



# **Cross Cutting Topics**

**Customised Report** 

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# Introduction

At the heart of open government are the ideas of transparency, participation and accountability. As a working definition;

- Transparency means the public understands the workings of their government
- Participation means public can influence the workings of government by engaging with public policy processes and public service providers
- Accountability means the public can hold the government to account for its policy and service delivery performance

1 More about definitions can be found at <a href="https://www.opengovguide.com/glossary">www.opengovguide.com/glossary</a>

The Guide has been developed by the Transparency and Accountability Initiative (T/Al). It aims to support governments and civil society organisations to advance transparency, accountability and participation particularly as part of the Open Government Partnership. It highlights practical, measurable, specific and actionable steps that governments can, and are taking to advance open government.

The full guide covers a broad range of topics, and more are being developed.

Cross cutting topics	Focused topics
Assets disclosure and conflicts of interest	<u>Aid</u>
<u>Budgets</u>	Construction
<u>Citizen engagement</u>	Consumer Protection
Open government data	<u>Elections</u>
Privacy and Data Protection	Environment
Public contracting	Extractive industry
<u>Public services</u>	<u>Fisheries</u>
Records management	Land
Right to information	<u>Parliaments</u>
Whistleblower protection	Police and public security
	Tax and Illicit flows

1 A full index can be found at <a href="https://www.opengovguide.com/topics">www.opengovguide.com/topics</a>

Each Topic has been developed by an expert organisation and offers a flexible menu of 'illustrative commitments' which governments could adopt.

Initial steps – actions that a country can take starting from a relatively low baseline

Intermediate steps – actions that countries can take once they have already made moderate progress

Advanced steps - established best practice demonstrated by the most advance performers

Innovative steps – new approaches which countries are trying out

For each step the Guide lists.

- **Recommendations** detailed guidance from expert networks
- Standards and guidance key principles, guidance, reports, rankings and tools
- Country examples examples in practice from around the world

The levels of ambition do not imply that countries must work through the steps one by one, or that the country examples given in relation to a particular action implies an overall rating of national progress. Rather, it seeks to offer a flexible framework to support national dialogues about reforms in support of progress towards greater openness.

This document is a customised extract from the full online guide, which is a work in progress. Opengovguide.com is not just a static website. We hope that it will continue to grow with new case examples, resources and ideas. Contact <a href="mailto:info@opengovguide.com">info@opengovguide.com</a> with comments and suggestions.

# About T/AI

T/A I is a donor collaborative that aims to seize momentum and expand the impact breadth and coordination of funding and activity in the transparency and accountability filed as well as to explore applications of this work in new areas. The collaborative includes the Ford Foundation, Hivos, the International Budget Partnership, the Omidyar Network, the Open Society Foundations (OSF), the Revenue Watch Institute, the UK Department for International Development and the William and Flora Hewett Foundation

The contents of The Guide are attributable to the contributors for each Topic. The Transparency and Accountability Initiative members do not necessarily endorse the recommendations mentioned in the publication and website.

The Transparency and Accountability Initiative c/o the Open Society Foundation
Millbank Tower, 7th floor
21-24 Millbank
London SW1P 4QP
United Kingdom
+44 (0)207 031 0200

www.transparency-initiative.org

# Assets disclosure and conflicts of interest



Lead author: Global Integrity

# Introduction

When officials use their public office for private gain, it undermines institutions, deprives citizens of essential services and derails economic development. A conflict of interest arises when a public official is in a position to use public office for personal private gain or for the gain of other private parties. It points to the potential for--not necessarily the existence of-improper conduct. Thus, a regulatory regime of rules, guidance, and enforcement is needed to reduce the risk of real or perceived unethical conduct. Codes of conduct and regulations typically cover the following areas:

- 1. **Asset disclosure requirements** to make public official's assets and business activities transparent to the public.
- 2. **Conflict of interest rules** and guidance to identify and manage conflicts of interests and <u>make sure</u> public officials' decisions are not improperly affected by self interest.
- 3. **Revolving door regulations** to stem conflicts of interest arising from the movement of individuals between the public and private sectors.
- 4. **Gift and hospitality rules** preventing special interests attempting to influence policy by offering public servants items or services of value in return for favours.

Disclosure can be a powerful tool in bolstering public integrity and preventing abuses of power. While governments may put in place absolute restrictions on certain kinds of conduct, it is often supplemented with disclosures, which provide the means to monitor and resolve conflicts of interest and to detect and deter illicit enrichment.

There are multiple pathways through which asset disclosure and conflict of interest regulations strengthen public integrity. They build a culture of integrity by establishing standards of acceptable behaviour and by providing clear rules and guidance on ethical conduct in public office. Greater transparency through disclosure is a powerful deterrent against unethical behaviour by reminding public officials that their behaviour is subject to scrutiny. Moreover, they provide a valuable source of information for detecting abuse and corruption (World Bank, 2013). There is no one-size-fits-all approach to designing an appropriate regime. Absolute restrictions are often easier for governments to implement than disclosure systems, and are particularly relevant in contexts where there is low government capacity or resources. However income and asset disclosures are increasingly used, and a growing body of work points to a set of core principles that could be considered by governments seeking to adopt robust, effective disclosure measures.

#### References

World Bank (2013) Financial Disclosure Systems. Declarations of Interests, Income, and Assets Background Primer prepared by the Public Accountability Mechanisms (PAM) Initiative of The World Bank Public Sector and Governance Group

#### **Expert Organisations**

Organisation for Economic Co-operation and Development http://www.oecd.org/gov/ethics/managingconflictofinterestinthepublicservice.htm

World Bank <a href="http://www.worldbank.org/anticorruption">http://www.worldbank.org/anticorruption</a>

 $Inter\ American\ Development\ Bank\ \underline{http://www.iadb.org/en/topics/transparency/transparency-and-anticorruption, 1162.html}$ 

African Development Bank http://www.afdb.org/en/about-us/structure/integrity-and-anti-corruption/

 $\textbf{Asian Development Bank} \ \underline{\text{http://www.adb.org/site/integrity/main}}$ 

Organization of American States <a href="http://www.oas.org/juridico/english/fightcur.html">http://www.oas.org/juridico/english/fightcur.html</a>

Sunlight Foundation <a href="http://www.sunlight.org/">http://www.sunlight.org/</a>

Transparency International <a href="http://gateway.transparency.org/guides/intro/public integrity">http://gateway.transparency.org/guides/intro/public integrity</a>

# Summary of illustrative commitments

# Initial

- Establish a law requiring public disclosure of income and assets by elected and senior public officials
- Establish regulations governing gifts offered to public sector officials
- Establish regulations governing post-government private sector employment

# Intermediate

• Establish a system of oversight for asset and conflicts of interest disclosures

# Innovative

• Publish asset and conflict of interest disclosures as open data

# **Detailed Recommendations**

**Initial Step:** Establish a law requiring public disclosure of income and assets by elected and senior public officials

# Justification

Disclosing the value of assets and liabilities and sources of income, acts as a deterrent against graft, collusion, and patronage in the public sector.

Making asset and income declarations public allows civil society to assist in the detection of violations of financial disclosure requirements, providing additional scrutiny, complementing the role of official oversight bodies. However in many countries disclosures are not made public. A survey by the World Bank in 2012 found that 78% of countries have financial disclosure systems in place, but only 43% make this information public (World Bank, 2012).

The United Nations Convention against Corruption (UNCAC) requires state parties to consider establishing policies requiring officials to reveal "to appropriate authorities ... their outside activities, employment, investments, assets and substantial gifts or benefits".

Asset disclosure measures are a powerful tool but they are also prone to disappointment or political pushback if launched with overambitious mandates in the wake of corruption scandals and are not backed by adequate resources. Systems burdened with too many requirements and inadequate institutional capacity to enforce compliance are more likely to fail than those designed to serve manageable objectives. When designing an asset disclosure system, attention should be paid to the local political, institutional, and socioeconomic context.

Countries are advised to start with high priority areas of disclosure and subsequently build the political will and capacity for more ambitious reforms. Countries might want to build up from initial targeted disclosure of high risk or high profile officials, to disclosure of senior civil servants and judges. Countries could also progress from disclosure of income and assets, to disclosure of business activities, to disclosure of post-employment activities (World Bank, 2012).

# Recommendations

- Establish and communicate a clear roadmap for the development of the scope, and coverage of the system. It is
  important to build capacity incrementally and manage public expectations about what the system can realistically
  achieve. As the capacity for managing asset disclosures is developed the system can be gradually expanded and
  strengthened, to widen the pool of people required to file, reinforce verification procedures, and improve public
  access to information.
- 2. As a general rule, asset and income disclosure requirements should cover at least the leadership of the three branches of government (executive, legislative and judiciary) as well as the senior career civil service/ bureaucracy.
- 3. For asset and income disclosures to be most effective, they must be regular, covering a range of key information. The information to be disclosed should include a combination of the following items:
  - Assets (Personal residences, Second homes, vacant land, buildings, farms, Financial investments (e.g. stocks, trusts, options, warrants, mutual funds, commodities, futures, money owed, savings plans, insurance policies and retirement accounts) and business assets (e.g. private corporations and partnerships), Bank accounts, interest-bearing instruments and cash, Vehicles (e.g. cars, boats, airplanes) and other significant movable assets (e.g. jewellery, art, furniture, cattle).
  - Liabilities (All debts, obligations, credit cards, mortgages, guarantees and co-signatures).
  - o Sources of income (Financial investments (e.g. interest, dividends, annuities, pensions, benefits).

- Business assets (e.g. corporations, partnerships, farms, rental properties, patents), Private sector employment,
   Professional services (e.g. consulting and other paid contracts from the private or the public sector), Boards and directorships, Other public sector employment, Lotteries, gambling, and one-time payments.
- o Gifts (All significant gifts and benefits received).
- Potential conflicts of interest (Unpaid contracts and employment, Unpaid boards and directorships, Participation in associations, not-for-profit organisations and trade unions, Post-tenure positions and employment).
- 4. Establish clear requirements. Keeping the forms simple and the filing requirements clear is important. The information required should be precise and must avoid ranges to avoid ambiguity and preserve the system's utility.
- 5. Mandate an agency responsible for collecting asset disclosure information with the authority, skills, capacity, and resources to conduct basic verification, request information from the public official or other public or private sector entities, and investigate complaints from the public.

### Standards & Guidance

- Guidelines for Managing Conflicts of Interest in the Public Service http://www.oecd.org/gov/ethics/48994419.pdf
- OGP Eligibility Criteria: Assets disclosure <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>
- Public Office, Private Interests: Accountability through Income and Asset Disclosure <a href="http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf">http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf</a>
- United Nations Convention against Corruption
   http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026 E.pdf
- World Bank Financial Disclosure Law Library <a href="http://publicofficialsfinancialdisclosure.worldbank.org">http://publicofficialsfinancialdisclosure.worldbank.org</a>

# **Country Examples**

About 137 jurisdictions implement some sort of asset disclosure regulations

Of these 137 jurisdictions, around 45 jurisdictions make disclosures available online including Australia, Belgium, Canada, Denmark, Finland, Iceland, Ireland, Portugal, the United Kingdom, Bulgaria, Croatia, Estonia, Georgia, Hungary, Latvia, Lithuania, Romania, and Slovakia.

http://www1.worldbank.org/finance/star site/publications/Public-Private-Interest.html

in India police officers are included in income and asset declaration requirements

The Home Ministry had directed all the officers of the Indian Police Service (IPS) in the country to disclose their assets under the Immovable Property Return (IPR). State level governments have also directed police officers above the rank of Sub-Inspectors to disclose details of their income and assets. Those who fail to comply can be clearance for promotion and service medals. However high rates of non compliance continue to be reported.

- http://http://mha.nic.in/ipr/iprmain.htm
- http://articles.timesofindia.indiatimes.com/2012-06-21/india/32351131\_1\_ips-indian-police-service-home-ministry

Tanzania commits to strengthen asset disclosure regulation as part of its OGP Action Plan

In its Open Government Partnership Action Plan, Tanzania pledges to prepare legislative amendments and regulations to strengthen asset disclosures of public officials.

http://www.opengovpartnership.org/country/tanzania/commitment/accountability-and-integrity

The Dominican Republic is committed to passing an asset declaration law as part of its OGP Action

In its Open Government Partnership Action Plan, the Dominican Republic commits to enact an asset declarations and illicit enrichment law.

• <a href="http://www.opengovpartnership.org/country/commitment/promote-enacment-act-affidavit-assets-and-illicit-enrichment-enacted-and-its">http://www.opengovpartnership.org/country/commitment/promote-enacment-act-affidavit-assets-and-illicit-enrichment-enacted-and-its</a>

# Initial Step: Establish regulations governing gifts offered to public sector officials

# Justification

Rules governing gifts offered to public officials are an important safeguard against special interests trying to influence policy by offering items or services of value to public servants. Statutory guidelines set out rules of acceptable conduct and disclosure requirements for public officials.

By clarifying what constitutes a gift, when it is acceptable, as well as when and how it must be disclosed, gift regulations provide public servants with a code of conduct that inspires public confidence and preserves the integrity of the public sector workforce.

Recommendations

For gift rules to be effective, the regulations should:

- 1. Cover all public officials in the three branches of government including elected officials, civil servants, and the justice sector.
- 2. Be specific with little room for interpretation by clearly outlining what constitutes a gift and what conduct is and is not appropriate. The definition of gifts must be expansive enough to include both objects as well as services of value such as hospitality services.
- 3. Contain clearly defined thresholds that allow for the disclosure of all items or services of value offered to public employees.
- 4. Minimize exceptions and loopholes that would prevent certain gifts from being disclosed, including culturally-specific gifts that are commonly offered but may present a potential conflict of interest within a public sector management setting.

5. Regularly enforced by an independent ethics agency with sanctions applied when appropriate.

Explore processes for pre-approval of gifts and hospitality by an independent government watchdog such as an internal audit agency or ombudsman-type office.

# **Initial Step:** Establish regulations governing post-government private sector employment

# Justification

For public policy and administrative decisions to be made in the public interest, policymakers and regulators must be independent. The promise of future outside employment, consulting, board memberships, or other sources of income could potentially sway an official's behavior. 'Revolving door regulations' seek to prevent real or perceived conflicts of interest arising when individuals move between positions of public office and the private sector. They are an important tool for maintaining public integrity and trust in government (Transparency International, 2011).

Revolving door regulations typically aim to prevent potential conflicts of interest before, during, or after government employment by inserting an adequate buffer of time—a "cooling off" period—that regulates the movement of employees between the two sectors. They offer an important safeguard against attempts to buy access to public officials, preserving the integrity of institutions and officials in the broader sense.

### Recommendations

- 1. Regulations restricting post-government private sector involvement should cover public employees from all branches of government.
- 2. Regulations should explicitly define the types of post-government employment opportunities that present a real or perceived conflict of interest and thus merit being controlled by the regulations. Officials taking positions outside of government after leaving the public sector that do not present a real or perceived conflict of interest with their former positions should not be subject to these rules and regulations.
- 3. Regulations should contain well-defined cooling off periods during which public sector employees cannot work for the private sector where they directly lobby or seek to influence their former government colleagues.
- 4. The length of cooling off periods should be differentiated based on seniority of public sector employees.
- 5. Consider codifying sensible restrictions on pre-government employment and secondments that do not prevent the transfer of valuable knowledge and skills from other sectors to the public sector.
- 6. Consider sensible restrictions on secondments (or other employment arrangements) of private sector employees into public bodies that give private sector organizations insider information or an unfair advantage in promoting company interests.
- 7. Regulations should be codified in law as primary and secondary legislation to serve as an effective deterrent.
  - Primary legislation directly restricts certain forms of post-government employment through specific laws on integrity or as part of the general law on the civil service.
  - Secondary legislations are rules and decrees authorized by primary legislation. A post-government employment clause in employment contracts, for example, is another method of revolving door restrictions.
  - Consider codes of conduct as alternative means to establish or strengthen norms on post-government employment.

- 8. Revolving door regulations should be streamlined with other regulations on lobbying and conflicts of interest.
- 9. Regulations should contain provisions requiring the disclosure of pre- and post-government employment history for public sector employees.
- 10. Regulations should be monitored and enforced by an independent ethics agency with the mandate and authority to initiate investigations.
- 11. A robust awareness and training programme should be instituted to ensure all public sector employees are aware of the existence and compliance requirements of revolving door regulations.

## Standards & Guidance

- Post-Public Employment: Good Practices for Preventing Conflict of Interest <a href="http://www.keepeek.com/Digital-Asset-Management/oecd/governance/post-public-employment\_9789264056701-en">http://www.keepeek.com/Digital-Asset-Management/oecd/governance/post-public-employment\_9789264056701-en</a>
- Revolving Doors, Accountability and Transparency Emerging Regulatory Concerns and Policy Solutions in the Financial Crisis <a href="http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/ETH(2009)2&docLanguage=En">http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/ETH(2009)2&docLanguage=En</a>

# **Country Examples**

At least 32 countries have restrictions on post-government employment in at least one branch of government

According to data from Global Integrity, the following countries have restrictions on post-government employment in at least one branch of government (this is not a comprehensive list and the quality of the regulations varies between jurisdictions):

Albania, Algeria, Armenia, Argentina, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Canada, Colombia, China, Czech Republic, Ethiopia, Ghana, Germany, Kosovo, Georgia, India, Italy, Mongolia, Macedonia, Mexico, Nigeria, Pakistan, Peru, Philippines, Poland, Romania, Russian Federation, Turkey, Serbia, South Africa, United States.

• http://www.globalintegrity.org/files/GIR2011.pdf

South Korea commits to monitoring post-public employment as part of its OGP Action Plan

In its Open Government Partnership Action Plan, South Korea has included a commitment to work towards a corruption-free society. Part of this commitment includes strengthening asset disclosure for public servants and monitoring restrictions on post-public employment.

<a href="http://www.opengovpartnership.org/countries/south-korea">http://www.opengovpartnership.org/countries/south-korea</a>

**Intermediate Step:** Establish a system of oversight for asset and conflicts of interest disclosures

# Justification

Establishing a system of oversight to provide effective guidance, monitoring, and enforcement is crucial. The effectiveness and credibility of a system of disclosures is only as good as its ability to detect violations and penalize wrongdoing.

Simply requiring officials to fill out a form poses little risk to an official seeking to hide certain commercial interests and sources of income from public view. Regular audits when complemented with the credible threat of swift enforcement in the face of violations create a powerful deterrent against improper behavior. Therefore, a system of oversight should be designed with the appropriate institutional and procedural mechanisms to detect risks, audit disclosures, and enforce sanctions for noncompliance. Moreover, such a system should be adequately resourced and must be integrated into the broader institutional and political context in which it operates (World Bank, 2012).

It is vital to communicate the objectives of the system to officials, and advise them about conflict of interest principles. Implementing agencies need to have the necessary skills and resources to review income and asset declarations to detect potential or actual conflicts of interest. Equally important is the ability to advice filers and provide public officials with the necessary guidance to effectively identify and manage conflicts of interest.

