



Open Contracting and Inclusion

Budeshi

Nigeria

This case-study is part of a larger study that explores the possible benefits of open contracting for marginalized communities. Research was done by Francois van Schalkwyk & Miko Cañares. The complete study and results are found [here](#).

Context¹

The introduction of Public Procurement Reforms in Nigeria followed a World Bank Country Procurement Assessment survey conducted in 1999, which drew attention to the relationship between poor public procurement procedures and corruption, and the detrimental consequences on the country's development. The assessment revealed that an average of 10 billion US Dollars was being lost annually due to fraudulent practices in the award and execution of public contracts. Inflation of contract costs, lack of procurement plans, poor project prioritization, poor budgeting processes, lack of competition and value for money were identified alongside other manipulations of the public procurement processes.

To address the issue, the Federal Government initiated the Public Procurement Reform as part of its Economic Reform agenda designed to restore due process in the award and execution of federal government contracts. This led to the setting up of the Budget Monitoring and Price Intelligence Unit (BMPIU) in 2001 to implement the Federal Government's Public Procurement Reform Policy aimed at minimizing open abuses in the award and execution of public sector contracts in Nigeria.

Following the growing public demand for the reforms to become law, a Public Procurement Bill was drafted in 2003/2004 by the BMPIU and presented to the National Assembly. The Public Procurement Bill was passed by the National Assembly on 30 May 2007 and subsequently signed into law as the Public Procurement Act (PPA) on 4 June 2007.

The PPA created two procurement bodies: the National Council on Public Procurement (NCPP), a high level multi-stakeholder body set up to approve all procurement operational policies, and the Bureau of Public Procurement (BPP) to oversee procurement policy formulation and implementation across the public sector. The NCPP is yet to be inaugurated while the BPP is operational and fulfills a variety of functions.²

More recent international commitments to combating corruption and institutionalizing open contracting in the public sector include formal statements made at the 2016 London Anti-

¹ See Development Gateway (2017) for a more detailed overview of the Nigerian context.

² <https://sahelstandard.com/2019/11/24/stakeholders-to-presidency-inaugurate-national-council-on-public-procurement-now/>

Corruption Summit and membership of the Open Government Partnership (OGP), including membership commitments in relation to open contracting as articulated in the country's OGP Action Plans.

Furthermore, Nigeria's Open Contracting Portal (NOCOPO),³ conceived by the Bureau of Public Procurement (BPP) in line with Section 5(r) of the Public Procurement Act, 2007, was co-created in 2017 with civil society organizations in fulfillment of Commitment 2 of Nigeria's National Action Plan of the Open Government Partnership, that is, "Full implementation of Open Contracting and adoption of Open Contracting Data Standard in the public sector". NOCOPO aims to open up "public procurement in Nigeria through increased disclosure of procurement information to all stakeholders with a view to ensuring improved transparency and accountability, improve competition, prevent corruption, enhance active citizen participation towards achieving better service delivery and improved ease of doing business in Nigeria".⁴ Details of contracts awarded within a certain threshold are accessible on the portal while for smaller projects (in terms of their monetary value), public institutions are only required to provide information if requested under the Freedom of Information (FOI) Act.

Despite legislation and initiatives to stem corruption in public procurement, the systemic nature of corruption in Nigeria persists as reflected in the country's consistently low scores in the Corruption Perceptions Index and in the results of the Global Corruption Barometer (Sope 2018). In addition to the indicators that point to high levels of corruption in Nigeria, there is an increasing awareness of the political cost. Nigeria's President, Muhammadu Buhari, who in 2015 was elected on an anti-corruption platform acknowledged that 'if Nigeria does not kill corruption, corruption will kill Nigeria' (Buhari 2015).

Nevertheless, according to the Public Private Development Centre (PPDC), if procurement data are 'available and publicly accessible, then it becomes harder for a public contract to be inflated. If Nigeria is truly committed to eliminating graft, then we need to put such systems in place where comparisons can be made across planned and actual government spending' (Nyager 2015).

