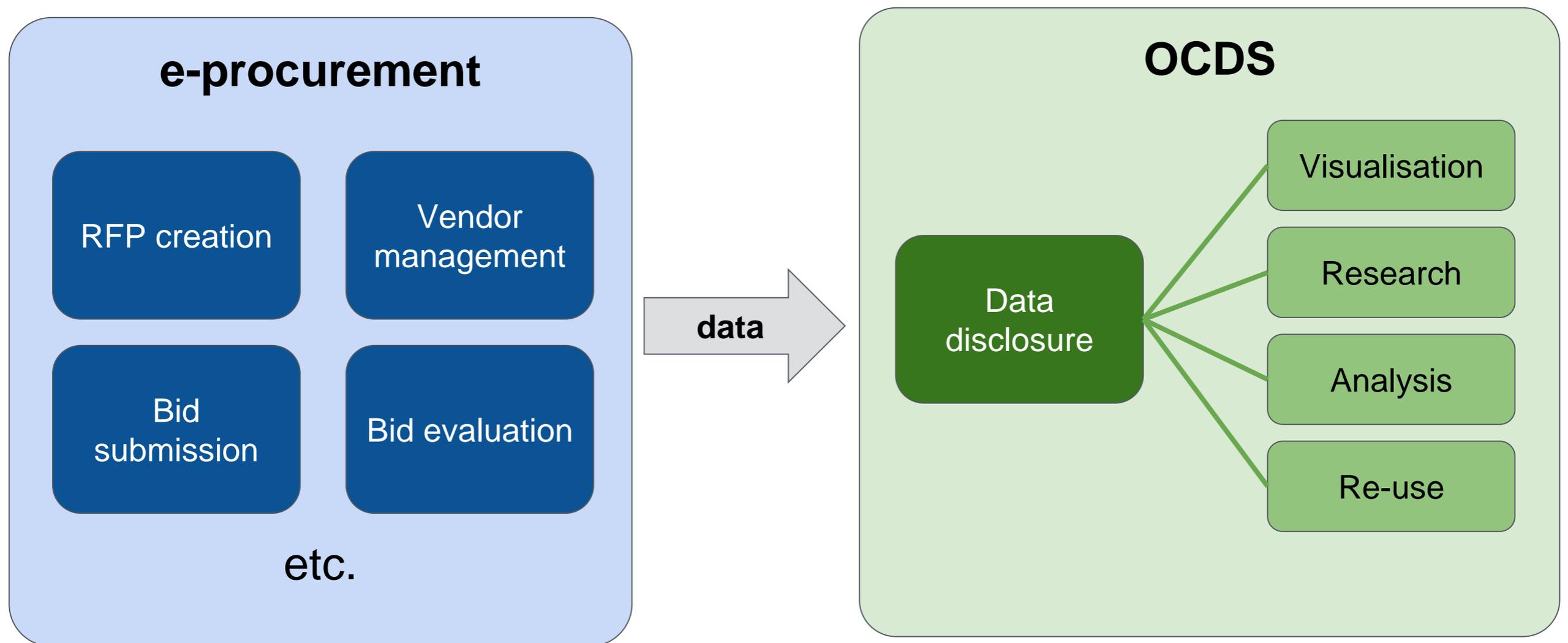
- Linking data with other sources and real world impacts
- May require additional data collection and management



OCDS & e-Procurement

OCDS & e-Procurement

OCDS is **complementary** to e-procurement



Mapping against OCDS can ensure e-procurement systems are capturing all the relevant data **for disclosure**.

Case study: Zambia

The screenshot displays the Zambia e-Government Procurement System interface. At the top left, the logo features a globe with the text 'e-Procurement' and 'Zambia e-Government Procurement System'. The top right navigation bar includes links for 'Homepage', 'About', 'User Guides', 'Help', and 'Contact Us'. A green search bar contains the text 'Search: Select' and buttons for 'Search', 'Advanced Search', and 'Current Tenders'. The time '15:38:26 CAT' is shown on the left. A sidebar on the left contains a 'Log In' section with fields for 'Username:' and 'Password:', a 'Log In' button, and links for 'Forgot your password?' and 'Register as a Supplier'. Below this is an 'Information' section with links to 'Annual Procurement Plan Publication', 'Current Tenders', 'Bidding Advertisements', 'Opened Bid Details', 'News', 'User Guides', 'Electronic Public Procurement', 'Procurement Legislation', 'Statistics', 'Relevant Links', and 'Calendar'. The main content area is titled 'e-GP System' and includes a description of the platform, a 'First-visit guide' with a list of actions, a 'Latest News' section with a 'View all' link, a 'Why register?' section with a list of benefits, and a 'Statistics' section with a 'View all' link. An image of the Zambian flag is positioned on the right side of the main content area.

e-GP System

e-GP Platform is a web-based, collaborative system to facilitate the full lifecycle of a tendering process, for both buyers and suppliers. It offers a secure, interactive, dynamic environment for procurements of any nature, complexity or value, enforcing (where appropriate) and encouraging recognised best practices.

e-GP Platform supports the process of procuring works, services and supplies electronically. Different public procurement procedures are supported for both one-off or repetitive purchases through several dedicated sub-modules providing facilities for user registration, tender notification, bid preparation and submission, online bid evaluation, contract awarding, creation and management of catalogue-based information, placement of electronic purchase orders, electronic invoicing and order tracking.