### Recommendations

- Provide guidance to public officials on preventing situations where their private interests might improperly influence their official duties.
- Develop a system of monitoring for assets, income and gift disclosures. While regular auditing of all submitted asset disclosures poses a non-trivial burden on government regulators, undertaking random audits of a smaller subset would go a long way towards bolstering an asset disclosure regime's deterrent effect. An effective system of audits should have the following characteristics:
- The percentage or volume of disclosures to be audited would be publicly announced ahead of time.
- A combination of risk-based prioritization and random sampling should be used to select disclosures for audits. The random selection of which disclosures to audit should be performed via a transparent lottery/raffle-type system.
- The auditing would be performed by an independent third party, ideally an outside, non-governmental auditor (whether a private auditing firm or otherwise).
- Disclosures should be compared over time and against external sources such as tax information, land registries, etc.
- The full results of the audit would be made publicly available immediately following the completion of the audit and overall compliance rates and enforcement actions should be reported publicly.

# Standards & Guidance

- Guidelines for Managing Conflicts of Interest in the Public Service <a href="http://www.oecd.org/gov/ethics/48994419.pdf">http://www.oecd.org/gov/ethics/48994419.pdf</a>
- Income and assets declarations: Issues to consider in developing a disclosure regime <a href="http://www.cmi.no/publications/file/3396-income-and-assets-declarations.pdf">http://www.cmi.no/publications/file/3396-income-and-assets-declarations.pdf</a>
- Public Office, Private Interests: Accountability through Income and Asset Disclosure <a href="http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf">http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf</a>
- World Bank Financial Disclosure Law Library http://publicofficialsfinancialdisclosure.worldbank.org

# **Country Examples**

Argentina, Guatemala, and Indonesia use targeted methods of selecting asset disclosures for verification

In Argentina, the process of selecting which asset disclosures to be verified is based on a targeted method. The top 5 percent (1,600 in 2009) of declarations are systematically verified while the other 95 percent are verified according to categories of risk. The Asset Declaration Unit is able to verify around 2,500 declarations a year.

In Guatemala, verification of asset disclosure content occurs only when officials leave office. The Department for Verification, Analysis and Investigation of Income and Assets compares the final income and asset declaration to the employee's initial and subsequent declarations to detect any significant or unjustified increases in assets.

In Indonesia, a sample of asset declarations is verified, targeting the declarations of officials in high-risk agencies.

<a href="http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2013/05/09/000333037\_20130509102749/Render-ed/PDF/774620PUB0EPI00LIC00PUB0DATE0503013.pdf">http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2013/05/09/000333037\_20130509102749/Render-ed/PDF/774620PUB0EPI00LIC00PUB0DATE0503013.pdf</a>

Peru commits to strengthening the capacity of the Comptroller General to detect possible corruption as part of its OGP Action Plan

In its Open Government Partnership Action Plan, Peru has included a commitment to improve integrity in the public sector. Specific actions to this end include improving the regulatory framework governing income and asset declarations of public officials and employees of the State, as well as strengthening the capacity of the Comptroller General of the Republic to detect possible corruption. Actions also include proposing a specific regulatory scheme to prevent and detect conflicts of interest.

• <a href="http://www.opengovpartnership.org/countries/peru">http://www.opengovpartnership.org/countries/peru</a>

Rwanda's Ombudsman carries out audits on randomly chosen asset declarations

The Office of the Ombudsman of Rwanda, established in 2003, is responsible for the collection of declarations and for monitoring submission compliance and verifying the accuracy of approximately six percent of the nearly 5,000 declarations it receives each year. The Office of the Ombudsman chooses which declarations to audit by targeting a portion of filers based on their position, and randomly chooses a sample of declarations to audit. These audits entail not only verifying that the assets and values declared match government and banking records, but also lifestyle checks and house visits.

[Source: World Bank]

• <a href="http://elibrary.worldbank.org/content/book/9780821397961">http://elibrary.worldbank.org/content/book/9780821397961</a>

Slovenia uses a random sampling method to test asset disclosures

The Integrity and Prevention of Corruption Act from 2010 improved the system of oversight for assets disclosure in Slovenia. For example, it made provision for asset declarations to be chosen for content verification through a random selection process to identify which cases reveal a disproportionate increase in wealth or a discrepancy between the contents of the declarations and information contained in external registries. The number of declarations selected depends on the number of staff available to verify content and, therefore, may vary from year to year. In 2009, 33 percent of all declarations were selected to undergo verification, with a staff-to-declaration ratio of 1 to 413.

 http://wwwwds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2013/05/09/000333037\_20130509102749/Render ed/PDF/774620PUB0EPI00LIC00PUB0DATE0503013.pdf

No commitments for this level

Innovative Step: Publish asset and conflict of interest disclosures as open data

Justification

Public access to information strengthens social accountability mechanisms as informed citizens are more likely to demand greater accountability from public officials.

Disclosures that can be accessed publicly strengthen the demand for accountability by provisioning essential information used in monitoring and enforcement efforts. Accessible and searchable public disclosures allow citizens, media, government, and civil society organizations to verify information and raise concerns as they are discovered. The possibility of public scrutiny will likely discourage misstatements or inappropriate conduct from public officials, strengthening the deterrent effect of disclosures. It also builds trust and confidence in institutions by demonstrating a commitment to transparency and accountability. Public accessibility of disclosures is thus a key determinant of their impact. The higher the visibility of the disclosures, the greater is its potential for effectiveness.

# Recommendations

- Make all disclosure data searchable online. While public accessibility might take different forms in different contexts, in
  countries where Internet penetration is reasonably high, submitted disclosures should be made available online and
  searchable by basic criteria such as submitter, year filed and government agency or department. For example, it
  would be helpful if one could verify whether a number of lawmakers had consulting arrangements with the same
  government contractor. Compliance rates, enforcement actions, and the results of audits should also be made
  available online (World Bank, 2012).
- Use open data principles in making information available online (Sunlight Foundation, 2010). Technological barriers (for example, proprietary technologies) as well as economic barriers (for example, fees for access) should be eliminated through the use of open data formats. Moreover, encourage greater standardization and machine-readability of the results to increase ease of analysis and comparability (Sunlight Foundation, 2013).
- Build in robust social accountability processes into the monitoring functions of government ethics enforcement agencies so credible concerns raised by the public can trigger investigations by appropriate authorities.

# **Country Examples**

Argentina developed an electronic financial disclosure system

A fully electronic financial disclosure system was introduced in Argentina in 2000 as a response to the enormous logistical challenge of managing a paper system. The impacts have been significant and rapid. Requiring the filer to complete all necessary fields before the form can be submitted has resulted in a reduction in the number of errors or

incorrectly filled-out asset declaration forms, and subsequently in an increase in compliance rates. In the year following implementation, submission compliance rates increased from 67 percent to 96 percent and the estimated cost to the government per form decreased from US\$70 to US\$8.

• http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf

Around 45 jurisdictions make disclosures available online

These 45 countries include Australia, Belgium, Canada, Denmark, Finland, Iceland, Ireland, Portugal, the United Kingdom, Bulgaria, Croatia, Estonia, Georgia, Hungary, Latvia, Lithuania, Romania, and Slovakia, Hong Kong SAR (China), Thailand, Mongolia, and Taiwan (China).

- http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Using AD for PEP identification.pdf
- Chile has committed to publish asset declarations online as part of its OGP Action Plan

In its Open Government Partnership Action Plan, Chile commits to two projects concerning asset disclosure: one that focuses on integrity in public functions, and one voluntary disclosure of assets scheme to encourage citizen control by publishing asset declarations online.

- <a href="http://www.opengovpartnership.org/country/chile/action-plan">http://www.opengovpartnership.org/country/chile/action-plan</a>
- Estonia will create a database of declarations of economic interests as part of its OGP Action Plan

Estonia is focusing parts of its Open Government Partnership Action Plan on actions to prevent corruption and conflicts of interest among public officials. Among the planned activities in this regard is the creation of a database of declarations of economic interests to be finalised by 2014.

- <a href="http://www.opengovpartnership.org/country/estonia/commitment/prevention-corruption-and-conflicts-interest">http://www.opengovpartnership.org/country/estonia/commitment/prevention-corruption-and-conflicts-interest</a>
- Georgia developed an online system for public financial disclosure

In Georgia senior public officials are required to make annual disclosures of their assets. But until 2010 they did this in hard copy and the declarations were difficult for citizens to access.

In 2010, the Georgian government decided to develop an online system. All senior officials now submit their asset declarations through the Online Asset Declaration System on the website <a href="www.declaration.gov.ge">www.declaration.gov.ge</a>. The submitted declarations are then published instantaneously into a searchable database from which anyone can search for senior officials' declarations and download the information for free.

The <u>Civil Service Bureau of Georgia</u> (CSB), which is the agency responsible for collecting and publishing asset declarations, supports the asset declaration process by sending reminders to the officials via text messages and emails, and providing a hotline and online chat service to help with queries about asset declarations.

The CBS receives around 3000 electronic financial disclosures annually. It has also uploaded the hard copy declarations from 1998 to 2010 making the website the host of over 60,000 disclosure documents (although the early documents are only available as scanned pdf files).

In order to make the financial disclosure system online-base, CSB needed to take a number of actions. First, they had to assess the political situation, carry out political consultations, prepare amendments to the legislation and lobby the Parliament. When this was done, they designed the electronic asset disclosure system (the system design was outsourced at about USD 20,000 plus an annual maintenance cost of about USD 10,000). They then tested the system with focus groups, both citizen-based and focus groups based on senior officials, and provided training to administrative staff at CSB as well as HR representatives of each government agency.

After launching the system, CSB has continued to develop the system and adding more features to it. By the end of 2013, the Online Asset Declaration System will have a mobile phone interface. An evaluation tool to enable the public to make different analytical reports from the database will also be introduced. It also planned that a public financial disclosure monitoring mechanism will be introduced by the end of 2014.

Introducing the online asset declaration system in Georgia has been beneficial for several reasons:

- The public now has more information about the government;
- Watchdogs are in a better position to monitor the honesty and legality of incomes and expenditures of senior officials;
- The government has become more responsive, cleaner and less corrupt; and
- The online asset disclosure system has inspired other government agencies to launch similar e-governance projects.

The Georgian Public Disclosure System was the 2013 winner of the <u>UN Public Service Awards</u> for its excellence in preventing corruption.

Based on presentation by Irakli Kotetishvili, Director of the Civil Service Bureau of Georgia at an Open Government Partnership Webinar on 21 May, 2013

- https://worldbankva.adobeconnect.com/\_a833642795/p4hbmo50fp2/? launcher=false&fcsContent=true&pbMode=normal
- http://transparency.ge/en/blog/tracking-top-level-ministry-officials'-income-and-bonuses
- Mexico has transitioned to online asset declaration

Mexico has transitioned to online asset declaration with the implementation of its Declaranet system. Mexico does not have a fully mainstreamed digital culture, so public servants were initially reluctant to abandon paper-and-ink disclosure forms. To overcome this reluctance, the government created an online instruction portal, provided tutorial sessions, created a toll-free call centre, and set up training centres to help filers declare their assets.

- http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf
- Moldova will develop an automated information system as part of OGP Action Plan

Moldova's Open Government Partnership Action Plan includes a commitment to ensure transparency of information on income and property of senior officials, judges, prosecutors, and civil servants. As part of this commitment, Moldova will adjust its national legal framework to allow for online submission of income and property declarations of senior officials, judges, prosecutors, and civil servants. In addition, an automated information system for online filing of income statements of public officials will be developed, installed and launched.

• <a href="http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country">http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country</a> action plans/Moldova</a>
<a href="OpenGovernment Action Plan 2012-2013">OpenGovernment Action Plan 2012-2013</a> 0.pdf

Russia makes summaries of assets disclosures available online

The Russian Federation recently started making summaries of the disclosures of public officials available online. Citizens can access them on the websites of the presidency, the government, and other institutions.

http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Using\_AD\_for\_PEP\_identification.pdf

Ukraine will amend its law on asset disclosure as part of its OGP Action Plan

Ukraine's Open Government Partnership Action Plan contains a commitment to prevent and combat corruption. Specific activities to this end include amending the law to ensure openness of data relating to property, income and expenditure returns, in particular through publishing details of returns by high profile officials at public bodies' official web sites and disclosing data from returns of any public officer upon information request.

http://www.opengovpartnership.org/country/commitment/preventing-and-combating-corruption-0

# **Budgets**



Lead author: International Budget Partnership

# Introduction

Every year, governments collect and spend billions of dollars in taxpayer funds and citizens have a right to know how their governments are collecting and spending their money.

Governments implement policies through ministries, departments and agencies at central and local levels. These public bodies, and their executives, are accountable to the political leadership. Politicians, in turn, are accountable to their citizens for the implementation of national policies, in health care and education for example. Budgets are the link between policies and their implementation, between political visions or programmes and their delivery: they allocate resources to plans in terms of money and time.

As part of the management of the budget, governments produce a series of reports at various points in the annual budget cycle. These include Pre-Budget Statement, Executive's Budget Proposal, Enacted Budget, Citizens' Budget, In-Year Reports, Mid-Year Review, Year-End Report and Audit Report.

In order for citizens to be able to know how their governments are collecting and spending their monies, they need access to these budget reports. Fiscal transparency allows for better-informed debate by both policymakers and the public about the design and results of fiscal policy, and establishes accountability for its implementation.

Many budget reports are already being produced by governments for their internal use and these reports can be made available on government websites at almost no cost. Further, legislative discussions on the budget happen in almost every country and it is not an expensive exercise to make these discussions public by allowing the media to cover these discussions. Fiscal transparency is often pushed forward as part of political transitions, or in response to financial crisis or corruption. External influences that promote global norms and empower domestic reformers and civil society actors can also play a key role (Khagram et al, 2013).

Recent research studies show that transparency can enable governments to raise credit from the international markets at cheaper rates (Hameed, 2011). It can also help shine a light on the efficiency of public expenditures. Further, transparency can help foster equity by matching national resources with national priorities. Transparency and public participation can enable governments to build trust and give citizens voice and dignity (IBP, 20313) Opacity on fiscal issues on the other hand can undermine fiscal discipline and as illustrated in a recent IMF publication it can lead to large unexpected debt (Cottarelli, 2012).

### References

Cottarelli, 2012, 'Fiscal Transparency, Accountability, and Risk, IMF Fiscal Affairs Department http://www.imf.org/external/np/pp/eng/2012/080712.pdf

Hameed, 2011, 'Budget Transparency and Financial Markets, OGP Working Paper 1, Open Budget Partnership'. http://internationalbudget.org/wp-content/uploads/IBP-Working-Paper-1-Budget-Transparency-and-Financial-Markets.pdf

IBP, 2013 Learning Program: Case Examples, http://internationalbudget.org/ibp\_publication\_categories/learning-program/

Khagram, S., A. Fung and P. De Renzio, 2013, Open Budgets: The Political Economy of Transparency, Participation, and Accountability, Washington DC: Brookings Institute.

# **Expert Organisations**

 $International\ Budget\ Partnership\ \underline{http://www.internationalbudget.org}$ 

Global Initiative for Fiscal Transparency <a href="http://fiscaltransparency.net/">http://fiscaltransparency.net/</a>

Global Movement for Budget Transparency, Accountability, and Participation (BTAP) <a href="http://www.globalbtap.org/">http://www.globalbtap.org/</a>

 $Organization \ for \ Economic \ Cooperation \ and \ Development \ \underline{http://www.oecd.org/gov/budgeting/}$ 

International Monetary Fund <a href="http://www.imf.org/external/np/fad/tran">http://www.imf.org/external/np/fad/tran</a>

Public Expenditure and Financial Accountability Program <a href="http://www.pefa.org/">http://www.pefa.org/</a>

Collaborative Africa Budget Reform Initiative <a href="http://www.cabri-sbo.org/">http://www.cabri-sbo.org/</a>

OGP Working Group: Fiscal Openness <a href="http://fiscaltransparency.net/category/ogp-gift-fowg/">http://fiscaltransparency.net/category/ogp-gift-fowg/</a>

# Summary of illustrative commitments

### Initial

- Allow public access to budget hearings in the legislature
- Publish a Citizens' Budget
- Publish Executive's Budget Proposal and Audit Reports
- Publish the four core budget documents

### Intermediate

- Consult with the public on budget preparation
- Enable effective oversight by legislatures and supreme audit institutions
- Publish all budget reports as open data
- Publish all eight key budget reports

# Advanced

- Enable citizen participation in budgeting
- Publish information on resources received by service delivery units
- Publish off budget financial information

### Innovative

• Fully implement the GIFT Principles on fiscal transparency

# **Detailed Recommendations**

# Initial Step: Allow public access to budget hearings in the legislature

# Justification

Legislative discussions on the budget happen in almost every country. It is not an expensive exercise to make these discussions public by allowing public access and media broadcasting of these discussions.

# Recommendations

- The national legislature should organize public hearings when it discusses the budget presented to it by the executive prior to approving the budget.
- The media should be allowed to broadcast these hearings so that these hearings are accessible to a larger audience.
- Reports on the outcomes of these public hearings should be published.

# Standards & Guidance

• IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>

# **Country Examples**

Increasing numbers of countries permit some form of public hearings during budget discussions in the legislature

According to the 2012 survey by the International Budget Partnership 67 countries out of 100 surveyed hold some form of public hearings on the macroeconomic and fiscal framework presented in the budget in which testimony from the executive branch (and in some cases the public) is heard.

• http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf

# Initial Step: Publish a Citizens' Budget

# Justification

Government budgets are filled with so many numbers and so much technical jargon that the ordinary readers cannot easily understand what they mean. People need information in an accessible, understandable form to enable them to understand what government is doing with their money and allow them to participate in governmental affairs.

The International Monetary Fund in its Manual on Fiscal Transparency states that "A clear and simple summary guide to the budget should be widely distributed at the time of the annual budget."

Such a 'Citizens' Budget' serves the public, but can also serve the government by enhancing public knowledge about the

budget and the reasoning behind the choices made in putting it together.

Citizens' Budgets tend to present an accessible version of either the Budget Proposal or the Enacted Budget. But producing a Citizens' Budget can help a government to develop its capacity to make technical information more accessible, more broadly.

# Recommendations

- Develop a strategy for producing a Citizens Budget, defining the goals and objectives, and the plan for production.
- Ensure that the ministry responsible has the structure, resources, and capacities to properly develop and disseminate a Citizens Budget.
- Hold a consultation with potential users to understand their interests and needs.
- Design and write the Citizens' Budget to meet users needs and include important basic information about the budget, including assumptions, the budget process, revenue collection, priorities in allocations and spending, sector-specific information and information about targeted programs and contact information for follow up by citizens.
- Present it in languages and through media (such as newspapers, radio, and video) to make it accessible, as well as publishing it on the web and in hard copy.
- Publish the Citizens Budget within a timeframe that makes it available at the same time as the technical document.
- Disseminate it widely
- Evaluate the process and planning for the next year's Citizens Budget.

### Standards & Guidance

The Power Of Making It Simple: A Government Guide To Developing Citizens Budgets
 http://internationalbudget.org/publications/the-power-of-making-it-simple-a-government-guide-to-developing-citizens-budgets/

# Country Examples

Brazil provides citizens education on public budgets

Brazil publishes an annual Citizen's Budget. However it also backs this up with several other innovative communication streams.

To better explain to citizens what the budget is, its importance and other aspects of the subject, a radio program titled Moment Budget is produced to provide information to the listener in a simple and direct language.

The Virtual School of the Federal Budget Secretariat (SOF) was created in 2008 by the Ministry of Planning, Budget and Management. It provides online courses on the understanding public budgets. Courses are aimed at both government employees and members of the public, and civil society. By 2011 the Virtual School graduated approximately 2000 citizens.

The government also created a specific Public Budget Primer for children, available as a booklet and a website. In the form of a comic, the booklet provides an introduction to the idea of the Public Budget in relation to children and their concerns.