³ <http://nocopo.bpp.gov.ng/OpenData.aspx>

⁴ <http://nocopo.bpp.gov.ng/Home.aspx>

The experiences of CSOs monitoring public procurement in Nigeria have highlighted a problem that goes beyond the publication and accessibility of contracting data: ‘even with these various datasets, linking them together is a challenge. This in turn, affects all attempts to verify that these contracts have delivered value for money’ (Nyager 2016). Nyager points out that it is almost ‘impossible to use contracting data to verify the performance of public services if the data is presented differently at each stage’. Without ‘clear specifications and specific locations for each project in both the budget and procurement data, it becomes difficult to know what data represents a certain contract, and what specifications each project ought to have. It then becomes difficult to verify the performance of each contract since it is unclear what specifications apply to each contract.’ These are some of the challenges that the open contracting initiative Budeshi, a project of Public Private Development Centre (PPDC), seek to address.

The open contracting initiative

Budeshi means “open it” in Hausa language. Budeshi is a dedicated web platform that links budget and procurement data to various public services with the intention of using the Open Contracting Data Standard (OCDS) to do so. The Budeshi platform has two objectives. The first is to institutionalize the use of OCDS by organs of state. Budeshi seeks to achieve this objective by demonstrating to public institutions the utility of using uniform data standards to publish and report information across all stages of the procurement value chain.

The second objective of Budeshi (2019) is to open public service delivery to public scrutiny:

we can turn budget and procurement data into a tool for verifying the performance of public services and for improving efficient eventual public service delivery ... If a system such as Budeshi were adopted across the Nigerian public service, there would be a greater incentive for every contractor to prove their competence in relation to other contractors. There would also be the potential to see the standard of public projects rise since anyone would be able to verify how well a contractor has delivered a project. Thus, through such a system, we could professionalize the process through which contracts are awarded.

This objective is achieved by making the platform openly accessible and by making the data easy to understand and compare.

According to the PPDC website, Budeshi presently publishes data received from the Universal Basic Education Commission and the National Primary Health Care Development Agency and will update the platform when it receives data from other ministries, departments and agencies. Data are often still obtained by lodging requests under the Freedom of Information Act, followed by digitizing, cleaning and preparing the data for publication on the platform.

Budeshi does not explicitly articulate the inclusion of marginalized communities in public procurement as a desired outcome. Its parent, PPDC, states that it “seeks to assist and empower ordinary people to capture public space and participate in governance and development in a way that prevents corruption” and that its procurement governance initiative “has successfully revamped public contracting conducts and access to information by improving disclosure practices of public institutions and their responsiveness to citizens demand; enhanced public service effectiveness in Africa and facilitated increased citizen participation in governance”. While neither Budeshi’s nor the PPDC’s ambitions and achievements focus explicitly on marginalized communities, it is possible that marginalized communities may benefit indirectly in cases where the PPDC’s community-based procurement monitors make use of Budeshi and spearhead interventions that are to the benefit of marginalized communities, particularly those in non-urban areas.

Outcomes

Budeshi was set up with two objectives: (1) to be a platform and a movement to advocate for the adoption of OCDS by the government of Nigeria, and (2) to make possible the use of contracting data by the public to ensure improved delivery of goods, services and works by government. With available datasets from the Universal Basic Education Commission and the National Primary Health Care Development Agency, Budeshi has sought to demonstrate that linked procurement and budget data can enable the discovery of red flags in the contracting process.

A notable outcome of Budeshi in concert with the efforts of other stakeholders was the announcement of the government of Nigeria at the 2016 London Anti-Corruption Summit to adopt OCDS.

