Summary of Findings
RESEARCH DETAILING TRANSPARENCY MILESTONES AND GAPS OF FUNDS ALLOCATED AND UTILISED FOR COVID-19 RESPONSE AND RECOVERY IN KENYA

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About Hivos

Hivos is an international development organisation guided by humanist values. Together with citizens and their organizations, we aim to contribute towards just, inclusive and life sustaining societies where people have equal access to opportunities, rights and resources. We work in partnership with others in the Middle East, Africa, Asia and Latin America on three impact areas: civic rights; gender equality, diversity and inclusion, and climate justice. Our approach is solution driven, and we build wider movements for change by amplifying and connecting voices.

Background of national baseline research

The overall purpose of the national baseline research was to document the on-going efforts, needs, existing barriers and gaps in publishing and monitoring of COVID-19 related funds i.e. allocations, utilization and how this impacts transparent and efficient use of public resources as well as access to services by citizens and produce evidence-based recommendations.

Key findings

- The institutional arrangements for management, publishing and monitoring of COVID-19 related funds allocations and utilization cuts across multiple and diverse institutions at national and county levels.

- The main institutions mandated with this Covid 19 response and recovery include National Emergency Response Committee on Coronavirus as the core entity for coordination at national level, Ministry of Health, National Treasury, The Office of the Controller of Budget, Auditor General, Public Procurement Regulatory Authority, Ethics and Anti-Corruption Commission (EACC), Parliament, County Governments and Council of Governors (COG).

- The Public Procurement and Asset Disposal Act does not have clear and specific guidelines on how to conduct emergency contracting and procurement.

- The main gaps in the PPAD Act when it comes to emergency contracting and procurement include weak regulations on the duration of direct procurement and retrospective approvals during emergency procurement; inadequate legal provisions on reporting and publication of emergency contracting information - particularly on tenders and contracts awarded; as well as lack of clear provisions for citizen engagement in emergency contracting.


- Compliance with procurement reporting and publishing requirements was low, especially non-registration with the Public Procurement Information Portal as well as reporting on Covid-19 response and recovery contracts awards.

- The research found that whereas there was reasonable freedom to access information related to COVID 19 emergency contracting, budgets and audits across all sampled counties (88%), timeliness of the information published by counties was limited except for Vihiga County (67%).
Citizen engagement in COVID-19 funds allocation and use (specifically on emergency contracting and budgets) across by counties is still very limited.

In relation to the quality of services offered by county governments during the COVID-19 crisis, majority of citizens in counties surveyed were dissatisfied with service delivery.

Majority of infomediaries (66%) are involved in initiatives for advancing transparency and efficient use of public resources and access to services related to COVID-19 response and recovery.

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**Key recommendations for Covid-19 recovery and response**

- Counties need technical assistance in strengthening the implementation of the emergency open contracting, including the embedding of the Open Contracting Data Standard (OCDS) in their procurement and/or e-government systems.

- County-led citizen engagement platforms are critical in providing a mechanism to accelerate the public’s resolution of complaints and implementation of civic education campaigns to sensitize the public on the existence and use of the platforms.

- The Public Procurement Regulatory Authority needs to undertake the following reforms:
  - Develop guidelines for retroactive procurement approval undertaken to deal with emergency needs under section 69 of the Public Procurement and Asset Disposal Act.
  - Develop guidelines for direct procurement for urgent needs or emergency procurement under section 103 of the Public Procurement and Assets Disposal Act.
  - Publish evaluation reports of all bids including technical and financial assessments of the capacity of the awarded bidders, current market price of specific goods, works and services on the PPIP portal.
  - Publish county procurement plans for public access in the PPIP.

- Capacity building and sensitisation is urgently needed for counties that have not commenced procurement reporting in the PPIP.

- Counties need to be constantly engaged and supported in proactive disclosure of information related to contracts and the broader procurement continuum.

- Advocacy campaigns calling for publishing of all COVID-19 related funds and related public procurement datasets and information are critical to citizens’ oversight.

- Counties need to develop a capacity building programme in collaboration with the Commission on Administrative Justice (CAJ) on access to information.

- There’s need to develop the capacity of infomediaries at county level in advocacy, networking, monitoring and oversight of COVID 19 funds.

- Counties need to formulate regulations under Emergency/Disaster Acts to provide guidelines critical in the establishment of community oversight mechanisms.