- http://www.orcamentofederal.gov.br/educacao-orcamentaria
- <a href="http://fiscaltransparency.net/wp-content/uploads/2013/11/Brazil-Experience-Public-Participation.ppt">http://fiscaltransparency.net/wp-content/uploads/2013/11/Brazil-Experience-Public-Participation.ppt</a>

Guatemala developed a Citizens' Budget

In 2010 the <u>Ministry of Finance</u> in Guatemala decided to produce its first <u>Citizens Budget</u> in order to comply with laws that require it to make information available. The Ministry's initiative was aided by the support of the country's President, who was committed to budget transparency. His endorsement was very important because the initiative faced some considerable opposition from within the ministry itself.

The ministry also received an offer of cooperation and assistance from civil society groups, most particularly the <u>Centro Internacional para Investigaciones en Derechos Humanos</u> and the <u>International Budget Partnership</u> to help with translating the technical aspects of the budget into accessible language. It also consulted with media and other stakeholders. Publication of the Citizens Budget was supported by the German aid agency, GIZ.

The document was launched with a public event and with media attention. It was published in English Spanish and four Mayan language. However maintaining the sustainability of this approach has proved to be a challenge.

- http://www.opengovguide.com/wp-content/uploads/2013/09/citizen\_budget11.pdf
- http://www.opengovpartnership.org/calendar/webinar-citizen's-budget-dialogue-citizens
- http://www.youtube.com/watch?v=bNdGjsysHrM

Kazakhstan's Citizen's Budget is mandated by legislation

In 2011, the government of Kazakhstan passed into law the Citizen's Budget Law, which covers the development of Citizens Budgets at both the central and local levels. What is unique about the Kazakh legislation is that Citizens Budgets will not only be published when the government publishes the Executive's Budget Proposal but also after the formulation, approval, implementation, and evaluation stages of the budget process. Relevant chapters of the Law are available on official websites of state agencies, including that of the Ministry of Finance, as well as local governments.

• <a href="http://internationalbudget.org/wp-content/uploads/Citizen-Budget-Guide.pdf">http://internationalbudget.org/wp-content/uploads/Citizen-Budget-Guide.pdf</a>

:: Mexico has established a budget transparency portal

In Mexico the Ministry of Finance has historically published information on public finance. Some of this information was published as part of its regulatory obligations. However, information such as monthly data on of the revenue, expenditure, debt, transfers to local government, etc.was also published by the Executive initiative, as "Public Finance Statistics".

In 2012 the Government decided to create a website with useful information on how resources are spent. The aims were to provide:

- Greater transparency in public-resource management
- Fiscal transparency in citizen language
- Thematic transparency, with particular attention to citizens interests

The portal's design serves to gathered budget information in one place and present it in plain language and open

formats. It was developed through dialogue with social organisations and members of academia, and provides a frontend designed for easy user access and a back-end data warehouse to integrate budget information from the information systems of the Ministry, in real time, as it is updated internally. The data can be found in open file format "Excel" or "CSV" that let the users analyse and play with the information.

The portal seeks to link all stages of the budget process: planning, programming, budgeting, exercise and control, monitoring, evaluation and accountability. It includes government finance statistics, resources transfered to local governments, quarterly reports in open formats, year-end report, citizens budget and year end report as well as details of investment projects, indicators, goals and external evaluations.

Social media and a short 'magazine' style presentation of the highlights of the citizen's budget have been used to increase accessibility

- http://fiscaltransparency.net/wp-content/uploads/2013/11/Mexico-Presentation.pptx
- http://www.transparenciapresupuestaria.gob.mx/
- http://www.opengovpartnership.org/country/mexico/case-study/inspiring-story-budget-transparency-portal

Rwanda started publishing a Citizen's Guide to the Budget in 2009

Rwanda's Ministry of Finance first published a Citizen's Guide to the Budget in June 2009. The first edition was quite dense and not tailored to non-specialist readers. However in 2010 they produced a more user-friendly guide, using less technical language and including cartoons. It was produced in French, English, and Kinyarwanda and more than 10,000 copies were distributed. It also highlighted how citizens can get involved in developing and monitoring the national budget.

- http://www.opengovguide.com/wp-content/uploads/2013/09/Rwanda\_2011-12.pdf
- http://www.opengovguide.com/wp-content/uploads/2013/09/Rwanda\_transparency\_and\_citizens\_guide.pdf
- Tanzania produced a Citizen's Budget Handbook

In Tanzania the Ministry of Finance (MoF) worked with the Policy Forum network of NGOs to produce a Citizen's Budget Handbook — a simplified digest of the national budget. It explains concepts, avoids using too much technical jargon, and uses cartoons and simple graphs to make it easy to understand. It is produced in English and Swahili, and gives a particular focus to those areas that have a direct impact on citizens livelihoods such as education, health, water, energy and transport.

- http://www.opengovpartnership.org/sites/default/files/Tanzania\_0.pdf
- http://www.mof.go.tz/mofdocs/budget/Citizens%20Budget/CITIZENS%20BUDGET%202012-2013%20-%20English.pdf
- The Philippines has developed a Citizen's Budget Portal

As part of its first OGP Action Plan the Government of the Philippines committed to develop and launch a website, which will serve as an interactive platform for citizens to learn about and find information on the National Budget. The

website <u>budgetngbayan.com</u> includes a section called Budget 101 which explains the budget cycle in plain language. Budgets are available to download as pdf or Excel files, along with a 'People's Budget' which provides explanation. Users of the site can comment and ask questions using Facebook. 'Faith' a Foreign Aid Transparency Hub is also under development.

The 2012 National Budget contains a general provision (Section 91) that requires agencies to disclose information on their mandates and the functions and designations of their key officials; their approved budgets and corresponding targets; funding, key beneficiaries and status of programs and projects; and annual accomplishment and accountability reports, among others. The 2012 Budget also contains special provisions that require the disclosure of additional information.

The Independent Review of the Philippines OGP progress found that Stakeholders, particularly those involved in budget transparency work, found the website useful as a research tool. Citizens who posted queries on the website received feedback from the site administrator and recommended making the website even more interactive.

- http://budgetngbayan.com/
- http://www.opengovpartnership.org/country/philippines/commitment/technology-and-innovation
- <a href="http://www.opengovpartnership.org/blog/blog-editor/2013/10/09/irm-releases-philippine-report-public-comment">http://www.opengovpartnership.org/blog/blog-editor/2013/10/09/irm-releases-philippine-report-public-comment</a>

# Initial Step: Publish Executive's Budget Proposal and Audit Reports

# Justification

The timely publication of essential budget documents forms the basic building blocks of budget accountability and an open budget system. The publication of the Executive's Budget Proposal and Audit Reports is recommended in the IMF's fiscal transparency code and the OECD's best practice guidelines on budget transparency. INTOSAI (the global association of supreme audit institutions) recommends the publication of audit reports. Further, the IBP's Open Budget Index evaluates these reports.

# Recommendations

- The executive, led by the Ministry of Finance, should publish the Executive's Budget Proposal, ideally three months before the start of the year. This report presents the government's detailed plans, in terms of policy priorities and budgets for each ministry and agency, for the coming budget year.
- The supreme audit institution should publish an Audit Report, ideally within six months to a year after the end of the relevant budget year. This is an agency that is independent of the executive and has the mandate to review through audit the financial performance of the government in the previous budget year; audits can also cover specific agencies and non-financial aspects of the executive's performance.

# Standards & Guidance

- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>
- IMF fiscal transparency code <a href="http://www.imf.org/external/np/fad/trans/code.htm">http://www.imf.org/external/np/fad/trans/code.htm</a>
- INTOSAI Basic Principles in Government Auditing http://www.issai.org/media/12943/issai 100 e.pdf
- OECD best practice guidelines on budget transparency <a href="http://www.oecd.org/gov/budgeting/best-practices-budget-">http://www.oecd.org/gov/budgeting/best-practices-budget-</a>

transparency.htm

- OGP Eligibility Criteria: Fiscal Transparency <a href="http://www.opengovpartnership.org/eligibility">http://www.opengovpartnership.org/eligibility</a>
- OGP Eligibility Criteria: Fiscal Transparency <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>

# Country Examples

Afghanistan has established a roadmap to improve public financial management

In 2010 the Afghanistan government drafted a Public Financial Management (PFM) Roadmap focused on "strengthening the budget in driving effective delivery of key priority [development] outcomes; improving budget execution; and increasing accountability and transparency.

Key factors were the political will of the leadership of the Ministry of Finance, as well as the government's desire to improve its international image. Donor organizations and international financial institutions also increasingly focused their attention on fiscal transparency as a means to reduce corruption in the country. Their pressure, coupled with technical assistance provided to the Ministry of Finance, facilitated quick improvements. The pre-budget statement and executive's budget proposal were previously produced for internal use but withheld from the public, so making them publicly available was a quick and easy step toward substantial improvement.

As part and parcel of these developments, civil society organizations and researchers have started engaging with the government, primarily through the Ministry of Finance, on budget-related issues, publishing budget analyses and organizing public awareness campaigns through the media, and conducting meetings and workshops to highlight the importance of budget transparency for citizen monitoring and government accountability.

• http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf

Many countries publish the Executive's Budget Proposal and Audit Report

According to the 2012 survey by the International Budget Partnership 62 countries out of 100 surveyed publish both the Executive's Budget Proposal and the Audit Reports.

http://survey.internationalbudget.org/#availability

Mexico has established a budget transparency portal

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In 2012 the Government decided to create a website with useful information on how resources are spent. The aims were to provide:

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The portal's design serves to gathered budget information in one place and present it in plain language and open formats. It was developed through dialogue with social organisations and members of academia, and provides a frontend designed for easy user access and a back-end data warehouse to integrate budget information from the information systems of the Ministry, in real time, as it is updated internally. The data can be found in open file format "Excel" or "CSV" that let the users analyse and play with the information.

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Initial Step: Publish the four core budget documents

# Justification

Governments that currently produce, but do not publish their core budget documents could publish them immediately at little cost. The four most important documents are:

- **The Executive's Budget Proposal** which outlines the government's revenue and expenditure plans. Timely publication of this document is essential for the public to be able to engage in the debate over the government's proposals.
- **The Enacted Budget** which is the result of legislative consideration of the executive's proposal. Because this report documents the commitments that have been approved, it will form the basis of any monitoring of government execution.
- Audit Reports which contain the audit institution's formal, independent evaluation of whether the government has collected and spent public funds as set out in the Enacted Budget, and has done so in accordance with the law. Citizens must have access to this document to be able to gauge the government's performance.
- A Citizens' Budget which provides a non-technical presentation of the budget (either the Executive's Budget Proposal or the Enacted Budget) that is widely accessible to all citizens.

These form the most basic building blocks of budget accountability, thus publishing them is the minimum requirement for an open budget system.

# Recommendations

- To increase the public's access to these reports, and avoid unequal access, budget reports should at a minimum be posted on the government's website. Where internet access is limited, governments could make hard copies of their budgets widely available via public libraries and information desks throughout the country.
- In multilingual countries, budget reports should be published in multiple official languages.
- Each document should be made available according to a timetable and without delay. Late publication of these reports denies the public the ability to use the information to engage in decision-making processes.

# Standards & Guidance

- IBP guide to transparency in government budget reports <a href="http://internationalbudget.org/wp-content/uploads/Government\_Transparency\_Guide1.pdf">http://internationalbudget.org/wp-content/uploads/Government\_Transparency\_Guide1.pdf</a>
- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>
- IMF fiscal transparency code <a href="http://www.imf.org/external/np/fad/trans/code.htm">http://www.imf.org/external/np/fad/trans/code.htm</a>
- OECD best practice guidelines on budget transparency <a href="http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm">http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm</a>
- OGP Eligibility Criteria: Fiscal Transparency <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>

# **Country Examples**

Increasing numbers of countries publish the Executive Budget, Enacted Budget, Audit Report and Citizen's Budget

According to the 2012 survey by the International Budget Partnership, 22 countries out of 100 surveyed publish all four documents.

http://survey.internationalbudget.org/#availability



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- http://www.opengovpartnership.org/country/mexico/case-study/inspiring-story-budget-transparency-portal



The Philippines has developed a Citizen's Budget Portal

As part of its first OGP Action Plan the Government of the Philippines committed to develop and launch a website, which will serve as an interactive platform for citizens to learn about and find information on the National Budget. The website <u>budgetngbayan.com</u> includes a section called Budget 101 which explains the budget cycle in plain language. Budgets are available to download as pdf or Excel files, along with a 'People's Budget' which provides explanation. Users of the site can comment and ask questions using Facebook. 'Faith' a Foreign Aid Transparency Hub is also under development.

The 2012 National Budget contains a general provision (Section 91) that requires agencies to disclose information on their mandates and the functions and designations of their key officials; their approved budgets and corresponding

targets; funding, key beneficiaries and status of programs and projects; and annual accomplishment and accountability reports, among others. The 2012 Budget also contains special provisions that require the disclosure of additional information.

The Independent Review of the Philippines OGP progress found that Stakeholders, particularly those involved in budget transparency work, found the website useful as a research tool. Citizens who posted queries on the website received feedback from the site administrator and recommended making the website even more interactive.

- <a href="http://budgetngbayan.com/">http://budgetngbayan.com/</a>
- http://www.opengovpartnership.org/country/philippines/commitment/technology-and-innovation
- <a href="http://www.opengovpartnership.org/blog/blog-editor/2013/10/09/irm-releases-philippine-report-public-comment">http://www.opengovpartnership.org/blog/blog-editor/2013/10/09/irm-releases-philippine-report-public-comment</a>

# Intermediate Step: Consult with the public on budget preparation

# Justification

Although they are responsible for taking key decisions about how best to address their country's needs and prospects for development, governments often lack important information and have limited research capacity and analytical resources for making choices about how to raise and spend funds. By increasing the opportunities for the public and civil society organisations to directly engage in and influence these process governments can benefit from their knowledge.

# Recommendations

Establish sector and ministry level consultation meetings with the public on overall budget priorities, as well as macroeconomic policy and inter-sectoral resource allocation issues and provide detailed feedback to the public on how its inputs have been used.

# Standards & Guidance

- GIFT High Level Principles on Financial Transparency <a href="http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf">http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf</a>
- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>

# **Country Examples**

New Zealand uses a wide range of mechanisms to seek public input

New Zealand has adopted a number of mechanisms to seek public input on various aspects of budget implementation and service delivery. Individual government departments and agencies collect information from client surveys, hold public consultations before the government publishes statements and rulings, and maintain hot links on the Inland Revenue website for public consultation, feedback, 'report tax evasion or fraud anonymously', and complaints.

<a href="http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf">http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf</a>

# **Intermediate Step:** Enable effective oversight by legislatures and supreme audit institutions

# Justification

The legislature and Supreme Audit Institution (SAI) play key roles in holding the executive to account for the conduct of fiscal policy, The legislature requires clear authority, together with sufficient time, information, and financial and non financial resources. If the legislature is to enjoy public confidence trust and legitimacy, it must also operate in a transparent, participatory and accountable manner.

In many countries the executive holds very limited consultations or no consultation at all with the legislature during the formulation of the budget, with legislatures in some countries receiving the Executive's Budget Proposal less than six weeks before the beginning of the budget year, and sometimes after the start of the fiscal year, or not at all.

In many countries legislators have to rely on either understaffed research offices or external researchers to inform their deliberations and some have no access to any research capacity whatsoever.

An adequately resourced and independent supreme audit institution is also crucial. Supreme Audit Institutions (SAIs) provide assurance of the integrity of financial information, and of compliance with budgetary rules. SAIs can also play a role in performance auditing; monitoring and assessing both financial and non-financial information in the budget cycle.

# Recommendations

- The executive and/or the legislature (as appropriate in the country) should facilitate the creation of an independent research office that can assist the legislature in analysing the budget presented to the legislature by the executive.
- Even after the budget is approved by the legislature, their approval should be sought before the executive spends any new revenues or contingency funds.
- Supreme audit institutions need adequate resources to be able to implement their audit mandates effectively. They also need to be made independent of the executive (for example the executive should not be able to remove the head of the supreme audit institution without advance approval from the legislature or judiciary).

### Standards & Guidance

- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>
- INTOSAI Basic Principles in Government Auditing <a href="http://www.issai.org/media/12943/issai\_100\_e.pdf">http://www.issai.org/media/12943/issai\_100\_e.pdf</a>
- INTOSAl's Lima and Mexico Declarations on Supreme Audit Institutions independence <a href="http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence-eger.html">http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence-eger.html</a>

# **Country Examples**

in 2011, the Parliamentary Budget Office was established in Kenya

Kenya's Parliamentary Budget Office, established by the 2009 Fiscal Management Act, is a non-partisan office of the Kenya National Assembly. Its primary function is to provide timely and objective information and analysis concerning the national budget and economy.

http://www.marsgroupkenya.org/pdfs/2012/11/Kenya%20MPs%20Budget%20Watch%20September%202012.pdf

In many countries, fiscal councils are providing independent analysis of government budgets and policies

Fiscal councils are independent bodies set up by governments to evaluate fiscal policy and prove advice. As such, they can be seen as fiscal watchdogs. In the last few years, five countries (Sweden, Canada, Hungary, Slovenia, and the United Kingdom) have established fiscal councils, and the United States and Netherlands have has such institutions in place for longer than that.

• <a href="http://www.voxeu.org/article/what-are-fiscal-councils-and-what-do-they-do">http://www.voxeu.org/article/what-are-fiscal-councils-and-what-do-they-do</a>

The Congressional Budget Office in the United States offers credible and impartial support to legislators across party lines

The US Congressional Budget Office, established in 1974, produces independent analyses of budgetary and economic issues to support the Congressional budget process. The agency is strictly non-partisan and conducts objective, impartial analysis.

http://www.cbo.gov/

# Intermediate Step: Publish all budget reports as open data

Justification

National budget reports typically include thousands of revenue and expenditure items. In order for these numbers to be properly understood, citizens and researchers need to analyse and manipulate the data in budget reports. Modern technology allows data to be relayed in formats that can be easily manipulated. In order to facilitate the use of budget data, governments should publish the data in machine-readable formats that can easily be retrieved, downloaded, indexed, and searched by all commonly used Web search applications.

Open formats, for example nonproprietary CSV files, are ones where the specification for the format is available to anyone for free, thereby allowing the data contained in a file to be opened by different software programmes.

Recommendations

Publish all budget reports on the internet in machine-readable formats,

- 1. A first step would be to publish budget documents as Excel spreadsheets.
- 2. In the longer term relevant budget data should be published directly from Financial Management Information System (FMIS) and comply with open data standards.

#### Standards & Guidance

- Open Data Index http://https://index.okfn.org/
- World Bank: Financial Management Information Systems and Open Budget Data http://www.worldbank.org/publicfinance/FMIS
- World Bank: Fiscal Transparency Tools and Resources <a href="http://wbi.worldbank.org/boost/about">http://wbi.worldbank.org/boost/about</a>

# **Country Examples**

The Brazilian ministry of finance publishes large amount of budget data in machine-readable formats

Brazil has developed a number of instruments for fiscal transparency. The most well known initiative perhaps is the transparency portal <a href="www.portaltransparencia.gov.br/">www.portaltransparencia.gov.br/</a>, which was started in 2004 and which draws together information from across the federal government. The portal includes information on public revenues, budgets and spending as well as income and assets of public servants and information on procurement. It is updated daily and provides searchable, open access to the data, as well as offering specific sections focused on areas of particular interest such as the World Cup and the Olympics.

