

# *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
- Kenya has made progress by putting in place policies and made commitments that advance transparency and accountability on management of Covid-19 funds. These include: the Executive Order No. 2 Of 2018 on Procurement of Public Goods, Works and Services by Public Entities and County COVID-19 Social – Economic Reengineering and Recovery Strategy 2020/21–2022/23 and the Open Government Partnership National Action Plan IV.
- 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.

## 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.

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

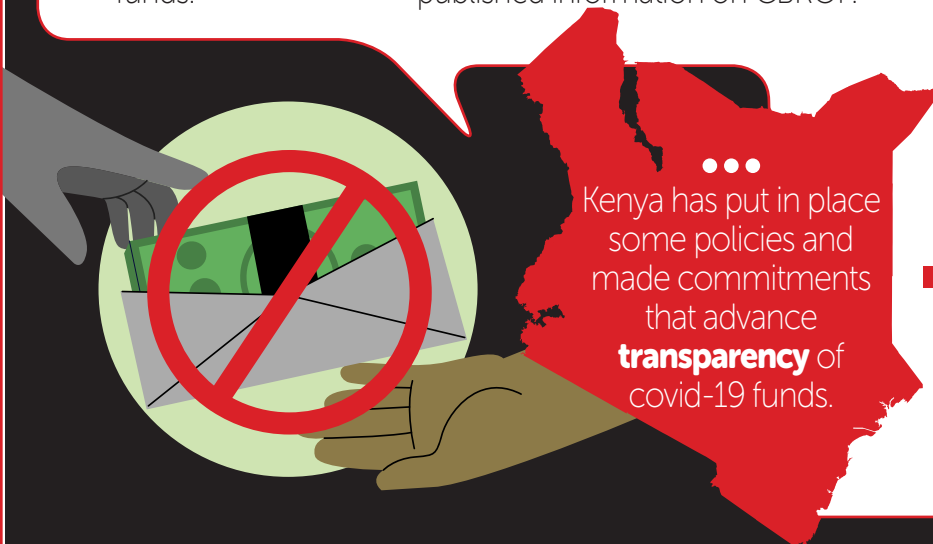


■ **The primary research found that, 12%** of counties registered with PPIP reported on contracts related to COVID 19 funds.

■ 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%)** than 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%)**.

...  
Very low **citizen engagement** in the monitoring of COVID funds

- **The primary research found that,** majority of the informediaries (**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 informediaries (**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.

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





## STRENGTHENING THE CAPACITY OF COUNTIES

in emergency procurement through  
approaches such as open contracting

KEY RECOMMENDATIONS



## COUNTY - LEVEL CITIZEN ENGAGEMENT

is critical in demanding for accountability and  
proactive disclosure of contracting information

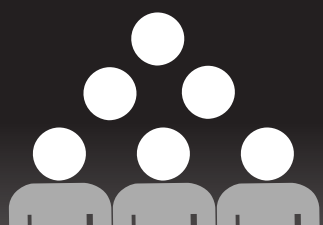
## THE PUBLIC PROCUREMENT AUTHORITY

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

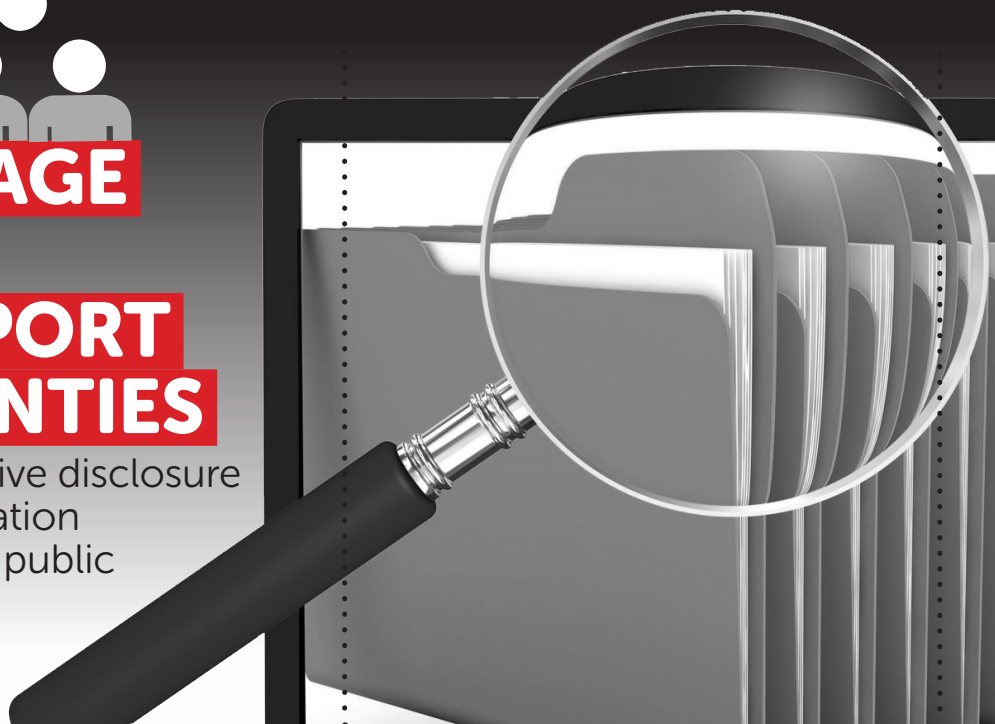
is urgently needed for counties that have not integrated their procurement with the public procurement information portal