- Parliament should review the exceptions in the Access to Information Act to make them limited and specific but also to strengthen the enforcement powers of the CAJ.
Research detailing transparency milestones and gaps of resources allocated and utilised for COVID-19 response and recovery in Kenya

**Key Insights**

- The Public Procurement and Assets Disposal Act does not have clear and specific guidelines on how to conduct emergency contracting and procurement.

- Kenya has put in place some policies and made commitments that advance transparency of covid-19 funds.

- The primary research found that, 12% of counties registered with PPPIP reported on contracts related to COVID 19 funds.

- On reporting and publishing of budgets, debts and related instruments by counties, findings show that most counties (89%) published information related CFSP, followed by Annual Development Plan (85%) and Annual Budgets (80%) while 68% of the counties published information on CBROP.

- Further, only 26% of the counties published information on procurement plans and debt management plans and only 43% published information on budget implementation reports.

- 51% of the counties that published information on citizen budgets.
While there’s particularly an Access to Information Act there is limited information and lack of timeliness in publishing particularly when it comes to COVID-19 emergency contracting, budgets and audits.

From the primary research, a total of (59%) responded that the information was not easily accessible while (28%) said the information was not accessible at all. Only 10% of the respondents said the information was accessible. The remaining 3% did not know where to access the information.

The primary research found that, the level of those who did not have education at all, more females (10%) had tried to access information than males (0%). Similarly, at primary level more females (5%) then males (0%) had tried to access information. At the levels of Secondary (females 11%, males 14%) Post-secondary (females 7%, males 7%) and university (females 11%, males 10%) there is an almost parity in access to information for both sexes.

The primary research established that social media (52%) is the main platform for citizen engagement across all counties followed by Barazas at (15%).
Research detailing transparency milestones and gaps of resources allocated and utilised for COVID-19 response and recovery in Kenya

KEY INSIGHTS

Many infomediaries are actively advancing openness in procurement through translating of data into actionable information for citizens.

The primary research found that majority of the infomediaries (66%) are involved in initiatives for advancing transparency, mostly undertaking advocacy work geared towards better allocation and utilization of COVID-19 resources. However, there was limited capacity to engage specifically with matters related to open contracting and procurement.

The survey revealed that Ward Administrators’ offices are most preferred platforms for submitting complaints over COVID-19 funds allocation and utilization and service delivery. Majority of the respondents (34%) preferred using Ward Administrators due to their proximity to their homes. This was followed by Social media/online platforms.

The primary research found that majority of the infomediaries (62%) are not adequately equipped with knowledge and skills on open contracting while (31%) indicated that they had the capacity.

Majority of complaints that were raised by citizens (75%) were not addressed appropriately by the relevant duty bearers.

Very low citizen engagement in the monitoring of COVID funds.
Research detailing transparency milestones and gaps of resources allocated and utilised for COVID-19 response and recovery in Kenya

**STRENGTHENING THE CAPACITY OF COUNTIES**

in emergency procurement through approaches such as open contracting

**COUNTY - LEVEL CITIZEN ENGAGEMENT**

is critical in demanding for accountability and proactive disclosure of contracting information
THE PUBLIC PROCUREMENT AUTHORITY needs to undertake reforms that will strengthen emergency procurement through proactive publishing of procurement information and integration of national and county procurement portals.

CAPACITY BUILDING is urgently needed for counties that have not integrated their procurement with the public procurement information portal.
Research detailing transparency milestones and gaps of resources allocated and utilised for COVID-19 response and recovery in Kenya

**KEY RECOMMENDATIONS**

**Engage and Support Counties**
on proactive disclosure of information related to public contracts

**Design an Advocacy Campaign**
calling for publishing of all COVID-19 related funds, procurement datasets and the adoption of Open Contracting Data Standards by national and county governments.
Research detailing transparency milestones and gaps of resources allocated and utilised for COVID-19 response and recovery in Kenya

DEVELOP A CAPACITY BUILDING PROGRAMME
in collaboration with the Commission on Administrative Justice (CAJ) on access to information across county governments and other public institutions

KEY RECOMMENDATIONS

DEVELOP THE CAPACITY OF INFOMEDIARIES at county level in advocacy, networking, monitoring and oversight of COVID 19 funds and related public contracting
ASSIST COUNTIES TO FORMULATE REGULATIONS
under Emergency/Disaster Acts to provide guidelines critical in the establishment of community oversight mechanisms.

PARLIAMENT SHOULD REVIEW THE EXCEPTIONS in the Access to Information Act to make them limited and specific as well as to strengthen the enforcement powers of the CAJ.
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