The portal aims to provide information which can be easily accessed and used. For example budget lines are tagged with popular names (for example 'bolsa familia' as well as the official title 'Transferência de renda e apoio à família no acesso à saúde e a à educação'). The information in the budget portal is provided in the form of open, machine readable data, so that it can be used and reused by civil society, media and other organisations to create analysis, visualisations and tools to navigate the information.

As the practice of transparency has developed, so too has the legal framework. In 2012 Brazil established a new Transparency Law obliging all Brazilian public entities (executive, judiciary and legislative bodies at the federal, state and municipality levels, as well as in the federal district) to publish detailed budget data online in real time. The transparency initiative is led by the Office of the Comptroller General. Significant effort has been put into education and dialogue, both within and outside of government, to understand user information needs, to support users to use the data and to generate high quality information flows.

As part of its first OGP Action Plan Brazil has been providing more budget information on its transparency portal, improving data on social benefits and on contracts. In its second Action Plan there is a plan to rebuild the Transparency Portal completely, based on learning from the first ten years, to improve quality and usability and to connect budget information to datasets on actions. The federal government is now working to encourage states and municipalities to develop their own portals.

[Source: Based on a webinar presentation by Otavio Castro Neves, July 30 2013]

• <a href="http://www.opengovpartnership.org/webinar-introducing-fiscal-openness-working-group">http://www.opengovpartnership.org/webinar-introducing-fiscal-openness-working-group</a>

# Intermediate Step: Publish all eight key budget reports

Justification

Internationally accepted good practices require governments to publish at least eight key budget reports at various points

in the budget year:

- **The Pre-Budget Statement** presents the broad parameters and macroeconomic assumptions of the Executive's Budget Proposal.
- The Executive's Budget Proposal which outlines the government's revenue and expenditure plans.
- The Enacted Budget which is the result of legislative consideration of the executive's proposal.
- **Audit Reports** which contain the audit institution's formal, independent evaluation of whether the government has collected and spent public funds as set out in the Enacted Budget, and has done so in accordance with the law. Citizens must have access to this document to be able to gauge the government's performance.
- A Citizens' Budget which provides a non-technical presentation of the budget (either the Executive's Budget Proposal or the Enacted Budget) that is widely accessible to all citizens.
- **Execution reports (In-Year Reports and Mid-Year Review)** provide timely feedback on the progress of budget execution, thus allowing for mid-course corrections, reallocations or supplemental allocations, where necessary.
- **Year-End Reports** allow for a comparison between planned and actual spending, increasing accountability and informing decisions for the coming budget year.

In order for these reports to be useful, they need to provide adequate details that will enable citizens to get a comprehensive picture of how their governments are collecting and spending their monies. This means that budget reports should provide information on both the flows (expenditure, revenues, balance) as well as stocks (government debt, financial and non-financial assets and liabilities). Budget reports should also include performance information (objectives, outputs and outcomes) of key programs. This information should be supplemented by statements of fiscal strategy and reports on how they are being met. Finally, governments should report on how it is managing fiscal risks, such as government guarantees, macroeconomic shocks, and financial sector exposure.

The publication of key reports during budget planning, implementation and evaluation is recommended in the IMF's fiscal transparency code, the OECD's best practice guidelines on budget transparency, and the IBP's Open Budget Survey, which describe the information that should be provided in these key budget reports. The IMF offer periodic assessments of fiscal transparency through their fiscal transparency ROSCs. The OECD and the IBP evaluate budget transparency through their respective surveys. The World Bank-led PEFA framework also assesses some of these issues. Good practices on the timeliness and comprehensiveness of published budget reports are provided by the IBP in its Open Budget Survey, the IMF in its fiscal transparency Code, and the OECD in its best practice guidelines on budget transparency.

# Recommendations

- 1. Publish a comprehensive Pre-Budget Statement at least one month before the publication of the Executive's Budget Proposal.
- 2. Publish a comprehensive Executive's Budget Proposal, ideally three months before the start of the budget year.
- 3. Publish a comprehensive Enacted Budget, ideally as soon as the budget is approved by the legislature.
- 4. Publish a comprehensive Citizens Budget, ideally alongside the Executive's Budget Proposal or Enacted Budget
- 5. Publish comprehensive monthly or quarterly In-Year Reports on revenues collected, expenditures made, and debt incurred, ideally within 30 days or six weeks after the end of the relevant reporting period.
- 6. Publish a comprehensive Mid-Year Review, ideally within 30 days or six weeks after the mid-point of the budget year.
- 7. Publish a comprehensive Year-End report, ideally within six months to a year after the end of the budget year.
- 8. Publish comprehensive Audit Reports, ideally within six months to a year after the end of the budget year. In addition to Audit Reports, government should also publish reports on steps taken to address audit recommendations.

Standards & Guidance

- IBP guide to transparency in government budget reports <a href="http://internationalbudget.org/wp-content/uploads/Government\_Transparency\_Guide1.pdf">http://internationalbudget.org/wp-content/uploads/Government\_Transparency\_Guide1.pdf</a>
- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>
- IMF fiscal transparency code <a href="http://www.imf.org/external/np/fad/trans/code.htm">http://www.imf.org/external/np/fad/trans/code.htm</a>
- OECD best practice guidelines on budget transparency <a href="http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm">http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm</a>
- World Bank: Fiscal Transparency Tools and Resources <a href="http://wbi.worldbank.org/boost/about">http://wbi.worldbank.org/boost/about</a>

# Country Examples

A few countries publish all eight key budget documents

France, Honduras, Italy, New Zealand, the UK, Uganda, Slovakia and South Africa are among the countries that publish all eight key budget documents. The Executive Budget Proposals in countries New Zealand, South Africa, and the United Kingdom also meet international best practice criteria.

- <a href="http://survey.internationalbudget.org/#availability">http://survey.internationalbudget.org/#availability</a>
- Honduras publishes all eight key budget documents

Until recently the Honduran government produced most of the budget documents for internal use, but only made limited information public.

After a political crisis in 2009, the new Honduran government began to focus on improving its financial management practices, including making the budget more transparent. It undertook these efforts in order to establish legitimacy with the international community, secure foreign assistance, reduce the fiscal deficit, and tackle development problems more effectively.

An interagency commission was set up under the coordination of the President's office to draw up a plan to improve fiscal transparency and management and requested technical assistance from the International Budget Partnership. This included bringing government and local civil society organisations together to discuss budget transparency issues.

- http://http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf
- <a href="http://www.opengovpartnership.org/country/honduras/action-plan">http://www.opengovpartnership.org/country/honduras/action-plan</a>
- Mexico has established a budget transparency portal

In Mexico the Ministry of Finance has historically published information on public finance. Some of this information was published as part of its regulatory obligations. However, information such as monthly data on of the revenue, expenditure, debt, transfers to local government, etc.was also published by the Executive initiative, as "Public Finance Statistics".

In 2012 the Government decided to create a website with useful information on how resources are spent. The aims were to provide:

- Greater transparency in public-resource management
- Fiscal transparency in citizen language
- Thematic transparency, with particular attention to citizens interests

The portal's design serves to gathered budget information in one place and present it in plain language and open formats. It was developed through dialogue with social organisations and members of academia, and provides a frontend designed for easy user access and a back-end data warehouse to integrate budget information from the information systems of the Ministry, in real time, as it is updated internally. The data can be found in open file format "Excel" or "CSV" that let the users analyse and play with the information.

The portal seeks to link all stages of the budget process: planning, programming, budgeting, exercise and control, monitoring, evaluation and accountability. It includes government finance statistics, resources transferred to local governments, quarterly reports in open formats, year-end report, citizens budget and year end report as well as details of investment projects, indicators, goals and external evaluations.

Social media and a short 'magazine' style presentation of the highlights of the citizen's budget have been used to increase accessibility

- http://fiscaltransparency.net/wp-content/uploads/2013/11/Mexico-Presentation.pptx
- http://www.transparenciapresupuestaria.gob.mx/
- <a href="http://www.opengovpartnership.org/country/mexico/case-study/inspiring-story-budget-transparency-portal">http://www.opengovpartnership.org/country/mexico/case-study/inspiring-story-budget-transparency-portal</a>

# Advanced Step: Enable citizen participation in budgeting

Justification

Citizen participation in budgeting is a relatively new concept in public financial management.

Citizen engagement in the budget process is important for a number of reasons. An OECD publication (Tanaka, 2007) identifies several such important reasons for public engagement in budgeting.

- Budget decisions have a significant impact on the lives of the public, and therefore should be informed by the views and values of citizens.
- Engaging citizens in the budget process increases the information available to decision makers concerning the likely effects of their decisions in communities, and can help to guard against unintended consequences.
- The scrutiny of citizens can help to ensure that decision makers are diligent in the decisions they make, improving the efficiency, responsiveness and accountability of government, and guarding against corruption.
- Through engaging citizens in the budget process, they can address the same trade-offs that decision makers are forced to make, and generate a more fruitful discussion between citizens and government.
- Engaging citizens in fundamental decisions, such as budget decisions, can help to overcome public distrust and cynicism, and increase the legitimacy of government.
- Citizen engagement can help to ensure that government is responsive to the needs, views and values of citizens.

Recommendations

Develop citizen audit request system, social audit mechanisms, and participatory budgeting systems.

Below, we identify some principles that could guide governments as they develop mechanisms for public engagement in budgeting. These principles have been used in indicators on public engagement in the Open Budget Survey, and are the responsibility of the finance ministry:

- 1. Take responsibility for developing and implementing a strategy of citizen engagement in the budget process.
- 2. Identify examples of international, national and local good practice.
- 3. Define a clear purpose or set of purposes for engaging citizens in the budget process, and define clearly the scope of their involvement.
- 4. Identify institutional and cultural barriers to engaging citizens in the budget process, and consider ways in which they could be overcome
- 5. Carefully consider who it should engage in the budget process, and how they can be best involved and at which stage of the process.
- 6. Develop a range of opportunities for citizens, civil society, and other interested parties to engage in the budget process.
- 7. Ensure that all engagement with the budget process is open and transparent to allow for effective scrutiny.
- 8. Report back to participants on the results and impacts of consultation and publish the results for wider scrutiny.

## Standards & Guidance

- IBP guide to participatory budgeting <a href="http://internationalbudget.org/wp-content/uploads/A-Guide-to-Participatory-Budgeting.pdf">http://internationalbudget.org/wp-content/uploads/A-Guide-to-Participatory-Budgeting.pdf</a>
- IBP open budget survey <a href="http://internationalbudget.org/what-we-do/open-budget-survey/full-report/">http://internationalbudget.org/what-we-do/open-budget-survey/full-report/</a>
- World Bank participatory budgeting book
   http://siteresources.worldbank.org/PSGLP/Resources/ParticipatoryBudgeting.pdf

#### Country Examples

Botswana has developed a "budget pitso" forum

Botswana has introduced a promising initiative that uses an innovative "budget pitso" (or consultation forum) system to enable the public to be part of budget formulation. This "pitso" has its origins in the community participation "kgotla" system, which is one of the oldest forms of public participation in governance in the world.

• <a href="http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf">http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf</a>

Citizens in South Korea can submit requests for audits of programs or agencies

The Board of Audit and Inspection (BAI) in South Korea has introduced various arrangements that help to incorporate citizen opinions and input into its audit activities. One such arrangement is the Citizens' Audit Request System, which was introduced in 2001 to promote timely and efficient audits and trust in the national audit agency. Citizens may request audits related to public sector organizations in which the violation of laws or corruption could seriously undermine the public interest. A Citizens Audit Request Screening Committee, established within the BAI, decides for or against a request. For those requests that are approved, the BAI conducts audits and notifies the requesting parties of

the results. The system has become widely known among the general public, and the number of audit requests is increasing.

• <a href="http://www.intosaijournal.org/technicalarticles/technicalapr06.html">http://www.intosaijournal.org/technicalarticles/technicalapr06.html</a>

Germany invites economists, business and trade unions to give testimony to budget hearings

In Germany the parliament's budget committee holds public hearings in which testimony from economists, trade associations, labor unions, employer federations, and civil service employee associations, among others, is heard. The budget committee determines the focus of these talks.

[NB: this example is drawn from the information collected in the Open Budget Survey. While the Survey references these examples, it does not assess the quality of public engagement as a result of these mechanisms. The Global Initiative for Fiscal Transparency (GIFT) has recently commissioned case studies to assess the quality of public participation in budget decision-making in a number of countries. This guide will be updated with information from these case studies when the case studies are published.]

• http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf

South Africa invites interested parties to present on budget proposals

The South African Money Bill Amendment Procedure and Related Matters Act requires parliament to hold public hearings on the fiscal framework and revenue proposals. Interested parties are invited to make oral presentations during the hearings.

[NB: this example is drawn from the information collected in the Open Budget Survey. While the Survey references these examples, it does not assess the quality of public engagement as a result of these mechanisms. The Global Initiative for Fiscal Transparency (GIFT) has recently commissioned case studies to assess the quality of public participation in budget decision-making in a number of countries. This guide will be updated with information from these case studies when the case studies are published.]

http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf

South Korea has systems to enable citizens to participate in budget decisions

In South Korea the Budget Office introduced significant public financial management (PFM) reforms in 2003, including a medium term expenditure framework, performance based budgeting and integrated financial management system. This improved the budget process but posed a potential problem. Without credible mechanisms for setting multi-year budget ceilings and sticking to them they could easily be undermined. In order to help make the budget ceilings effective the authorities developed a process of participation in the budget formulation process . This allows the government to assert that a realistic expenditure ceiling has been established, and the government's hands are tied in any attempt to renegotiate the ceiling. Citizen's involvement has also been encouraged to improve the execution of the budget and to enhance fiscal transparency between national and local government.

There are six main mechanisms for participation, formalised Open Discussions, field trips for central government officials to meet local government officials, a fiscal policy advisory council made up of civil society representatives and

officials from national and local government, an assembly of experts, a budget waste report centre and public participation in audit. These processes are integrated into the annual budget formulation cycle.

Through the Budget Waste Report Center citizens can report any suspected cases of budget waste using an online form or a telephone hotline. Citizens can suggest creative ways to save budget resources. Retired Budget Officials manage the hotline, sending cases to relevant departments. Advertising has been used to increase awareness and encourage participation. Public participation in auditing takes place in three ways. Citizens are encourage to suggest what public entity should be audited. They can request the audit board examines any reports of impropriety and can gather to collectively request audits, not only on budget waste, but also on delays in program implementation and completion and unreasonable public policy. In 2012 the budget office launched its first contest to gather creative ideas from the public on new fiscal projects. A total of 866 ideas were submitted and 12 suggestions were reflected in the budget.

[Source: World Bank, PREM Notes]

- <a href="http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf">http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf</a>
- <a href="http://internationalbudget.org/wp-content/uploads/Kang-and-Min-Public-Participation-in-the-Budget-Process-in-ROK.pdf">http://internationalbudget.org/wp-content/uploads/Kang-and-Min-Public-Participation-in-the-Budget-Process-in-ROK.pdf</a>
- <a href="http://fiscaltransparency.net/wp-content/uploads/2013/11/Korea-Public-Participation-Case.pptx">http://fiscaltransparency.net/wp-content/uploads/2013/11/Korea-Public-Participation-Case.pptx</a>
- <a href="http://blogs.worldbank.org/governance/public-participation-budget-process-republic-korea">http://blogs.worldbank.org/governance/public-participation-budget-process-republic-korea</a>
- State governments in India use social audit techniques to monitor government programs

In the Indian state of Andhra Pradesh, social audits techniques are being used to hold government accountable. Social audits, apart from including audit of expenses or decisions, also cover issues of equity and quality in programme implementation, and are conducted jointly by government and civil society. The social audit process used here includes public vigilance and verification at the various stages of project implementation. Social audit forums, or public hearings, are also organised as part of the process. In these forums information is read out publicly and people are given the opportunity to question officials, seek and obtain information, verify financial expenditure, examine the provision of entitlements, discuss the priorities reflected in choices made, and critically evaluate the quality of works as well as the functioning of the programme staff.

http://125.22.8.66/SocialAudit/

Trinidad and Tobago uses stakeholder forums and Facebook to gather budget input

In Trinidad and Tobago the Ministry of Finance holds "post-budget forums" to gather input from and respond to the public. Key groups such as agriculture, youths, etc. are invited to give their perspectives on the budget. All members of the public are invited to call or send text messages to the Minister of Finance; and make comments publicly through Facebook and the ministry's website.

• http://internationalbudget.org/wp-content/uploads/OBI2012-Report-English.pdf

# **Advanced Step:** Publish information on resources received by service delivery units

## Justification

Problems frequently arise in front-line service delivery units providing services at the community level (such as schools and health clinics) in obtaining resources that were intended for their use, whether in terms of cash transfers, distribution of materials in kind (e.g. drugs and school books) or provision of centrally recruited and paid personnel. The intended resource provision may not be explicit in budget documentation, but is likely to form part of line ministries internal budget estimates preparation. Front line service delivery units, being furthest in the resource allocation chain, may be the ones to suffer most when overall resources fall short of budget estimates, or when higher level organisational units decide to redirect resources to other (e.g. administrative) purposes. There may be significant delays in transfers of resources to the unit whether in cash or in kind. Tracking of such information is crucial in order to determine, if the PFM systems effectively support front-line service delivery.

# Recommendations

Publish data on resources (cash and in-kind) received by service delivery units (such as, primary schools & primary health clinics)

## Standards & Guidance

 Public Expenditure and Financial Accountability Field Guide <a href="http://siteresources.worldbank.org/PEFA/Resources/PEFAFieldguide.pdf">http://siteresources.worldbank.org/PEFA/Resources/PEFAFieldguide.pdf</a>

# Advanced Step: Publish off budget financial information

# Justification

Governments often implement financial activities outside of the national budget, for example through pension or social security funds, state-owned enterprises and banks, Public resources from natural resource extraction, foreign aid, debt cancellation and proceeds from privatization operations may also not show up in national budgets.

In recent years there has been an increased emphasis on governments having a balanced budget and low levels of debt. Such prescriptions may increase incentives for governments to use quasi-fiscal activities that mask the true cost of their policies.

Quasi-fiscal activities are subsidies and deficits which don't show up on government financial accounts, such as subsidised bank loans provided by the central bank noncommercial public services provided by state-owned enterprises or multiple currency exchange rates used for different transactions.

Tax expenditures are another financial measure that is generally less well understood and often hidden from public scrutiny. Tax expenditures are usually defined as a government's estimated revenue loss that results from giving tax concessions or preferences to a particular class of taxpayer or activity. The revenue loss, or "expenditure," is calculated as the difference between whatever tax would have been paid under a defined benchmark tax law (which identifies what tax structure should normally apply to taxpayers) and the lower amount that was actually paid after the tax break.

All these issues should be adequately disclosed so that they receive the same level of oversight that the national budget

receives.

# Recommendations

- 1. Publish timely, regular, comprehensive, accessible, and accurate information on financial activities that go beyond the routine items in a national budget including extra-budgetary funds, tax expenditures and quasi fiscal activities.
- 2. Budget documentation should include statements on the purpose, duration, and intended beneficiaries of each quasifiscal activity, based on information provided by those agencies that undertake these activities, whether state-owned enterprises or the central bank.
- 3. Public corporations should include in their reports specific information on, for example, noncommercial services that the government requires them to provide or lending to other government-owned agencies, while central banks should report on any non-monetary policy activities that they conduct on behalf of the government.