First-visit guide

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

Latest News

[View all](#)

Why register?

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

Statistics

[View all](#)

Zambia is implementing an e-procurement system provided by European Dynamics with an additional module to provide OCDS output.

Case study: Ukraine

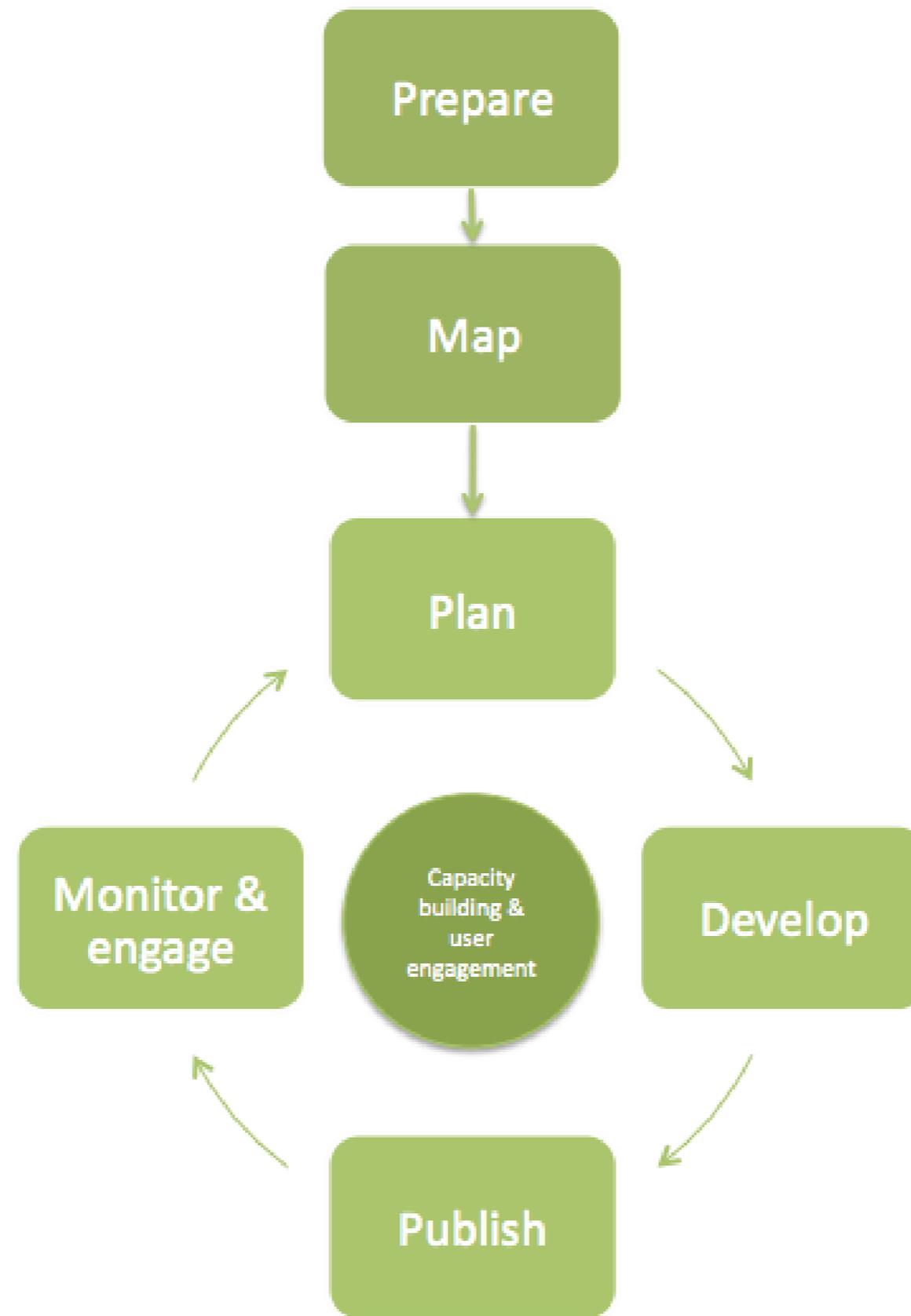
The screenshot displays the ProZorro Public Procurement website interface. At the top, there are social media icons (Facebook, LinkedIn, YouTube), language options (ENG, UKP), and an event calendar icon. The main navigation bar includes the ProZorro logo, a 'REGISTER' button, and links for NEWS, SUPPORT, ABOUT THE REFORM, CONTACTS, and MONITORING. Below this, there are three large buttons: 'FOR SUPPLIER' (green), 'TENDER SEARCH' (grey), and 'FOR PROCURER' (blue). The search results section shows a search for 'свинина (охлажденная)' with a status of 'Завершена'. Below the search bar, there are filters for Keyword, CPV-code, SCGS-code, Procurement No., Date, Procurer, Region, Status, and Procedure type. The results list two items:

Item Description	Expected Value	Announced
свинина (охлажденная) Electronic procurement Завершена Володимир-Волинський м'якоть свинини без кісток, ДСТУ 7158:2010 Company: Комунальний заклад "Дошкільний навчальний заклад (ясла-садок) №1 Дзвіночок Володимир-волинської міської ради Волинської області ID: UA-2016-08-08-000018-с	10 000 UAH	08.08.2016
Кондиціонер з доставкою та монтажем Electronic procurement Завершена Шостка Company: Виконавчий комітет Шосткинської міської ради	20 000 UAH	19.07.2016

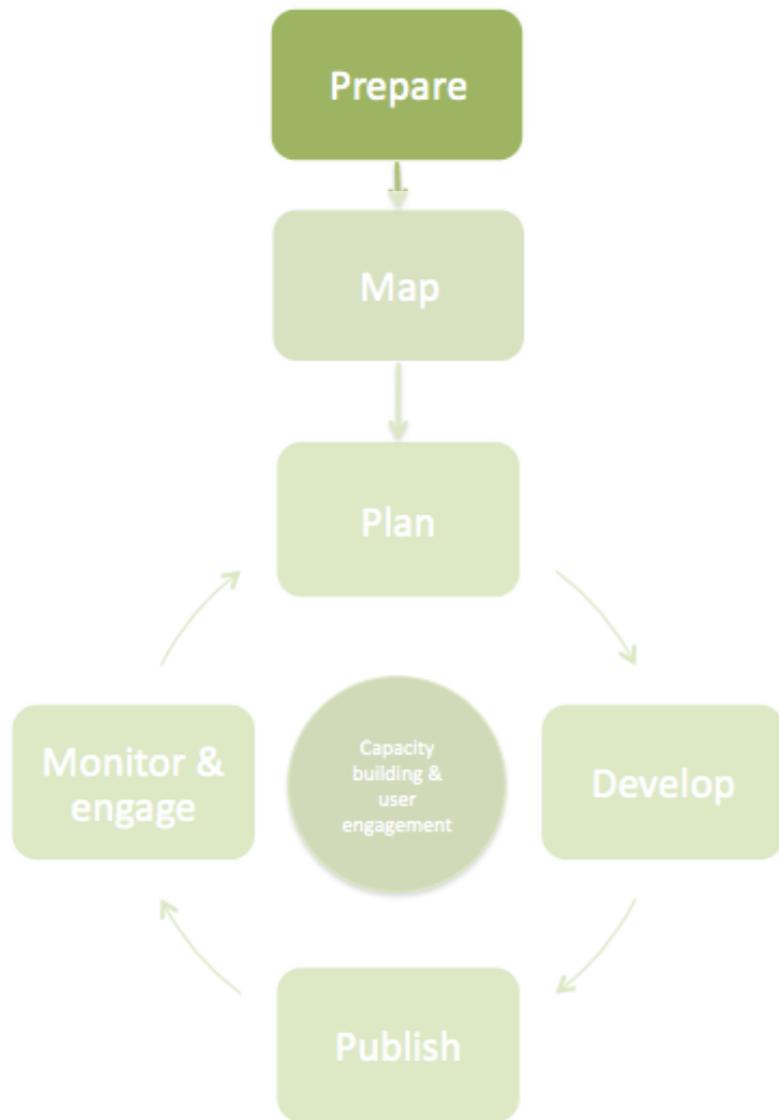
OCDS building blocks have been used and extended to provide data models for Ukraine's ProZorro system, easing the publication to OCDS.

OCDS implementation - step by step

OCDS step-by-step



Policy Commitment



(C) Public Procurement and Fiscal Transparency

- I. We will work towards full implementation of the principles of the Open Contracting Data Standard, focusing on major projects as an early priority.
- II. We will apply the Open Contracting Data Standard to the following major projects – **(i) Development of Refineries in the oil Sector; (ii) Building of Health Centers and Improvement of Health Services; (iii) Building of Roads and other Infrastructures; (iv) Building of Schools and Improving Transparency in the Management of Education Funds and (v) Investment in the Power Sector.**
- III. We will implement the principles of Open Government Partnership and Open Data Charter.
- IV. We commit to undertake IMF Fiscal Transparency Evaluation.

