MOBILISING PEOPLE:
CONNECTING AGENTS OF CHANGE

BRASÍLIA BRAZIL
7-10 NOVEMBER 2012

15th INTERNATIONAL ANTI-CORRUPTION CONFERENCE

Long Session Report: Game Changers

Session Title: Open Contracting
Date & Time: 8.11. 2012 / 5:30-7:30pm
Report prepared by: Nadine Stiller, Advisor, GIZ

Experts:
- **Robert Hunja, Manager, World Bank Institute (WBI)**
- **Christiaan Poortman, Chair of the Board, Construction Sector Transparency Initiative (COST)**
- **Michael Roesch, Project Leader, Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ)**
- **Marcela Rozo, Team Leader, World Bank Institute (WBI)**
- **Claire Schouten, Programme Director, Integrity Action**
- **Gabriele Zoeller, Desk Officer, German Federal Ministry for Economic Cooperation and Development (BMZ)**

Moderated by: Marcela Rozo, World Bank Institute
Session coordinated by: Marcela Rozo, World Bank Institute

Main issues raised in kick off remarks. What's the focus of the session?

Failings in public contracting are undermining development. Public revenues are not being generated, allocated and spent as effectively as they could be, e.g. in terms of extractives or construction. Such factors as corruption, opaque contracting processes and poor oversight of contract implementation are undermining results of public contracting. Open Contracting (OC) can make a contribution to change this. OC begins with the disclosure of the relevant public procurement information from pre-award activities through contract award and implementation to allow for effective monitoring and accountability for results. It is an effort across sectors, regions, and stakeholders and stands for a collaborative innovation and collective action.

A few weeks ago the First Open Contracting Meeting took place in South Africa bringing together more than 100 participants to discuss OC. Therefore, the slot at the IACC was an opportunity to give more actors the opportunity to learn about and engage in OC. The second focus was

to connect people and thirdly to explore linkages with other on-going initiatives since OC is not about duplication but complementation.

What initiatives have been showcased? Describe the Game Changing Strategies. Please be as detailed as possible, include web urls, name of the initiatives and indicate if local, regional or national.

During the discussion a good number of participants showcased their experiences related to various steps of the procurement cycle in terms of public contracting. Three examples are described below:

The *Africa Freedom of Information Center* in Uganda started a Contract Monitoring Coalition currently bringing together 15 stakeholders from different backgrounds to ensure wide buy-in and ownership. They decided to focus on procurement in crucial sectors like education and health. The pilot project was based on the monitoring of the construction of 3 schools each in a different stage of the construction phase.
(http://www.africafoicentre.org/index.php?option=com_content&view=article&id=1553&Itemid=569)

Instituto Ethos from Brazil has started a project called 'Clean Games' focusing on the next World Cup in Soccer as well as the Olympic Games, both to take place in Brazil. The three key elements in that project are integrity, transparency, and social participation and control respectively. The organization is employing several approaches to contribute to 'clean procurement in clean games'. One is the design of transparency indicators, another one is about developing tools to strengthen social control. (http://www3.ethos.org.br/)

Transparency International USA recently finalized the development of a tool for civil society procurement monitoring after testing it in Indonesia and the Philippines. It consists of different components like an online monitoring guide and a case-study-based online training.
(http://monitoring.transparency-usa.org/)

Highlights: What are the main outcomes of this session? What's next?

During the discussions and a quick feedback round at the end involving the whole plenary it became obvious that numerous people confirmed the relevance of at least some parts of OC in terms of their work and the interest to continue with that and strengthen their involvement respectively. There was wide consent that it is worthwhile to think along

the entire contracting chain and that the OC approach adds value to existing initiatives like the International Budget Partnership. Another conclusion was that a broad coalition of sectors, stakeholders and regions is required to further enhance Open Contracting confirming the approach by OC so far.

What are the recommendations, follow-up Actions (200 words narrative form)

The participants discussed various possibilities to continue the work on OC and stressed several important aspects in that regard. A good number of participants recommended to strengthen the demand-side of Open Contracting and assist in building the capacity of NGOs, peer learning etc., e.g. to better judge the content of a contract and monitor its implementation. However, it was also pointed out that due to the tremendously high number of contracts in all kinds of crucial sectors it is impossible for civil society to monitor all of them. Therefore, standards around open contracting would be helpful to function as some kind of guidance. A different idea in that regard stated to publish contractual information and let the technical experts to comment and monitor the content respectively instead of expecting an organization with expertise in transparency promotion to do the job.

Another aspect that was brought forward often referred to ensuring an adequate legal framework that is conducive for a monitoring role of NGOs, for instance in the form of a freedom of information law or a legal mandate for civil society to engage in monitoring.

Furthermore, it was recommended to pay attention to the political economy behind the decisions taken around public contracting, e.g. what or how to contract something out. An example was given from Bangladesh where around 60% of parliamentarians are thought to have their own businesses.

What kind of questions came from the audience? (Please include interesting quotes)

The majority of questions were related to different aspects in terms of the data produced through Open Contracting. As this information can be quite technical in the various sectors in which the state is active and can sometimes or will be spread out in contracts that have hundreds of pages, several questions arose:

- How to deal with the complexity of this information and allow for monitoring through oversight agencies, civil societies or citizens?
- What are benchmarks for judging the content in the different sectors?
- How can be ensured that all the data is machine-readable to allow for better handling, e.g. for analysis or monitoring?
- How to ensure quality and reliability of data?
- What are the best channels to make the information widely available?

What could be done to promote cross-sector and cross-regional work related to the focus of this game changer session? (If applicable)

As outlined above, the idea of cross-sectorial and cross-regional work is already strongly entrenched in the overall-approach of Open Contracting.

What should be done to create opportunities for scaling up the proven solutions discussed in the session? What and by whom?

During the workshop, one idea for scaling-up the work around OC was to broaden the scope by trying to control the whole supply-chain and include sub-contractors as well when designing activities for more transparency and participation related to public contracting. Additionally, for further impact outreach to more governments and the private sector was mentioned as another idea. Here addressing some of the concerns of these actors in terms of OC is crucial like dealing with information around contracting that might be perceived as commercially sensitive. In that regard, show-casing the specific impact and benefits for involved stakeholders will also be useful to broaden the work around OC, e.g. that it is easier for unsuccessful bidders to request clarifications, if not even complain if crucial information around the awarding process is publicly available.

Furthermore, the idea of especially looking into sectors that currently do not have a somewhat 'institutionalized transparency community' to further strengthen OC was pointed out during the discussion.

Another field raised related to perceptions and culture. It is crucial to be sensitive to the fact that especially trying to enhance transparency e.g. around contracting in the extractive industry sector also requires a change of mind and to convince not only involved institutions about the benefits but then also each and every individual staff working for them.

Key Insights Recommended to be included in the IACC Declaration

Open Contracting is changing the rules of the game by trying to make transparency the standard than the exception. OC is beneficial for all involved stakeholder groups because due to corruption and other aspects in public contracting, all of them suffer: OC contributes to a better generation and allocation of public assets while enabling citizens to monitor and ensure more accountable contract outcomes for the sake of society. And last but not least, OC helps to ensure a level-playing field for the private sector and a better business environment.

Nadine Stiller, 13.11.2012

_____