#### Standards & Guidance

- IBP Looking beyond the budget http://internationalbudget.org/wp-content/uploads/Looking-Beyond-the-Budget.pdf
- IMF fiscal transparency code <a href="http://www.imf.org/external/np/fad/trans/code.htm">http://www.imf.org/external/np/fad/trans/code.htm</a>
- OECD Guidelines on Corporate Governance of State-owned Enterprises
   http://www.oecd.org/daf/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf
- World Bank: Fiscal Transparency Tools and Resources <a href="http://wbi.worldbank.org/boost/about">http://wbi.worldbank.org/boost/about</a>

## Country Examples

In Azerbaijan, fuel subsidies provided by the national oil company were put on the budget

In Azerbaijan, fuel subsidies provided by the national oil company, SOCAR, were put on budget by recognizing the amount of the subsidy in the budget and granting SOCAR tax credits for the same amount.

http://internationalbudget.org/wp-content/uploads/Looking-Beyond-the-Budget-3-Quasi-Fiscal-Activities.pdf

In South Africa information on quasi-fiscal activities is provided in the main budget or the budgets of the relevant agencies

In South Africa all quasi-fiscal activities are included either in the main budget or in the budgets of the relevant extrabudgetary agencies. In terms of accounting for extra-budgetary funds, the South African executive's budget and supporting documentation present extensive information on extra-budgetary funds, including both a narrative discussion and quantitative estimates of such funds. The bulk of extra-budgetary funds in South Africa are composed of social security funds, such as the Road Accident Fund, the Unemployment Insurance Fund, and the Compensation Funds. The money for these items is not included in the budget, but information on their payments and receipts is included in the accompanying document, the Budget Review. The Office of the Auditor General of South Africa publicises its reports of audits of all extra-budgetary funds. The reports include all charges against the Revenue Fund, including extra-budgetary funds.

http://internationalbudget.org/wp-content/uploads/Looking-Beyond-the-Budget.pdf

# Innovative Step: Fully implement the GIFT Principles on fiscal transparency

# Justification

The Global Initiative for Fiscal Transparency (GIFT) is a multi-stakeholder action network working to advance and institutionalise global norms and significant, continuous improvements on fiscal transparency, participation, and accountability in countries around the world. High Level Principles on Fiscal Transparency, Accountability and Participation represent an attempt to distil a set of broad principles from across the body of existing standards and norms. They are intended to guide policy makers and all other stakeholders in fiscal policy in their efforts to improve fiscal transparency, participation and accountability.

In December 2012, the UN General Assembly adopted a resolution titled 'Promoting transparency, participation and accountability in fiscal policies' endorsing the GIFT High Level Principles on fiscal transparency and participation, and encouraging Member States to intensify efforts to enhance transparency, participation and accountability in fiscal policies.

# Recommendations

Implement the 10 High Level Principles on fiscal transparency, participation, and accountability developed by GIFT, which are summarised below:

- 1. Establish a clear presumption in favour of the public availability of fiscal information without discrimination
- 2. Publish clear and measureable objectives for aggregate fiscal policy, regularly report progress against them, and explain deviations
- 3. Present high quality financial and nonfinancial information on past, present, and forecast fiscal activities, performance, fiscal risks, and public assets
- 4. Communicate the objectives being pursued and the outputs produced and endevour to disclose the anticipated and actual social, economic and environmental outcomes
- 5. Ensure that all financial transactions of the public sector have their basis in law. Laws, regulations and administrative procedures should be available to the public, and their implementation should be subject to independent review
- 6. Government financial relationships with the private sector should be disclosed, conducted in an open manner, and follow clear rules
- 7. Assign clear roles and responsibilities for raising revenues, iincurring liabilities, consuming resources, investing, and managing public resources
- 8. No government revenue should be raised or expenditure incurred or committed without the approval of the legislature through the budget or other legislation
- 9. The Supreme Audit Institution should have statutory independence, the mandate to access information, and appropriate resources to audit and report publicly
- 10. Citizens should have the right and they, and all non state actors, should have effective opportunities to participate directly in public debate on budgets

## Standards & Guidance

• GIFT High Level Principles on Financial Transparency <a href="http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf">http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf</a>

# Citizen engagement



Lead author: Involve

#### Introduction

Citizen engagement is what open government is all about. It underpins many of the other topics in this guide - with active citizenship often being a vital link between transparency and accountability. The Open Government Partnership recognises this in its <u>eligibility criteria</u>, stating that: 'Open Government requires openness to citizen participation and engagement in policymaking and governance, including basic protections for civil liberties' (Open Government Partnership).

In an increasingly complex world, citizens' input is a critical resource for policy-making. Good decision-making requires the knowledge, experiences, views and values of the public. Implementing difficult decisions depends on citizens' consent and support. Unless citizens understand and are engaged in the decision themselves, trust is easily lost (OECD, 2009).

Civil liberties provide the critical foundations which enable people to participate without fear and to disagree peacefully with each other and with their government. Basic human rights including freedom of speech, expression and the press; freedom of religion; freedom of assembly and association; and the right to due judicial process are critical in supporting a political culture where citizens are willing and able to participate in public debate.

People around the world consistently indicate that they are not content simply to engage with government through periodic elections. But they are discouraged by the real and perceived control of public decisions and decision-makers by small political and economic elites.. It is important that citizen engagement is well designed and properly resourced, and that it is born from a genuine desire to involve the public and take their input into account. Good citizen engagement can support the effective functioning of democracy, the legitimacy of government, the successful implementation of policy and the achievement of social outcomes. Bad engagement practice can lead to poor decisions, and disengagement by citizens (Brodie et al, 2011).

Overcoming public disengagement, and effectively responding to citizens requires a culture change in how governments interact and cooperate with the public, mechanisms for hearing and taking into account the voices of citizens institutionalized into the behaviour and culture of public institutions.

NB: Our use of the word "citizen" in this chapter is to be understood in its broadest possible sense, including all inhabitants of a country or locality. There is understandable concern that the term can be used to exclude groups without voting rights and/or are not naturalised in a country, including children and young people, migrants and refugees. This is not our intention; indeed, it is groups such as these that should be the focus of particular efforts to engage them with decisions that affect their lives.

#### References

OECD, 2009, Focus on Citizens: Public Engagement for Better Policy and Services

Brodie, E; Hughes, T; Jochum, V; Miller, S; Ockenden, N; & Warburton, D, 2011, Pathways through Participation: What creates and sustains active citizenship?

**Expert Organisations** 

Civicus <a href="http://www.civicus.org">http://www.civicus.org</a>

Involve <a href="http://www.involve.org.uk">http://www.involve.org.uk</a>

Deliberative Democracy Consortium <a href="http://www.deliberative-democracy.net">http://www.deliberative-democracy.net</a>

International Association for Public Participation <a href="http://www.iap2.org">http://www.iap2.org</a>

Society for Participatory Research in Asia <a href="http://www.pria.org/">http://www.pria.org/</a>

Twaweza East Africa <a href="http://www.twaweza.org">http://www.twaweza.org</a>

MKSS India http://www.mkssindia.org

National Coalition for Dialogue and Deliberation US http://ncdd.org

Division for Public Administration and Development Management, United Nations Department of Economic and Social Affairs <a href="http://www.unpan.org/DPADM">http://www.unpan.org/DPADM</a>

World Bank Social Development Department http://www.worldbank.org/socialdevelopment

International Center for Not-for-profit Law <a href="http://www.icnl.org">http://www.icnl.org</a>

European Center for Not-for-profit Law <a href="http://www.ecnl.org.hu">http://www.ecnl.org.hu</a>

International Association of Facilitators <a href="http://www.iaf-world.org">http://www.iaf-world.org</a>

Making All Voices Count <a href="http://www.makingallvoicescount.org/">http://www.makingallvoicescount.org/</a>

# Summary of illustrative commitments

#### Initial

- Involve citizens in assessing the institutions of government and identifying priorities for reform
- Reform legislation to create an enabling environment for civil society organisations

#### Intermediate

- Encourage the use of digital tools to engage with the public
- Develop a compact with civil society to achieve common goals
- Engage citizens in deliberation on a priority issue
- Establish legislation and guidelines on public consultation in policy development

#### Advanced

- Establish a centre of expertise and designate resources to support the institutionalisation of citizen engagement
- Establish citizen engagement as a core competency of government officials
- Establish mechanisms to engage children and young people as full participants in civic life

#### Innovative

• Prototype new approaches to citizen participation

#### **Detailed Recommendations**

# **Initial Step:** Involve citizens in assessing the institutions of government and identifying priorities for reform

## Justification

Over the past three decades democracy has taken root in many parts of the world, and is now the dominant form of governance. However, there is no such thing as a perfect democracy, and democracy can take many forms, rooted in the realities of each country and the aspirations of its people.

For democracy to be effective it must connect people's demands and aspirations to accountable and representative political institutions. The role of the citizen in improving the quality of governance and in political and institutional reform is therefore fundamental.

Assessing the quality of government institutions and processes is part of the long and complex process of building and consolidating democratic institutions. While there are many external tools, frameworks, methodologies, ratings and indexes for assessing governance, initiating a process in which citizens themselves examine their own systems allows people to express their priorities and develop broad based support for reform agendas.

## Recommendations

The NGO International IDEA pioneered a 'State of Democracy' approach which has so far been applied to over 20 countries worldwide. These recommendations are drawn from this approach:

- 1. The process should allow citizens and others who live in the country to assess the quality of their own democracy.
- 2. The prime purpose of democracy assessment should be to promote public debate and awareness, and the exercise ought to allow for the expression of popular understanding as well as any elite consensus.
- 3. The assessment should assist in identifying priorities for reform and monitoring their progress.
- 4. The criteria for assessment should be derived from clearly defined democratic principles and should embrace the widest range of democracy issues, while allowing assessors to choose priorities for examination according to local needs.
- 5. The assessments should be qualitative judgements of strengths and weaknesses in each area, strengthened by quantitative measures where appropriate.
- 6. The assessors should choose benchmarks or standards for assessment, based on the country's history, regional practice and international norms, as they think appropriate.
- 7. The assessment process should involve wide public consultation, including a national workshop to validate the findings.
- 8. The democracy assessment should not be viewed as an end in itself but a means to assist a democratic reform process by providing the systematic evidence, argument and comparative data on which reforms might be based.
- 9. Where governments initiate the democracy audit they should take steps to guarantee the independence of the assessment, and commit to responding to its findings.

#### Standards & Guidance

• Assessing the Quality of Democracy: A Practical Guide <a href="http://www.idea.int/publications/aqd/">http://www.idea.int/publications/aqd/</a>

• OGP Eligibility Criteria: Citizen Engagement <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>

#### Country Examples

The government of Mongolia has institutionalised on-going national 'State of Democracy' audits

Mongolia has faced the challenge of introducing democratic institutions and procedures into a long-standing traditional society. In 2003 the then government, along with civil society, decided to conduct a State of Democracy assessment. An initial desk study compiled by three international experts was published in 2005. Further research was conducted by local experts and published in 2006 report which resulted in the creation of a National Plan of Action. The on-going assessment of the state of democracy became an institutionalized process through the establishment of the Mongolian Millennium Development Goal 9 (MDG-9) on democratic governance and human rights.

The State of Democracy reports have helped raise public awareness about what democracy involves as they have been broadcast throughout the print and electronic media. The wide dissemination of the findings has generated debates on what standards of democracy citizens should expect from their government.

• <a href="http://www.idea.int/sod/profiles/mongolia.cfm">http://www.idea.int/sod/profiles/mongolia.cfm</a>

The Netherlands carried out a 'State of Democracy' assessment

The Kingdom of the Netherlands is a constitutional monarchy and a parliamentary democracy with representation drawn broadly from all groups in the society. In 2005 the popular rejection of the EU constitution and two prominent political assassinations in generated political turbulence and a vibrant public debate on the functioning of political institutions and practices in Netherlands. At this point the Ministry of Interior and Kingdom Relations identified the need for a comprehensive review of the state of the Netherland's democracy. The ministry involved NGOs, journalists and civil servants in the assessment in order to record the situation and promote discussion on democracy and the need for reform. The final report was published in 2006.

The assessment revealed the need to reconsider issues such as Dutch citizenship and how government itself represents the needs and democratic aspirations of the population. The report was sent to 250 NGOs, government bodies, journalists and the Queen, (who even used one of the eight SoD topics in her Christmas speech). In addition, public debates were held, including on freedom of speech, the structure of government, the media and citizenship. An interactive web-based forum was established for online debate, and the media reported frequently on the findings of the report and the ensuing discussions. Finally, a conference was held, with the ministers present, to outline the steps for the future. The new Dutch government (in 2007) elaborated three broad reforms in the light of the assessment: including a 'charter for responsible citizenship', technical changes to the constitution and a pledge to reduce the complexity of government processes more generally.

<a href="http://www.idea.int/sod/profiles/netherlands.cfm">http://www.idea.int/sod/profiles/netherlands.cfm</a>

**Initial Step:** Reform legislation to create an enabling environment for civil society organisations

## Justification

A strong and independent civil society (including non-governmental organisations, community groups, faith-based organisations, trade unions, and informal groups) is critical to open government. Civil society organisations have an important role in holding government to account, providing support and services to citizens and advocating for and supporting the mobilisation of citizens.

Throughout history, social movements have served as incubators of new issues that have subsequently become a core part of the State's agenda on issues such as women's rights, the environment, and indigenous people's rights. States that are aware and responsive to these nascent movements can short circuit decades of conflict and frustration (Green, 2013)

The legal frameworks in which people are allowed to organise themselves are often restrictive, either by design, or because of inherited legal and bureaucratic frameworks which are no longer fit for purpose. There have been increasing moves in many countries to limit the scope, the independence and the sources of funding for civil society organisations through legal means or by threats, harassment or violence. Restricting the capacity of civil society organisations to operate violates the fundamental human rights of freedom of association and assembly, and curbs the right of free expression. (ICNL/WMD/NED, 2012)

While laws on the formation and operation of CSOs, and on lawful protests are necessary for maintaining public safety and preventing crime and terrorism they should not be used as a barrier to the right to freedom of association. In an enabling environment, CSO formation and operation should be facilitative rather than obstructive.

The key role played by CSOs has been recognised in the UN Human Rights Council Resolution on Protecting Human Rights Defenders. The resolution calls on states to ensure that registration requirements for CSOs are non-discriminatory, expeditious and inexpensive and allow for the possibility of appeal. It further calls on governments to ensure that reporting requirements for CSOs "do not inhibit functional autonomy.

# Recommendations

- 1. CSO laws should be clear and well-defined.
- 2. The acquisition of legal status should be voluntary, and based on objective criteria.
- 3. Registration should not be a prerequisite for access to universal rights of freedom of expression, peaceful assembly and association.
- 4. The registration process should be quick, easy and inexpensive.
- 5. There should be a defined and reasonable time limit for registration decisions and written justifications for denials of status, which should be open to appeal.
- 6. All acts and decisions affecting CSOs should be subject to fair administrative or independent judicial review.
- 7. Reporting procedures for small, provincial, community-based organisations and alliances should be as simple as possible.

# Standards & Guidance

- Civicus Enabling Environment Index <a href="http://civicus.org/what-we-do-126/2013-05-06-10-38-39/1886-download-the-2013-enabling-environment-index-eei-report">http://civicus.org/what-we-do-126/2013-05-06-10-38-39/1886-download-the-2013-enabling-environment-index-eei-report</a>
- International Principles Protecting Civil Society <a href="http://www.defendingcivilsociety.org">http://www.defendingcivilsociety.org</a>
- OGP Eligibility Criteria: Citizen Engagement <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>
- UN Human Rights Council Resolution on Protecting Human Rights Defenders <a href="http://ap.ohchr.org/documents/alldocs.aspx?doc\_id=21380">http://ap.ohchr.org/documents/alldocs.aspx?doc\_id=21380</a>

# Country Examples

Ukraine has established laws to simplify CSO registration and improve access to resources

The Law on Public Organisations was adopted and went into effect in January 2013. The new law simplifies registration and allows CSOs to pursue any lawful aims, engage in economic activities for not-for-profit purposes and acquire membership in public associations.

The new provisions governing the legal status of non-governmental organizations (NGOs) provides for:

- simplification of the registration procedures for public associations;
- the right of NGOs to pursue any lawful interest or objective (not only the interests of its members);
- the right of legal entities to establish and to acquire membership in public associations;
- right of public association to conduct activities throughout the territory of Ukraine, regardless of their place of registration; and
- the right of NGOs to engage in entrepreneurial activities to support their not-for-profit activities.
- <a href="http://www.icnl.org/news/2012/22-Mar.html">http://www.icnl.org/news/2012/22-Mar.html</a>

# Intermediate Step: Encourage the use of digital tools to engage with the public

# Justification

Digital tools, such as social media, present policy and decision makers with a channel to communicate directly with citizens in real time. The use of digital tools should not be considered an end in itself, but rather for the particular benefits they can offer in a given situation. As such, careful consideration should be given to their appropriateness depending on the intended purpose, context and participants, as well as how they fit with institutional processes and capacity, and how any engagement will be acted upon and feedback given. Digital tools should be considered within a broader range of approaches and tools to ensure their appropriateness.

That being said, citizens themselves are increasingly using digital tools in many countries to engage with organisations (whether asking questions or providing feedback), as well as sharing their experiences of public services and commenting on the policies and decisions of governments. Therefore, in contexts where digital tools, such as social media, are widely used, they can:

- Enable Governments to communicate with citizens in the spaces that citizens already occupy and participate
- Allow policy makers to listen to the views of citizens on their policy area and engage directly with citizens individually
- Be part of conversations that are happening on social media, creating online communities and providing an authoritative voice
- Increase the impact of government communications, through the multiplier effect that social media can have

There are, however, some cultural and technical barriers to the effective use of digital tools, as well as personal and organisational risks, that governments must address in order to leverage their benefits. One step towards this is the development of social media guidance, which provides government officials with the information necessary to use social media with confidence, to mitigate any risks and to tackle any technical barriers.

#### Recommendations

- 1. New channels should be explored for communicating with citizens and other stakeholders in real time particularly those already being used by the public
- 2. Public servants should be encouraged to use new digital tools where appropriate to inform and communicate with the public
- 3. Where social media is used widely by large groups of the public, the Executive should publish social media guidance for public servants, with the aim of supporting them to engage directly with citizens through new media.
  - The guidance should be developed with relevant stakeholders
  - The guidance should be designed based on a review of good practice, but take into account the specific country context
  - The guidance should be developed with reference to the practical and cultural barriers that present a barrier to the effective use of social media
  - Other channels and opportunities for engagement should be developed and maintained so as not to exclude groups of the public
- 4. Digital tools should only be used if they are appropriate for the given purpose, context and participants

#### Standards & Guidance

- Center for Technology in Government Designing Social Media Policy for Government: Eight essential elements http://www.ctg.albany.edu/publications/guides/social\_media\_policy/social\_media\_policy.pdf
- Delib: How and When to Use Social Media Channels to Strategically Support Government Goals http://www.delib.net/delib shared assets/shared documents/Delib Social Media for Government 2012.pdf
- IBM Centre for The Business of Government: Using Online Tools to Engage and be Engaged by The Public <a href="http://www.businessofgovernment.org/report/using-online-tools-engage-public">http://www.businessofgovernment.org/report/using-online-tools-engage-public</a>
- IPU: Social Media Guidelines for Parliaments <a href="http://www.ipu.org/PDF/publications/SMG2013EN.pdf">http://www.ipu.org/PDF/publications/SMG2013EN.pdf</a>

#### **Country Examples**

Australia has developed guidance on online consultation

In July 2010 the Australian Government published the <u>Declaration of Open Government</u>. The Declaration states that: "the Australian government now declares that, in order to promote greater participation in Australia's democracy, it is committed to open government based on a culture of engagement, built on better access to and use of government held information, and sustained by the innovative use of technology." In support of these goals the government developed a guidance on online consultation and the use of social media.

http://webguide.gov.au/web-2-0/online-consultation/

... In Tanzania the government established wanachi.go.tz a website to submit and track complaints and

feedback

Wananchi.go.tz is a website was developed by the government to enable Tanzanian citizens to send feedback, opinions, complaints to the government and to track and follow up on queries.