**Country Statement From
Nigeria at London Anti-
Corruption Summit dated
12th May, 2016**

Nigeria Open Contracts

Transparency In Procurement

FOR PROCURERS

FOR YOU

Enhancing transparency in public procurement to ensure efficient service delivery, improved value for money while fostering an equitable business environment for Nigeria.

Message us



Contact:

E-mail: nigeriaopencontracting@gmail.com

Tel: +234 805 8004959

Role of CSOs as Procurement Monitors

Public Procurement Act & Procurement Monitors?

- One of the objectives of the Bureau of Public Procurement (BPP) is to: **'ensure probity, accountability and transparency in the procurement processes'**- Section 4(a) of the Public Procurement Act (PPA) 2007

Public Procurement Act & Procurement Monitors?

- Section 19(b)(ii) of the PPA, 2007 recognises CSOs as one of the key stakeholders in every public procurement process, and specifically states that every procuring entity should:

“invite two credible persons as observers in every procurement process one person each representing a recognized non-governmental organisation working in transparency, accountability and anti-corruption areas, and the observers shall not intervene in the procurement process but shall have right to submit their observation report to any relevant agency or body including their own organizations or associations.”

Who are Monitors?

- Procurement Monitors are tasked with identifying irregularities in the procurement process and making sure those irregularities, when found, are independently reported to the relevant authorities.
- In cases where authorities responsible for overseeing procurement processes do not fulfill their obligations, or worse, are part of a corruption scheme, CSOs can use the information they generate to mobilize citizens and demand greater accountability from their Government.

Role of Monitors

- While Monitors are not auditors and do not have enforcement powers, they play an important role in increasing transparency in the procurement process. Civil society efforts can contribute to:
 - Deterring corruption by the mere fact that Monitors are present and are observing the process;
 - Generating trust among government officials who are committed to “sound” procurement and the efficient delivery of public services;
 - Publicizing corrupt acts and generating social pressure against corruption in procurement;
 - Identifying corrupt actors and preventing them from having access to procurement processes in the future;
 - Encouraging citizens to be more engaged in the decision-making processes that have an impact on their local community;
 - Advancing citizens’ understanding of how government and public procurement work;
 - Providing the public with the opportunity to influence and participate in development programs and projects;
 - Bridging the gap between the Government, civil society and the private sector.

Monitoring Forms

- Monitoring can take two forms:
 - First is observation of the results of a procurement to determine whether it has delivered what was promised. For example, CSOs can observe whether the right number and type of text books have been provided or a school was built where it was supposed to be.
 - Secondly, a more advanced form goes a step further, tracking the procurement process - from planning to implementation - and assessing whether any red flags appear and how implementation compares with contract provisions, including the quality of the goods and/or services procured.

Monitoring Procedures

- When monitoring procurement, CSOs should establish clear procedures and parameters to ensure that their time and resources are maximized and their observations and reports are reliable. CSOs should:
 - Establish objective criteria for the selection of the procurements to observe;
 - Establish a system for the disclosure and management of conflicts of interests;
 - Establish a code of ethics for Monitors;
 - Ensure that Monitors either have or can access the appropriate technical and professional expertise when needed; and
 - Establish clear internal procedures for reporting irregularities.

What to Monitor

- Civil Society cannot monitor all procurements in a particular country or sector because of the hundreds of procurements occurring at different government levels at the same time.
- Consequently, for CSOs to be effective, the timing, processes and areas to monitor should be carefully selected, considering, among other factors:
 - the phases of procurement where corruption is most likely to occur;
 - the volume and magnitude of the procurement (concentrating on high value contracts);
 - the complexity of the process;
 - the sector vulnerability to corruption;
 - the sectors where most government resources are spent;
 - the availability of information; and
 - the technical expertise of the Monitors.

What to Monitor (Cont'd.)

- Other factors for CSOs to consider:
 - Their available skill set and technical expertise
 - Time and staff constraints
 - Priorities for local communities
 - Openness of the procuring agency

Conclusion

- Corruption in public procurement affects:
 - efficiency of public spending and effectiveness of donors' resources;
 - it creates waste and, ultimately, affects the quality of goods and services and the opportunities they present to improve quality of life
 - It also harms companies that produce goods and services as it increases operational costs, reduces competitiveness and discourages foreign investment.
- Civil society has a prominent role to play in monitoring and observing procurement processes to ensure public procurement is conducted in the most efficient and transparent manner possible and to obtain best value for money

Thank You