In terms of its second objective, examples of the use of data from Budeshi are to be found in the media, suggesting some uptake of the platform by data journalists. Legit, an online news and

entertainment platform in Nigeria, reports on the state of healthcare facilities: “According to the data obtained from Budeshi.ng, an open contracting portal, each of the contracts awarded at the same cost of N2,292,203 million to F.R. Resources Limited, Bit Shelter Limited, and Tegiriti Proact Limited in 2009 are yet to be completed.”⁵ The Guardian (Nigeria), reports on corruption in the building of schools: “The Public and Private Development Centre (PPDC) through its initiative, Budeshi had also monitored several schools in five states including those monitored by The Guardian. And the organization found similar ‘inadequacies and gaps in contract implementation’ of UBEC. Gift Maxwell, Budeshi Program Director at PPDC, in an email to The Guardian noted that UBEC had already given a clean bill of health to Mr. Nzeribe’s company on the N35 million contracts at St. Anthony School, Ihiala. This is the same project that The Guardian’s investigation and Mr. Nzeribe himself had confirmed to be uncompleted.”⁶

Whether the use of the Budeshi platform by data journalists or other stakeholders has resulted in any changes in the awarding of public contracts or in any remedial action on the part of government -- in cases where irregular processes have been brought to light -- remains unclear at this stage.

The PPDC also uses Budeshi in its own public service monitoring exercises such as the monitoring of procurement in the primary healthcare sector in Benue, Delta, Kano, Lagos, Ogun and Osun States, and it reports several examples where they have relied on public procurement data to identify issues which have subsequently been resolved.⁷

What is not certain is the extent to which any of these interventions targeted or benefited marginalized communities in particular.

⁵ <https://www.legit.ng/1135846-investigation-how-contractors-shortchanged-nigerian-government-abandoned-hea.html#1135846>

⁶ <https://guardian.ng/features/how-contractors-fleece-government-in-ubec-school-project-contracts/>

⁷ <https://www.procurementmonitor.org/resources/our-reports/>

Case analysis

In Nigeria, an opportune niche emerged with the publication of the Open Contracting Data Standard (OCDS):

The fact that information is mainly accessed through FOI requests and not proactively through a system that links various stages, makes it tedious; and means that only few people can really participate in the process through which public services are delivered. And so when the Open Contracting Partnership launched and published the open contracting data standard in November 2014, there arose the opportunity to advocate for its adoption in Nigeria as we genuinely believe it responds to the challenges of incoherence we face with using data to verify the performance of public services. (Public and Private Development Centre 2019: 39)

This led to the development of the Budeshi platform by a team of Nigerians supported by the global network of open contracting advocates in its development and promotion. Initially, the team struggled to make the case for OCDS to government officials in Nigeria. In other words, there was no value transfer. However, after repeated efforts to translate the technical value of the platform into political terms, a successful meeting with Attorney-General finally resulted in value activation of OCDS. The Attorney-General saw the value of OCDS for the improved management of public procurement. With the political backing of the Attorney-General, successful interactions with other government agencies, including BPP, followed. And when the London Anti-Corruption Summit presented an opportunity for political gain on the global stage, OCDS was endorsed by the government of Nigeria. In effect, the technical value illustrated by Budeshi as part of a global development network was successfully converted into something of value in the global political network. As a result, Budeshi can be seen as successful in meeting its primary objective of the formal adoption of OCDS by the federal government, and this success can, at least in part, be attributed to the successful activation of value in a (political) network where power resides.

Budeshi's second objective, however, remains a challenge. Budeshi has become a tool for procurement monitoring by the CSO that created the platform, yet it is not being used by other intermediary organizations in Nigeria. To some degree its value has been diminished by the development of the federal government's own procurement portal, made possible by the federal government's initial adoption of OCDS, which provided the public procurement agency with the

mandate to implement its own platform. At this stage, there is insufficient evidence to suggest that either Budeshi or the government's procurement portal have done more than disrupt existing data flows by making the procurement of public goods, services and works more transparent. And while OCDS created an opportune niche for the design and implementation of an open contracting portal, as well as high degree of co-operation between a single CSP and a government champion, there does not appear to be an opportune niche attracting other intermediaries or government enablers to participate in open contracting or public procurement reforms.