#### The system aims:

- 1. To help improve citizen awareness and satisfaction about the services they receive or believe they should be receive by enabling fast and efficient resolutions of relevant citizen submissions
- 2. To collect data that will assist the Government of Tanzania to identify opportunities for improvement and change, to optimise service and minimise complaint in the future

As part of its OGP commitment the government has committed to improve the website to make it more robust and responsive as a platform for citizens to participate in the running of Government, and produce monthly reports on effectiveness of the citizen"s website.

• http://www.Wananchi.go.tz

In the US the House and Senate and House removed restrictive rules governing Members' use of social media

Before the digital age, Congress established 'franking rules' on communication to constituents. These governed how Members could use public funds to send mass mailings to constituents, while guarding against incumbents using this privilege to advance political campaigns. When these rules were extended to include social media, at first they were restrictively applied, effectively making popular social media services such as Facebook and Twitter out of bounds. This reflected fears that using social media would imply a commercial endorsement through association with advertising, could tarnish the status of the institution, might create security issues, and would make inappropriate political activity harder to catch.

Following emerging experience, debates and a campaign led by the Sunlight Foundation, in 2008, the House and Senate revised these rules and allowed members and staff to use social media to correspond with constituents more freely, while still maintaining the principles of *no product endorsement, no partisan material* and *no unrelated personal information*.

While there is no overall social media policy, the <u>House</u> and <u>Senate</u> rules now makes clear that Federal law and House Rules on communication apply to all 'official content of material posted by the Member on any website', but not to the broader social media platform itself.

- <a href="http://sunlightfoundation.com/blog/2008/10/03/web-use-reform-happy-ending/">http://sunlightfoundation.com/blog/2008/10/03/web-use-reform-happy-ending/</a>
- <a href="http://cha.house.gov/member-services/handbooks">http://cha.house.gov/member-services/handbooks</a>
- <a href="http://www.senate.gov/usage/internetpolicy.htm">http://www.senate.gov/usage/internetpolicy.htm</a>

Mexico set up a digital platform to 'improve your school'

Mexico spends more per student than most industrialized nations but has the lowest levels of academic achievement in the OECD. As part of its OGP Action Plan the government-civil society working group set out to improve the information that parents have about schools, and enable them to 'improve your school'.

The Mexican Institute for Competitiveness (IMCO) cross referenced test results with basic data on all schools and made them accessible on a new website 'Mejora tu Escuela'. Users can search and compare schools, and provide their own comments. Where problems are identified, like deteriorating infrastructure or principals that mismanage the school budget, they are linked to possible solutions that can be implemented by parents and local CSOs."The more information you have on schools, the more likely you are to demand higher quality education", says Gabriela Segovia of the Federal Institute on Access to Information and Data Protection (IFAI).

- http://www.mejoratuescuela.org/
- http://www.opengovpartnership.org/sites/default/files/Mexico\_0.pdf
- The New Zealand Government has developed social media guidance

The aim is to encourage best practice social media use by government agencies, provide useful templates and tools for planning, and give an overview of the strengths, weaknesses, benefits and risks of this very important and rapidly growing toolset. The intent of the guidance is to encourage best practice social media use by government agencies, provide useful templates and tools for planning, and give an overview of the strengths, weaknesses, benefits and risks of this very important and rapidly growing toolset. Example in practice include a Facebook campaign by the Ministry of Health to provide support and advice to breastfeeding mothers.

- <a href="https://webtoolkit.govt.nz/guidance/social-media/">https://webtoolkit.govt.nz/guidance/social-media/</a>
- The UK is establishing a fund to support developers to produce tools to make use of open aid data

The\_Open Data Strategy for the UK Department for International Development includes the establishment of a fund to support developers to produce innovative and useful tools to make use of IATI data. As part of the Strategy, the UK has also developed the Development Tracker which allows users to find and explore detailed information on international development projects funded by the UK Government. The site uses data published to IATI, and can also import and use data from other publishers. The site also incorporates data published by the Department for International Development's delivery partners, initially on a small-scale, to prove the concept that aid can be traced through the aid delivery chain using open data.

- <a href="http://data.gov.uk/sites/default/files/DFID Open Data Strategy.pdf">http://data.gov.uk/sites/default/files/DFID Open Data Strategy.pdf</a>
- http://devtracker.dfid.gov.uk/about/
- The US government established a public open source project to facilitate the implementation and evolution of its Open Data Policy

When the US Government established its Open Data Policy it recognised that technology moves much faster than policy ever could. Often when writing policy for technology, agencies are stuck with outdated methods as soon as they publish new policies.

It therefore established Project Open Data on GitHub, a popular code-sharing website used by the 'open source' community. Project Open Data is an online collection of code, tools, and case studies to help U.S. agencies adopt the

<u>Open Data Policy</u>. Anyone – government employees, contractors, developers, the general public – can view and contribute by editing the content, adding new pages, or adding tools.

At the onset, the General Services Administration is providing a moderator role – giving oversight and support, but over time, the vision is that contributors both inside and outside of government can be empowered to take on additional leadership roles.

• http://project-open-data.github.io/

# Intermediate Step: Develop a compact with civil society to achieve common goals

# Justification

While effective civil society depends on separation and independence from the state, there are often common goals between governments and civil society organisations. Civil society organisations often work with, or for governments for example in the fields of social services, environmental protection, or international aid development.

In many countries civil society organisations and governments have recognised a need for a mechanism for cooperation. These have taken the form of negotiated agreements around key principles such as access to information, public funding, consultation and participation.

Often the publication of a framework agreement or compact is the culmination of a long period intensive relationship and trust building between the two sectors. The mechanisms give recognition of the existing practices and benefits, they send a message of political commitment and openness, and they give direction to future cooperation. Framework agreements provide a basis for developing processes of annual review, codes of practice for performance, and mechanisms for mediation. Any negotiated agreement needs to take account of the differentials in power between governments and civil society, and not act as a curb on the independence and diversity of civil society. It is essentially important to develop the policy document in a highly participatory manner to ensure that the document is addressing real needs and to create ownership among the parties.

#### Recommendations

- 1. The Compact should be jointly developed by the Executive and representatives from civil society organisations, including grassroots groups as well as large NGOs. Representatives from organisations spanning the breadth of civil society should be involved to ensure widespread ownership
- 2. The Compact should set out commitments from both government and civil society. The commitments should acknowledge and promote the independence of civil society. They should be realistic and evidence based.
- 3. The Compact should include commitments relating to civil society's role in the policy process, in the delivery of services and in holding government to account.
- 4. Develop tools to monitor the implementation of institutional mechanisms.
- 5. On-going capacity building of key stakeholders (government officials, Parliamentarians, CSOs) is the key for the establishment and proper functioning of the institutional mechanisms for collaboration.
- 6. Periodically review the compact.

Standards & Guidance

- ECNL: Improving Cooperation Between Public Institutions and Civil Society in the Western Balkans and Turkey <a href="http://www.gamn.org/files/Report%20-%20Keeping%20up%20the%20Momentum.pdf">http://www.gamn.org/files/Report%20-%20Keeping%20up%20the%20Momentum.pdf</a>
- ICNL: Guidelines on the Preparation of Compacts <a href="http://www.icnl.org/research/journal/vol3iss4/special-5.htm">http://www.icnl.org/research/journal/vol3iss4/special-5.htm</a>

#### Country Examples

Croatia has a programme of cooperation with the not-for-profit sector

The first document between the Croatian Government and NGOs was the "Program of Cooperation between the Government of the Republic of Croatia and the Non-Governmental, Non-Profit Sector" which was signed in 2001.

The Program of Cooperation is based on "common values of modern democracy and the values of civic initiatives founded on social changes, cooperation, solidarity, social justice, transparency, personal ability and responsibility, participation in decision-making, consideration for personality, self-organisation, consideration for organizational diversity and continuous learning. It aims to create effective mechanisms that will enhance the communication between the Government and the Sector."

Although the Program for Cooperation listed the obligations of the Government and NGOs, it was not perceived as a legally binding document. The Program was conceived as a living document – "a starting point, not a conclusion" – with an "authority evolved from the confirmation" given by both sides. Additionally, the Program of Cooperation anticipated the creation of local and regional compacts so as to decentralize cross-sectoral cooperation.

The implementation of the Program of Cooperation has been evaluated positively. It led to legislative reforms benefiting NGOs, including the new Law on Associations, the Lottery Law, the Law on Volunteerism and draft Law on Foundations, the Code of Good Practice in Grant-Giving, tax law amendments providing deductions for donations to NGOs, and the creation of local compacts in cities throughout Croatia.

• <a href="http://www.icnl.org/research/journal/vol10iss4/art\_1.htm">http://www.icnl.org/research/journal/vol10iss4/art\_1.htm</a>

The Canadian government developed an Accord with the Voluntary Sector

The Accord is a framework that represents a public commitment by the Government of Canada and the voluntary sector to more open, transparent, consistent and collaborative ways for the two sectors to work together. It has as its base are the values of active citizenship, democracy, equality, diversity, inclusion and social justice.

The Accord establishes the following commitments to action for the Government of Canada and the voluntary sector:

- The Government will consider the implications of legislation, policies and programs on the sector and engage the sector in open, informed and sustained dialogue, and
- The voluntary sector will identify important or emerging issues and trends and bring them to the Government of Canada's attention and call upon the full depth and diversity of voluntary organizations when at the table.

A Code of Good Practice on Funding and the Code of Good Practice on Policy Dialogue were developed as a resource of tangible, concrete ideas about how to take the spirit and guidelines of the Accord and put them into action in both government and voluntary sector organisations.

http://publications.gc.ca/pub?id=106233&sl=0

The Government of Macedonia includes a commitment to implement its Strategy for Cooperation with the Civil Sector as part of its OGP Plan.

The Government of Macedonia includes a commitment to implement its Strategy for Cooperation with the Civil Sector as part of its OGP Plan.

The UK Government has a longstanding compact with the voluntary sector

The UK Government's Compact with the voluntary sector was made in November 1998, and renewed in 2010. It considers areas such as involvement in policy design and consultation, funding arrangements (including grants and contracts), promoting equality, ensuring better involvement in delivering services, and strengthening independence. The Compact was developed by a Working Group including included representatives from leading voluntary and community sector umbrella bodies, representatives from community groups and organisations, volunteering organisations, Councils for Voluntary Service, the National Council for Voluntary Organisations and Black and Minority Ethnic organisations. The group consulted over 25,000 organisations about what the Compact should include and the text was agreed in 1998.

A Reference Group was also set up, with membership drawn from 65 voluntary organisations, to act as a sounding board to the activities of the Working Group before and during discussion with Government. Almost all local authority areas have now developed a similar local Compact in partnership with the voluntary and community sector.

The Compact was agreed by the Government in 1998 and was signed by the then Prime Minister, Tony Blair, but it is not in the statute books. It is not considered legally binding but there is a legitimate expectation that its signatories (both at the national and local levels) will abide by their commitments. The failure to live up to Compact commitments has formed a part in judicial review cases but the Compact has not been the only basis for the challenge. A judge recently stated that the Compact is 'more than a wish list'. The compact is accompanied by an Accountability and Transparency Guide, which outlines steps to take at national and local level if these principles are not followed, including dispute resolution, internal complaints procedures and ombudsmen functions.

Voluntary sector bodies state that the compact has achieved a great deal, such the principle of Full Cost Recovery and 12-week consultation. However, implementation of the Compact is still patchy and the inequality in power between Government and voluntary organisations means there is sometimes need for a separate body to step in.

- http://www.ncvo-vol.org.uk/thecompact
- https://www.gov.uk/government/publications/compact-the-agreement-between-government-and-the-voluntarycommunity-sector

# Intermediate Step: Engage citizens in deliberation on a priority issue

Justification

Mechanisms for hearing the views of citizens and other stakeholders should be institutionalised for all policy decisions. However, some policy decisions warrant and require a broader or deeper level of engagement with citizens than others. This is particularly true where issues of constitutional change are being considered, the issue in question is highly complex and requires action by many actors, and on issues that will likely impact or concern citizens in a significant way.

For such issues, it can be advantageous to use deliberative methods of citizen engagement, whereby groups of citizens engage deeply with the issue in question. Eliciting the views, values, knowledge and experiences of the public can offer new perspectives on issues and be the source of important new information and ideas - resulting in policies and services that are better designed, more efficiently and effectively implemented, and enjoy greater public support (Andersson et al, 2013).

Involving the public can strengthen the legitimacy of a decision making process and give people a sense of ownership over the final decision, lowering the likelihood that it will be challenged or rejected. In addition, involvement can give people a sense that they have contributed to an important process and that their voice has been heard - increasing their sense of efficacy and their trust in government. Publishing responses to input increases transparency, and builds public confidence that government decisions are based on appropriate criteria and evidence.

#### Recommendations

- 1. Engagement should be focused on issues that matter most to people whether through having a direct impact on their lives or having broader social, ethical, environmental or economic impacts. This helps to ensure that engagement is meaningful, and incentives citizens to take action
- 2. The input of citizens and stakeholders must be able to influence the decision in question
- 3. The issue may be a single decision that needs to be taken, or part of an ongoing governance process. However take care that citizen engagement is not over reliant on one-off, intermittent events, which raise expectations that can't be met.
- 4. The engagement process should be carefully designed to match the purpose, context and participants with appropriate methods chosen that are appealing and meaningful to citizens.
- 5. It should be carefully considered who the participants should be, and how they can be be involvement
- 6. The outcomes of the process should be carefully evaluated and reported back to participants and wider society
- 7. Don't underestimate the power of having fun. Most people associate engagement with dull town-hall meetings the same participants, talking about the same things and in a way and in an environment that alienates most citizens. Unfortunately this perception is also often a reality. The first step towards changing this is to make engagement fun (though, critically, not at the expense of it being meaningful)

#### Standards & Guidance

- Civicus Participatory Policy Making <a href="http://www.pgexchange.org/index.php?">http://www.pgexchange.org/index.php?</a>
   option=com\_content&view=article&id=140&Itemid=132
- IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation
- NCDD: Legal Frameworks for Citizen Participation <a href="http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-LegalFrameworks2003.pdf">http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-LegalFrameworks2003.pdf</a>
- NCDD: Resource Guide on Public Engagement http://www.ncdd.org/files/NCDD2010 Resource Guide.pdf
- Participation compass <a href="http://participationcompass.org/">http://participationcompass.org/</a>
- Participedia http://participedia.net

#### Country Examples

Estonia set up an online 'People's Assembly' to make proposals for government reform

The People's Assembly Rahvakogu (www.rahvakogu.ee) is an online platform for crowd-sourcing ideas and proposals to amend Estonia's electoral laws, political party law, and other issues related to the future of democracy in Estonia. The Assembly focuses on five political sore spots: party financing, political parties, the electoral system, civil participation in politics and the politicization of public offices.

In a structured process proposals were collected and discussed online, before being worked through by experts and clustered into a series of topics and scenarios, backed by impact analysis. This was then put forward for debate during a one-day 'deliberation day' involving members of the public, selected to proportionally represent (voting) age groups, regions, ethnicities and genders.

1,800 registered users posted nearly 6,000 ideas and 300 people participated in the deliberation day. Parliament has since set a timetable for the most popular proposals to be introduced in the formal proceedings.

The initiative was developed by the President following a series of scandals involving senior politicians widespread criticism of the government and the development of 'Charter 12' an Estonian citizens' initiative signed by 17 prominent public figures, calling for greater democratic accountability. The assembly was organized by volunteersfrom NGOs such as the Estonian Cooperation Assembly, the Praxis Center for Policy Studies, the Network of Estonian Nonprofit Organizations (EMSL), the e-Governance Academy and the Open Estonia Foundation, with the support of the government. It will not necessarily become a permanent institution.

http://www.rahvakogu.ee

In Madagascar the government established a mediation process to address tensions over a large infrastructure project

Nosy Be is a remote island off the North Western coast of Madagascar that was ear-marked for a large, privately-funded infrastructure project in the mid-2000s. The project catalyzed social tensions between different layers of government and local communities. In response, the national government development programme and the World Bank commissioned a consultancy firm to facilitate a mediation process and find a way forward using a tool called the Local Governance Barometer (LGB).

They took participatory approach, engaging Government, civil society and the private sector to identify an appropriate local governance model. Over a three-month period the different stakeholders were able to air their grievances and come up with an action plan to increase government accountability and social responsibility within infrastructure development on the island, improve civil society and private sector participation in development planning, and increase awareness about and enforcement of legislation on land rights, women's rights and corruption. A mixed committee was then tasked with taking the plan to national Government and relevant donors.

The initiative increased channels for collaboration and communication between the municipality and local communities, improved awareness of complaints procedures.

Source: DUFILS, J.-M. 2010. The Local Governance Barometer – Measuring Governance in Madagascar. In: CLAASEN, M. & ALPÍN-LARDIÉS, C. (eds.) Social Accountability in Africa: Practitioners Experiences and Lessons. Pretoria: Institute for Democracy in South Africa (IDASA).

http://www.un.org/esa/socdev/egms/docs/2013/EmpowermentPolicies/Background%20Paper.pdf

The City of Gerardton developed a plan for the city's future through participation

The Greater Geraldton City Region in Western Australia is at a crossroads. It faces big challenges for its future growth and sustainability, with depleting fishing and agriculture on the one hand, and new developments – port and rail, large scale renewable energy and mining – on the other, each having significant implications for the city region. Geraldton is using the challenges that face them environmentally, socially and economically to revitalise their democratic governance, providing opportunities for ordinary people to play their part in co-creating their future.

Over 2,000 people (approximately 6% of the population) have been involved in deliberations. This effort has been supported by 40 volunteer Community Champions, ordinary citizens who have been trained to organise and facilitate small-scale deliberative techniques. In 2010/11, this included 36 World Cafes fostering lively discussions about the region, where people would like to see it in 2029, and how change could be implemented to reach this vision; this was followed by around 20 Conversation Cafes (in local cafes) to help understand what people meant by "the Gero feel" (often mentioned), i.e. Geraldton's identity.

Importantly, socio-economic inclusivity and full engagement of the community was ensured through the participation of young people and local Aboriginal people in seven separate World Cafes and numerous Conversation Cafes, where they constituted the majority, as well as concerted efforts to elicit their participation in the large-scale public deliberations. Digital deliberative democracy is being generated through an innovative platform, CivicEvolution, which enables self managed groups to develop ideas that interest them into proposals that can be considered by the Alliance Group. Aided by the local newspaper's social media site, and focusing each week on one of the deliberative proposals generated, over 4,000 residents have been attracted to comment.