## ENGAGE AND SUPPORT COUNTIES

on proactive disclosure  
of information  
related to public  
contracts



KEY RECOMMENDATIONS



## 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.



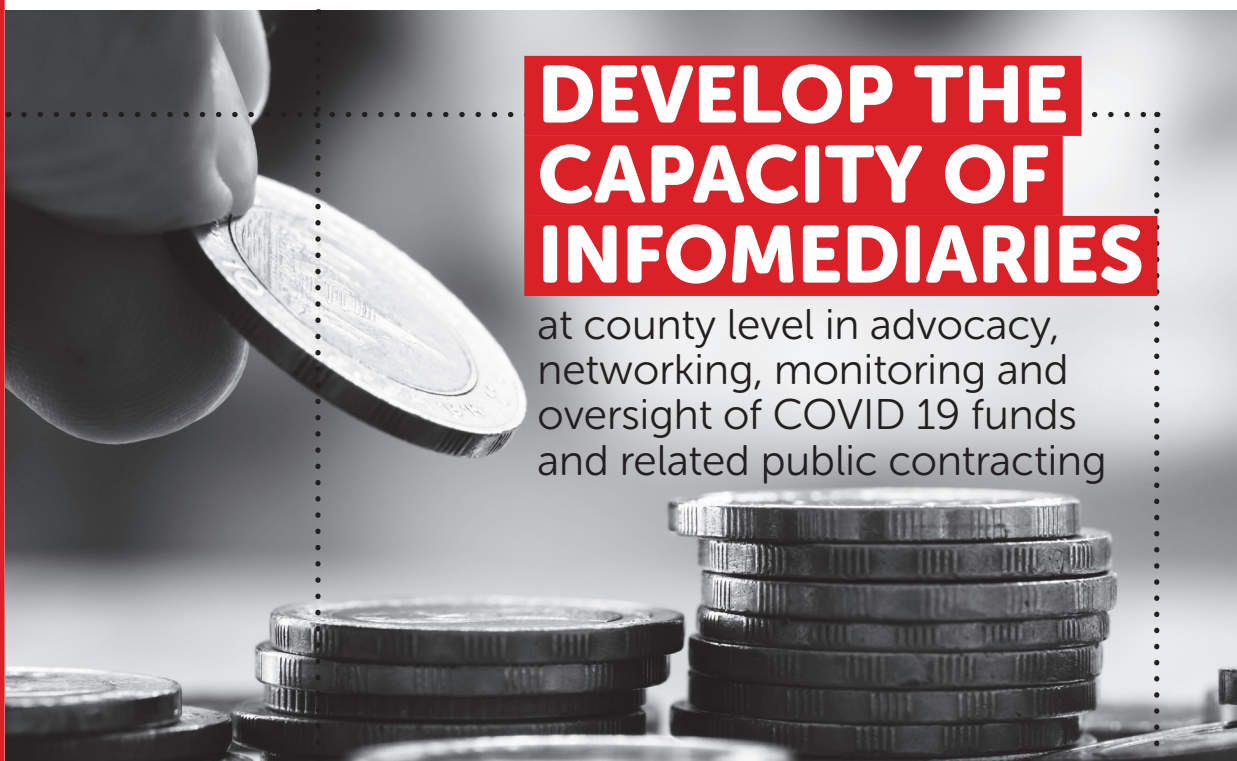
## DEVELOP A CAPACITY BUILDING PROGRAMME

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



## 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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