These face-to-face and online deliberative processes during 2010/11 resulted in prioritised proposals (by citizens and the Alliance Group) being implemented. These included planting one million trees, now well in progress, plans for both youth and indigenous centres, more cycle pathways and better communication about 2029. Longer-term initiatives have been incorporated into the City Region Strategic Plan, Including improvement of public transport and a focus on renewable energy.

A one-day event with over 150 randomly sampled residents deliberated two big issues facing the community. Unexpectedly, they determined that the City Region should focus on becoming carbon neutral, and it should not be supportive of the mining companies' push for a fly-in-fly-out workforce. Later in 2011, there was a focus on city regional planning. Small-scale deliberations culminated in an Enquiry by Design process involving 250 participants (citizens and stakeholders) over a three-day period. Extraordinarily, over 200 community participants remained engaged from the first full day of deliberation through to the end of the two afternoons/evenings. This process resulted in an agreed overall City Regional Plan with clear guidelines to underlie any future plans. Based on the outcomes of the 2029 process to date, a Community Action Plan was developed and has now become a 'Community Charter'. This documents the community's aspirations together with a series of practical reforms, to be jointly 'owned' by the citizens, industry and the government departments involved.

http://www.involve.org.uk/wp-content/uploads/2013/02/From-Fairy-Tale-to-Reality.pdf

The Danish Ministry of Foreign Affairs will conduct public hearings on the design of foreign aid programmes

The Danish Ministry of Foreign Affairs will conduct public hearings on the design of future foreign aid programmes, allowing citizens and civil society to contribute input and suggestions to key development assistance issues and budgets of a certain size. This is part of the government's OGP Action Plan.

• <a href="http://www.opengovpartnership.org/country/commitment/involvement-civil-society-and-new-approaches-public-service">http://www.opengovpartnership.org/country/commitment/involvement-civil-society-and-new-approaches-public-service</a>

Turkey sought broad public inputs into development a new constitution

The process was initiated with the call of the Government to all stakeholders to make the "Civil Constitution" that Turkey needed. CSOs set up platforms, networks and civic initiatives to engage in this dialogue and submitted their comments and proposals to the Parliamentary Committee for Developing the Constitution Proposal. The Commission established a website for sharing those comments and proposals. Overall, 401 civil society initiatives and 82.232 citizens submitted their comments and proposals on the new constitution.

http://www.gamn.org/files/Report%20-%20Keeping%20up%20the%20Momentum.pdf

# Intermediate Step: Establish legislation and guidelines on public consultation in policy development

Justification

Institutionalising a minimum level of citizen engagement in the policy process is important for ensuring that the views of citizens and other stakeholders are present when decisions are made, and that decisions are better informed as a result.

Public consultation is a formal process through which citizens and stakeholders can give feedback on policy analysis, proposals and options presented by the executive branch of government. It can take place at various stages of the policy process, from exploring ideas set out in policy papers through to scrutinising drafts of legislation. Public consultation typically involves citizens and stakeholders responding to something presented to them by government and, as such, is often considered to be a relatively low level form of engagement as it gives citizens limited influence in the policy process. However, its effective use is essential for any and all policy processes as it helps to ensure that decisions are informed by a good understanding of the likely impact of different policy proposals and that those affected by a decision have the opportunity to present their views.

The techniques used to consult or involve people include written responses, crowdsourcing comments on proposed legislation, focus groups, citizens' juries, public meetings, and user panels. However, while many techniques are widely known, the potential and pitfalls of participation in practice are less well understood. The effectiveness of public consultation processes is determined by the quality of the planning that precedes it, especially the planning of how to reach relevant participants, how to handle the results and how to link the initiative with wider decision-making processes and systems.

Concerns about consultation include the potential for tokenistic engagement of citizen representatives; the capture of resources and local decision-making by local political and economic elites; and the re-creation of existing power relations within new participatory spaces – such as domination by men; or the reluctance of social "inferiors" to publicly challenge someone they rely on for work or housing. Citizen engagement must, therefore, be well designed and sufficiently resourced in order to mitigate these challenges.

# Recommendations

- 1. Commit to institutionalising public consultation in the policy process, and embedding good consultation practice
- 2. Establish legislation which requires timely and effective consultation in the policy development process. Legislation should establish basic minimum criteria for consultation, acknowledging that such formalised consultation is just one element of citizen engagement in a decision making process. Legislation should cover:

- To what types of decisions the duty should apply
- o At what stage of the decision making process the duty should apply
- Who should be consulted
- o Equality and confidentiality requirements
- o How consultations should be publicised
- o Information that should be provided about the purpose of the consultation
- o Information that should be provided to citizens and stakeholders (e.g. policy impact assessments)
- The timescale of consultation
- o The expectation that consultation submissions should be published
- How consultation input should be responded to
- How citizens and stakeholders can challenge decisions where the proper process has not been carried out.
- 3. Develop broader guidance on participation, together with stakeholders (including from civil society, business and government). It should set out a range of principles against which consultation exercises can be assessed, but acknowledge that consultation exercises will vary depending upon the context and the intended purpose and participants.
- 4. Consider developing a portal for all active and complete consultations, where citizens and stakeholders can respond to and track issues.

#### Standards & Guidance

- Involve: People and Participation How to put citizens at the heart of decision-making <a href="http://www.involve.org.uk/wp-content/uploads/2011/03/People-and-Participation.pdf">http://www.involve.org.uk/wp-content/uploads/2011/03/People-and-Participation.pdf</a>
- NCDD: Legal Frameworks for Citizen Participation <a href="http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-legalFrameworks2003.pdf">http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-legalFrameworks2003.pdf</a>
- OECD: Focus on Citizens Public Engagement for Better Policy and services http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm
- Public Deliberation: A manager's guide to citizen engagement <a href="http://www.businessofgovernment.org/report/public-deliberation-managers-guide-citizen-engagement">http://www.businessofgovernment.org/report/public-deliberation-managers-guide-citizen-engagement</a>

#### Country Examples

Croatia requires public consultation in policy making

Croatia made improving the quality of their public consultations a key tenet of their OGP Action Plan; ensuring citizens are

given every opportunity to discuss new laws, regulations and acts. The Croatian government developed a law requiring consultation in legislation and regulation. It was later amended to ensure that not only must consultation take place, but the results are recognized as an integral part of decision making, and are reported on with feedback.

• <a href="http://www.opengovpartnership.org/sites/default/files/Inspiring%20Story%20-%20Croatia.pdf">http://www.opengovpartnership.org/sites/default/files/Inspiring%20Story%20-%20Croatia.pdf</a>

in Australia consultation is required before any regulatory change

A Regulation Impact Statement (RIS) is required, under the Australian Government's requirements, when a regulatory proposal is likely to have an impact on business or the not-for-profit sector, unless that impact is minor or does not substantially alter existing arrangements. The primary role of the RIS is to improve government decision-making processes by ensuring that all relevant information is presented to the decision maker when a policy decision is being made.

Departments are required to demonstrate that a consultation commensurate with the magnitude of the problem and the size of the potential impact of the proposal has been undertaken, and guidelines and support are in place to assist them.

Public participation is enshrined in the Constitution of South Africa

The South African Constitution enshrines the principle that 'The public must be encouraged to participate in policy making'. The Constitutional Court interprets this principle to include the responsibility to build public capacity for involvement and to give weight to public responses. Courts may strike down as invalid any legislation passed without adequate public participation

Parliamentary rules require the publication of a notice of intention to introduce a bill in the *Government Gazette* before it is tabled. The notice will usually contain an invitation to submit written submissions on the draft bill. In addition to oral and written submissions, public participation is enabled through setting up of public participation offices. increasing access to constituency offices and conducting parliamentary roadshows.

The Public Service Commission (PSC) has over the years investigated the mechanisms implemented by government departments to facilitate public participation in the Public Service. Overall, the PSC's studies have found that the nature and extent of public participation is generally adhoc and inadequate, and that concerted efforts are necessary to improve the situation. One of the critical measures it identified was the need for departmental guidelines on how public participation is carried out and used to inform policy and practice. The PSC therefore developed a generic template which departments can in turn use to develop their own internal guidelines.

- http://www.parliament.gov.za/live/content.php?ltem\_ID=299
- http://www.psc.gov.za/documents/docs/guidelines/Temp%20Develop%20Guide.pdf

The UK government has issued guidance on consultation

In the UK there are a range of laws establishing requirements for the Government to consult certain groups on certain issues. The UK Government first established a Code of Practice on Consultation in 2000 to provide guidance above and beyond these statutory requirements. The guidance has been updated several times since.

The current guidelines adopted in 2012 commits the government to improving policy making and implementation with a greater focus on robust evidence, transparency and engaging with key groups earlier in the process. The emphasis is on understanding the effects of a proposal and focussing on real engagement with key groups rather than following a set process.

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.
- <a href="https://www.gov.uk/government/publications/consultation-principles-guidance">https://www.gov.uk/government/publications/consultation-principles-guidance</a>
- Tuscany established a law promoting participation in development of regional policies

At the end of 2007 the Region of Tuscany passed Law no. 69 defining Rules on the Promotion of Participation in the Formulation of Regional and Local Policies, an innovative legal provision explicitly aimed at pro-actively promoting citizen engagement in local and regional decision making. This law institutionalizes citizen participation; through group dialogue of citizens and stakeholders in decision-making about issues or problems of public interest.

• <a href="http://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1185&context=jpd">http://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1185&context=jpd</a>

**Advanced Step:** Establish a centre of expertise and designate resources to support the institutionalisation of citizen engagement

## Justification

Building a body of expertise and experience in citizen engagement and working to shift organisational structures, processes, and cultures to support greater openness in policy and decision-making are essential for opening up government organisations.

Government organisations have a long history of being inwardly focused and opaque, with organisational structures, processes and cultures that support these ways of working. Organisational change of any kind requires time and proper resourcing in order for it to have a chance of success. If citizen engagement is to be institutionalised - in order that it becomes part of the way government organisations function - then resources need to be dedicated to make it happen. Designing, commissioning, delivering and evaluating effective citizen engagement is not straightforward. Careful consideration needs to be given to the purpose of engagement, the context in which engagement will take place, and the citizens and stakeholders who should be engaged. The practice of citizen engagement therefore benefits considerably from the presence of a body of expertise and experience from which government officials can draw.

While ad hoc and low impact engagement can operate within existing organisational structures, processes and cultures, the comprehensive use of citizen engagement requires that organisations fully embrace openness - being transparent about what they do and responsive to what citizens tell them. For most organisations this requires significant culture change. A centre of expertise can help to build - and commit to organisational memory - the body of knowledge and experience of citizen engagement necessary to ensure that practice is evidence-based and develops over time. It can

support the evaluation of practice, the testing of new approaches, the development of the business case for engagement, the spread of relevant knowledge and skills, and the removal of organisational barriers. As such, the presence of specific engagement expertise is an addition to - not a substitute for - all government officials developing their own citizen engagement capabilities.

#### Recommendations

- 1. Build a body of expertise and knowledge of citizen engagement
- 2. Prototype and evaluate new approaches to citizen engagement
- 3. Build and make the case for citizen engagement, and support its adoption across government institutions
- 4. Develop organisational capacity and capabilities for citizen engagement, through mentoring, training and networking
- 5. Support the growth of organisational processes and cultures that enable and promote citizen engagement

#### Country Examples

Denmark set up a centre of expertise on collaborative democracy, starting with a focus on technology issues

The Danish Board of Technology (DBT) (now the Danish Board of Technology Foundation) was set up by the Danish parliament to disseminate knowledge about technology, including the potential impact of technology innovation on society and on the environment. The DBT conceived its central mission as promoting debate and public enlightenment in order to evaluate technology and to advise the Danish Parliament and other governmental bodies. The Board pioneered a range of different methods for engaging citizens in the evaluation of new technologies.

It has also established the Center for Collaborative Democracy (CfSD) to strengthen the Danish tradition for democratic dialogue and cooperation among citizens, elected officials, experts, businesses and organizations. CfSD offer advice to municipalities, regions, agencies, ministries, associations, organizations and companies on planning and execution of participatory processes and on using the results. CfSD's ambition is to improve decision-culture by providing professional involvement;

The purpose of CfSD is to apply this knowledge and methodological expertise in new areas that do not need to have to do with technology. It may be, for example in "Participatory Budgeting", with people involved in local government budgeting, employee involvement in innovation in the welfare sector, the development of associations and organizations strategies, urban planning, CSR and many other areas.

- http://participedia.net/en/cases/board-technology-denmark
- http://www.tekno.dk/
- http://cfsd.tekno.dk/

Denmark's Mindlab involves citizens and business in in problem solving with government ministries

<u>MindLab</u> is a Danish cross-governmental innovation unit which involves citizens and businesses in developing new solutions for the public sector. MindLab is instrumental in helping key decision-makers and employees from its parent ministries view their efforts from the outside-in, to see them from a citizen's perspective. MindLab uses this approach as a platform for co-creating better ideas.

It works with service users, citizens and other stakeholders at early planning stages of service delivery. For example,

Mindlab worked with users to test mobile devices for doing tax returns and collected their feedback, which resulted in changing government plans and avoiding costly service mistakes. It developed social networks with and for highly skilled migrant workers to motivate them to stay in Denmark.

MindLab was created in 2002 for the Ministry of Economic and Business Affairs as an internal incubator for invention and innovation. At that time, the vision of an in-house laboratory as a centre of creativity and innovation was unique for a ministry.

In 2007, a new strategy and a new goal were set for MindLab: its focus would be the active involvement of both citizens and companies in developing new public-sector solutions. At the same time, MindLab acquired two additional parent ministries, namely the Ministries of Taxation and Employment. In this manner MindLab also became a fulcrum of intragovernmental cooperation. Finally, the strategy involved MindLab taking on a number of professional researchers, with the aim of establishing a more robust methodological foundation for its work.

Today, MindLab has considerable experience with innovation processes that are based on the realities experienced by citizens and businesses, and which also promote collaboration across the public sector. MindLab has become a part of three ministries and one municipality: the Ministry of Business and Growth, the Ministry of Education, the Ministry of Employment and Odense Municipality and form a collaboration with the Ministry for Economic Affairs and the Interior.

• <a href="http://www.mind-lab.dk/">http://www.mind-lab.dk/</a>

The City of Edmonton has set up a Centre for Public Involvement

The Centre for Public Involvement was proposed in 2009 as a partnership between the City of Edmonton and University of Alberta. It was proposed in response to a demonstrated and recognized need for decision-makers and the public to actively seek, consider and apply the most effective means for public involvement. The collaboration is designed to advance research and learning in the area of public involvement, with the objective of enhanced decisionmaking at all levels.

As an independent and non-aligned third-party organization, the Centre for Public Involvement (CPI) is focused on building the will and capacity for innovation in public involvement. Using this foundation, CPI facilitates a rich collaboration, identifying best practices, and seeking and achieving results locally, nationally and internationally.

The Centre promotes innovation and identifies and tests new models and processes in partnership with public involvement professionals, researchers, organizations, and the public. At its base, the Centre links University of Alberta faculty and students with City of Edmonton staff and decision makers. This is enhanced through additional collaborations whereby the Centre works in partnership with members of the public involvement industry to accelerate evidence based, emerging and innovative public involvement applications.

The UK government set up a center for public engagement on science policy following a national

In the UK in the late 1998 Genetically Modified (GM) foods became a hot topic in the UK, when a televised documentary claimed that GM had potentially harmful effects on health, followed in 1999 by a staged protest event led by Greenpeace. The ensuing public outcry would ensure GM occupied the headlines for several months. By mid-1999, supermarkets withdrew all GM products from their shelves under heavy public pressure. Following the public controversy around GM technology and the House of Lords 'Science and Society' report, a new policy of upstream engagement was pursued by the UK government. It set up the Sciencewise programme in 2004 which aims to enable better policy making by fostering capacity within the policy making community to commission and use excellent public

dialogue.

Sciencewise Expert Resource Centre established in May 2007, provides co-funding and specialist advice and support to government departments and agencies to develop and commission public dialogue activities in emerging areas of science and technology. Sciencewise is managed on behalf of the Department for Business Innovation and skills (BIS) by a consultancy in partnership with the British Science Association and the community participation charity, Involve. It is managed by a Programme Board and a Programme Management Team, who are supported by the Sciencewise Steering Group, which provides strategic advice and guidance. Two stakeholder advisory sub-groups – the Citizens' Group and the Business Insight Group – report directly to the Steering Group.

The main aim of Sciencewise is to enable better policy-making by fostering capacity within the policy-making community to commission and use excellent public dialogue. This will ensure that all future policy involving science, technology and innovation is robustly developed, informed by public concerns and aspirations and based on all the available evidence. It offers an online resource of information, advice and guidance together with a wide range of support services aimed at policy makers and all stakeholders concerned with policy involving science and technology issues, including the public. It provides co-funding to Government departments and agencies to develop and commission public dialogue projects, helps to build capacity among departments to carry out dialogue and develops and promotes best practice. Sciencewise also provides general dialogue training and mentoring to policy makers across Government departments involved in science and technology policy issues.

http://www.sciencewise-erc.org.uk/

# **Advanced Step:** Establish citizen engagement as a core competency of government officials

## Justification

The changing context in which governments operate requires that government officials are increasingly able to engage and collaborate with citizens and stakeholders. This shift in the required approach of government necessitates that the skills and competencies of government officials must shift too. Among other things, it requires a much more open approach to policy making, whereby:

- a shared understanding of the issue in question is developed between relevant stakeholders (including citizens)
- possible policy solutions are developed with relevant stakeholders (including citizens), and collaborative solutions are sought
- policy decisions are informed by the views and expertise of a broad range of stakeholders (including citizens), and the reasoning and evidence base for a decision is open to all
- the implementation of a policy decision is informed by, and conducted in partnership with, relevant stakeholders (including citizens)
- the impact of a policy decision are properly evaluated, including by those it affects

The ability of government officials to engage and collaborate with citizens and external stakeholders should, therefore, figure in their recruitment, appraisal and personal development.

#### Recommendations

- 1. Undertake a review of the skills and competencies required for effective policy making, and create accessible opportunities for interested parties to contribute towards the review
- 2. Address any barriers to engagement and collaboration presented by organisational systems and processes
- 3. Explore the role of citizen engagement in the policy process, and consider the skills and competencies necessary for undertaking effective citizen engagement
- 4. Include these skills and competencies in the job descriptions, appraisal processes and personal development objectives of government officials
- 5. Develop a programme of learning and development that addresses the knowledge and skills necessary for effective citizen engagement

### Standards & Guidance

• IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation

#### **Country Examples**

Finland is committed to developing dialogue skills in public administration as part of its OGP action plan

Finland OGP Action Plan includes a commitment to emphasizing dialogue skills in the job descriptions of civil servants. Competences needed to enhance open government will be specified and the importance of dialogue skills will be highlighted in job descriptions, in recruitment criteria and in assessing personal performance in positions demanding such competences. In addition training in customer oriented service design will be arranged for civil servants and citizens.

UK Open Policymaking team crowdsourced suggestions of 'Ideal Policy Team Behaviors'

Using a simple and low cost blog, the UK Government's Open Policymaking team, in partnership with the civil society organisation The Democratic Society, have been hosting an online discussion space exploring: 'what open policymaking means in practice, and how we make it excellent and democratic.'

As part of this, they conducted a light touch review of 'Ideal Policy Team Behaviours', asking 'policymakers- and anyone involved in delivering policy or influencing its creation- to vote on what policy teams should be doing to ensure that policymaking gets better.'

The top five to emerge were:

- 1. Marketing the engagement exercises so that relevant stakeholders are able to contribute to the process
- 2. Understanding how an end-user interacts with a policy area in practice
- 3. Prototyping proposed solutions and processes
- 4. Clearly stating (in plain English) the scope of any related consultation or engagement exercises as well as the

desired outcomes

- 5. Asking the right questions
- http://openpolicy.demsoc.org/policymaking-behaviours/

**Advanced Step:** Establish mechanisms to engage children and young people as full participants in civic life

# Justification

Governments should place particular emphasis on engaging groups of the public that are subject to exclusion and/or unable to express their views in other ways. We focus this illustrative commitment on children and young people due to the need to foster active citizenship from an early age. Commitments could, however, similarly be formed for other segments of the population including women, ethnic and religious minorities, migrants and refugees, and old people.

Under 18s make up over 30% of the global population, and in many developing countries up to 50% of the population may be under 18. Under Article 12 of the <u>UN Convention on the Rights of the Child</u>, children and young people have a right to have their views listened to, and taken into account on decisions that affect them.

Although most young people around the world do not have the right to vote, governments are making policy decisions every day, on health, education and welfare, with large impacts on the lives of children and young people. Listening to the views of children and young people can:

- Lead to better designed policies drawing on the lived experience, insights and innovative ideas of young people
- Engage all people under 18 as allies in *the* development *and sustainability of new mechanisms throughout society* whether reporting when teachers don't turn up to school, giving feedback on projects, or getting involved in implementing social programmes
- Give children and young people a greater stake in society and increase the likelihood that they will be civically active as adults
- Promoting the involvement of children and young people may involve:
- Making sure consultation opportunities are accessible for example, by using clear language, and offering a range of ways to input rather than only accepting formal written submissions.
- Specific outreach to involve young people through dedicated consultations, events and project activities that give young people an opportunity to share their feedback, express their views and get involved in influencing policy.
- Establishing formal youth engagement structures such as a credible and independent National Youth Council, backed by a range of local structures that support children and young people to get involved.

In many countries young adults (18 - 30) are also commonly excluded from public consultation or opportunities for decision making, even though they may have formal voting rights. Many of the recommendations below should also be applied to youth in these cases.

Recommendations

- 1. Establish shared values & leadership. The government should affirm a public commitment to involving children, young people and young adults in all decisions that affect them.
- 2. Set out clear standards for the involvement of children and young people drawing on international good practices
- 3. Work with a group of children and young people to assess current participation opportunities, and to identify future areas for development
- 4. Develop training in child and youth participation for professionals working with young people, and for decision makers

#### Standards & Guidance

- UNICEF: Child and youth participation resource guide <a href="http://">http://www.unicef.org/adolescence/cypguide/index intro.html</a>
- Youth participation in development guide <a href="http://ygproject.org/">http://ygproject.org/</a>

## **Country Examples**

In Uganda a consultation with young people provided inputs to the National Development Plan

In Uganda a consultation process was carried out to involve youth in the development of Uganda's Five-Year National Development Plan (2009 to 2014), especially regarding the key issues affecting young people, such as unemployment, education, health and poverty. Fifty-two young people (providing national representation for Uganda's districts and youth-led organisations), were recruited from youth NGOs, student associations and youth disability groups. This group discussed the key thematic areas of the NDP and formulated recommendations for the government. Key members of the staff team responsible for the consultation were also young people.

National newspaper advertisement invited contributions via SMS, and the young people involved were provided with training on strategy analysis. Four groups created strategies in the key areas of education, employment, health and population, and gender and social development and twelve key strategic recommendations were agreed. Two young people presented the recommendations to the National Planning Authority and Ministry of Children and Youth and consultation outcomes were disseminated across all key ministries and decision- makers in Uganda.

The draft NDP mentions youth entrepreneurship (USD\$5m earmarked for start-ups); vocational skills for out-of-school youth with attention to quality and moral aspects and youth-friendly sexual and reproductive health and rights. There is an emphasis on vulnerable youth in the sections on gender and social protection. The government is now considering follow-up regional consultations, and youth participation in monitoring and evaluation of the plan.

• <a href="http://ygproject.org/case-study/national-development-plan">http://ygproject.org/case-study/national-development-plan</a>

# Innovative Step: Prototype new approaches to citizen participation

# Justification

Citizen engagement is a continuously developing field, with new evidence of its benefits and limitations in different contexts emerging on an ongoing basis. There is no one "correct" model that should be adopted in any given scenario, but a range of possible approaches, the design of which can be tweaked to result in different outcomes. A common finding of evaluations of citizen engagement programmes is that context is key.

It is therefore important that governments and other actors continue to explore the efficacy of different approaches to citizen engagement in different scenarios, but do so in an agile way that enables the development of the approach as evidence of its impact emerges. As such, high quality evaluation is needed to ensure that approaches are developed in the best possible way, and to add to the body of knowledge to inform the development of new approaches by others.

#### Recommendations

- 1. Consider what other approaches have been tried in similar contexts, and their benefits and limitations.
- 2. Commit to ongoing evaluation in order to develop the approach as necessary.
- 3. Support independent formative evaluation of the approach to build the evidence base of what works, in which contexts and why.

## Standards & Guidance

- IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation <a href="http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation">http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation</a>
- Participation compass <a href="http://participationcompass.org/">http://participationcompass.org/</a>
- Participedia <a href="http://participedia.net">http://participedia.net</a>

#### **Country Examples**

The plan for rebuilding New Orleans was developed through participation with people across 16 cities

Hurricane Katrina shattered the city of New Orleans and exposed deep racial and economic disparities. Much of the city's infrastructure was decimated: more than 70% of housing was damaged and entire neighborhoods were virtually destroyed; schools, hospitals and police stations were shut down. Almost 100,000 jobs were lost and 18 months later more than half of the city's population had not returned. In the aftermath, plans to rebuild New Orleans faced a ravaged infrastructure, financial losses of enormous scale, decision-makers scrambling in crisis mode, and a citizenry whose trust in government had been abused. City officials' early planning efforts were met with anger and protest as the community struggled with the challenges of distributing resources and reviving an entire city.

After a number of unsuccessful attempts, New Orleans approved a blueprint for rebuilding. The foundation-funded Unified New Orleans Plan would be run by the Community Support Foundation and overseen by a community advisory board comprised of neighborhood representatives and delegates from the Mayor's office, the City Council, and the City Planning Commission. The Unified Plan would address all city-wide systems, tackling infrastructure needs like housing, flood protection, transportation and public services. It would also produce 13 district-level plans with recovery priorities for the city's neighborhoods. The urgent need to revive the city left a remarkably short time frame for this process: the city-wide and 13 district plans were to be completed – with full community participation – in less than five months.

At the heart o the Unified Plan process were two public forums unprecedented in their size and scope. The "Community Congresses" engaged 4,000 New Orleanians across the country in developing collective recovery priorities for their city. With key decision-makers listening, citizens discussed how to ensure safety from future flooding, empower residents to rebuild safe and stable neighborhoods, provide incentives and housing so people could return, and establish sustainable, equitable public services.

To ensure the Community Congresses had representative participation, AmericaSpeaks partnered with a wide array of grassroots organizations, service providers and leaders in diaspora cities across the country. Registrants received prerecorded calls from the Mayor; Public Service Announcements featured celebrities and free meals, childcare, transportation, and translation into Spanish and Vietnamese enabled participation for many who might otherwise have been left out.

AmericaSpeaks' 21st Century Town Meeting methodology used networked laptops and individualised keypad polling to support facilitated, small-group discussions at diverse tables. These discussions fed into large-group sharing and decision-making. Interactive television connected participants in New Orleans with those in Baton Rouge, Houston, Dallas, and Atlanta. At the December Community Congress, participants in 16 other cities viewed the program through a webcast and submitted their views in real-time over the internet. Public television viewers in New Orleans were able to follow the programming from their homes. At day's end, the citizens' collective priorities were provided in writing to every participant.

• http://americaspeaks.org/projects/case-studies/unified-new-orleans-plan/

# Open government data

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Lead author: Sunlight Foundation and Open Knowledge Foundation

## Introduction

Open Data is the idea that data should be freely available for everyone to access, use and republish as they wish, published without restrictions from copyright, patents or other mechanisms of control. Public sector information made available to the public as open data is termed 'Open Government Data'. Governments and their contractors collect a vast quantity of high-quality data as part of their ordinary working activities. Typically this results in the state becoming a powerful data monopoly able to structure and homogenize the interactions between itself and its citizens. These one-sided interactions are expensive and unresponsive to citizens' needs and can unnecessarily restrict government activities, as well.

Opening government data involves both policy and technical considerations. If governments' data is made open, it can have huge potential benefits including:

- **Transparency:** In a well-functioning, democratic society citizens need to know what their government is doing. To do that, they must be able freely to access government data and information and to analyse and share that information with other citizens.
- **Efficiency:** Enabling better coordination and efficiency within government, by making data easier to find, analyse and combine across different departments and agencies.
- **Innovation**: In a digital age, data is a key resource for social and commercial activities. Everything from catching a bus to finding a doctor depends on access to information, much of which is created or held by government. By opening up data, government can help drive the creation of innovative business and services that deliver social and commercial value.

Where many public records laws and policies regulating the <u>right to information</u> have traditionally relied on *reactive* disclosure, meaning public information has to be requested before it is shared, a government fully engaged in open data is choosing to *proactively* disclose information - meaning public data is released as it is collected and before it is requested. Put another way, the vision of open data is for government information to be 'open by default'. Open data also has a number of technical implications, with special consideration given to the particular formats chosen for data release. Open formats are those that are structured and non-proprietary, allowing the public and the government to extract maximum value from the information now and in the future.

Governments around the world cite many different reasons for starting open data initiatives, including increasing government transparency and accountability, catalysing the creation of new digital services and applications for citizens, unlocking the full economic potential of public information, and evolving current government services for anticipated future needs. Although much of this top-level government interest is new, there are many professions and communities engaged in dialogue, policy, and development around this issue, including from government officials, journalists, developers, transparency reformers, issue advocates, and interested citizens.

**Expert Organisations** 

Global Open Data Initiative <a href="http://globalopendatainitiative.org/">http://globalopendatainitiative.org/</a>

Sunlight Foundation <a href="http://sunlightfoundation.com/">http://sunlightfoundation.com/</a>

Open Knowledge Foundation http://okfn.org/

World Bank's Open Government Data Working Group <a href="http://data.worldbank.org/">http://data.worldbank.org/</a>

Web Foundation  $\underline{\text{http://www.webfoundation.org/}}$ 

Open Institute  $\underline{\text{http://openinstitute.com/}}$ 

 $\hbox{OGP Working Group: Open Data $\underline{$http://www.opengovpartnership.org/get-involved/join-working-group}$}$ 

# Summary of illustrative commitments

#### Initial

- Establish a strong, public commitment to opening data
- Identify and publish some public information as open data

#### Intermediate

- Develop a government-wide policy on open data, through an inclusive process
- Mandate the publication of new data sets

#### Advanced

- Create or appoint an oversight authority
- Create public listings of government data, and audit data availability and management
- Establish new legal rights to empower the public
- Proactively engage with and support data users
- Require that open data commitments apply to all organizations handling public data

## Innovative

• Create unique identifiers for organisations, things and places

## **Detailed Recommendations**

# Initial Step: Establish a strong, public commitment to opening data

## Justification

Governments seeking to reap the benefits of open data often start by publicly committing to the idea of open data and setting ambitious, but achievable goals for data release. Beginning with a strong, public commitment makes open data a cross-government practice and can provide a solid foundation for continued policy and technical development, as well as opportunities for engaging with the public, entrepreneurs and the private sector.

Commitments can and should outline the benefits of publishing data proactivelyand in open formats. Commitments can also help governments to welcome new stakeholders into the process of data release and deliberation. Including the public early on -- even in the commitment drafting process -- helps to build interest, advocacy prioritization, and technical support for later open data efforts, and empowers advocates to prioritize this issue and continues to monitor progress over time.

A strong, well-crafted commitment can be a useful tool for creating political space for other reform efforts, interim studies, and new policies, even while acknowledging that it is only a first step.

## Recommendations

Make a visible, substantive, and ideally high level commitment to open data. For example, key steps that governments have taken are:

- 1. Public statement by the head of state to all government departments, making the case for open data, establishing key principles open format and license and presumption in favour of transparency and, setting priorities for action.
- 2. Establishing a coordinating body (e.g. in a Cabinet Office) or working group including members of the government and public for exploration of this issue.
- 3. Supporting legislative resolutions demonstrating support for transparent operations and the integration of open data into policy considerations.

## Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <a href="http://opendatahandbook.org/pdf/OpenDataHandbook.pdf">http://opendatahandbook.org/pdf/OpenDataHandbook.pdf</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Bank Open Data Toolkit <a href="http://data.worldbank.org/open-government-data-toolkit">http://data.worldbank.org/open-government-data-toolkit</a>

## **Country Examples**

The City Council of Enschede passed a motion recognizing the importance of reusable open data and encouraging citizen participation

At a meeting in March 2011, the City Council of the Dutch city of Enschede passed the Motion *Innovation and Agility with Open Data* where it requested that data should be made open and freely available. The motion recognised that the value of the data held by the city could be enormously enhanced if it was available as open data, allowing citizens to use this data to contribute to economic and sustainable activities.

• http://www.slideshare.net/TonZijlstra/enschede-netherlands-open-data-motion/

The UK Prime Minster set out a broad commitment to open data in a letter to government departments

In May 2010, the UK Prime Minister, David Cameron, sent a <u>letter to government departments</u> on plans to open up government data. The letter contained the government's initial transparency commitments in relation to central and local government spending transparency, and key government datasets, such as crime data. The Prime Minister sent an additional letter to <u>Cabinet Ministers</u> on transparency and open data in July 2011 which set out a new set of commitments. These commitments focused on improving data quality and data availability, primarily concerning the National Health Service, education and skills, criminal justice, transport, and government financial information.

- <a href="https://www.gov.uk/government/news/letter-to-government-departments-on-opening-up-data">https://www.gov.uk/government/news/letter-to-government-departments-on-opening-up-data</a>
- https://www.gov.uk/government/news/letter-to-cabinet-ministers-on-transparency-and-open-data

The US government has made a public commitment to open data

The US Government has made strong public commitment to opening data in recent years. For example, on his first day in Office, President Obama signed the <u>Memorandum on Transparency and Open Government</u>, instructing government agencies to take specific actions to implement the principles of transparency, participation, and collaboration. In addition, the Office of Management and Budget published an <u>Open Government Directive</u> in December 2009 obliging agencies to expand access to information by making it available online in open formats. Finally, the <u>Memorandum on Open Data Policy</u> from May 2013 established a framework to help institutionalise the principles of effective information management at each stage of the information's life cycle to promote interoperability and openness.

• <a href="http://www.whitehouse.gov/open">http://www.whitehouse.gov/open</a>

# Initial Step: Identify and publish some public information as open data

# Justification

An essential first step in any open government data initiative is to actually engage in the process of making information available online in structured, machine-readable formats (such as spreadsheets or CSV files, mapping data or marked up official documents) under an open license that clearly lets third parties use them without restriction. Unstructured data formats, such as scanned pictures of government documents, only allow the data to be seen, rather than extracted. Structure allows for machines to parse the information with more detail and accuracy and allows data to be searched, sorted, and analyzed more easily. Specific open data formats include JSON, CSV, and XML (for databases), and HTML and plain text (which are only semi-structured, but provide flexibility) for documents.

At the national level, there are at least 25 countries that have published open government data (listed at <u>datacatalogs.org</u>). Initial, early publishing of new datasets can help governments move toward proactive government data publishing at scale. Ideally the selection of what data to start with or prioritize should respond to demand from prospective users, whether directly solicited from these users or interpreted from related sources, such as freedom of information

requests.

When considering proactive data publishing at scale, governments should take advantage of the opportunity to publish data in bulk. Bulk access is a simple, but effective means of publishing datasets in full, giving the public the ability to download all of the information stored in a database at once. Whether offered as a feature of a data portal or even as a simple "click to download" button on a government agency, bulk access to information is often one of the simplest and most direct steps a government entity can take to share information with the public.

#### Recommendations

- 1. **Identify data valuable to internal and/or public processes for release**, working with government officials and members of key public stakeholder groups. While prioritising data, look for the opportunity to provide information that helps reveal and inform decision-making.
- 2. Explore making the data both machine and human readable by enriching it with semantics, metadata, and identifiers;
- 3. **Start to release some public information as open datasets** i.e. in structured, machine-readable, platform-independent formats under an explicit open license.
- 4. **Explore avenues for government agencies to participate** at identifying data for publishing, both individually and in coordinated efforts.
- 5. **Identify data liaisons or coordinators** among existing staff who can help facilitate early conversations about data publishing with their department.

#### Standards & Guidance

- Open Data Definition <a href="http://opendefinition.org/">http://opendefinition.org/</a>
- Open Knowledge Foundation Open Data Handbook <a href="http://opendatahandbook.org/pdf/OpenDataHandbook.pdf">http://opendatahandbook.org/pdf/OpenDataHandbook.pdf</a>
- OpenGovData.io <a href="http://opengovdata.io/">http://opengovdata.io/</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- Ten Principles for Opening Up Government Information <a href="http://sunlightfoundation.com/policy/documents/ten-open-data-principles/">http://sunlightfoundation.com/policy/documents/ten-open-data-principles/</a>
- The 10 Principles for Open Data <a href="http://sunlightfoundation.com/policy/documents/ten-open-data-principles/">http://sunlightfoundation.com/policy/documents/ten-open-data-principles/</a>
- World Bank Open Data Toolkit <a href="http://data.worldbank.org/open-government-data-toolkit">http://data.worldbank.org/open-government-data-toolkit</a>
- World Wide Web Consortium: Publishing Open Government Data <a href="http://www.w3.org/TR/gov-data/">http://www.w3.org/TR/gov-data/</a>

## **Country Examples**

In Denmark, enabling free access to 'basic data' will save the government an estimated USD 45 million per year

As part of Denmark's eGOVERNMENT strategy 2011-2015, individuals, public authorities and private businesses get free access to retrieve and use what in Denmark is called *basic data*. Basic data is fundamental information that is used by government for day to day administration and includes data about people, companies, addresses, land/properties and administrative geographic data, such as administrative and electoral boundaries.

Once the initiative has been completely phased in, in 2020, there are expected savings for the public sector of about USD 45 million per year as a result of lower administration costs. In particular the cost of buying data from other

government organisations will be reduced.

Saving for the private sector, from no longer having to submit the same information to the public sector several times or spend time on buying public data, is estimated to be about USD 87 million per year. It is expected that real estate, insurance, finance, and telecommunications and geospatial companies in particular will benefit directly from open basic data.

 http://uk.fm.dk/publications/2012/good-basic-data-foreveryone/~/media/Publikationer/Imported/2012/Gode%20grunddata%20til%20alle/BasicData\_UK\_web\_2012.10.08
 .ashx

In Israel the government worked with Google to make transit data more useful

Data.gov.il is a single window portal that aims to give access to public records data produced from information held by the government. The idea is to encourage creative use of the data by civil society and the larger public by providing tools for information presentation, standardized downloading and standard APIs.

When Google Israel tried to use this data to create a transit app they identified many inaccuracies. Google Israel ran its validation tools over the government database and made recommendations for improvement. "We found the e-Gov team very open to the process of validation and improvement. It took 6-10 months of iteration with the government until we were able to create the transit map for 25,000 bus stations and 53 train stations across the country"

- http://www.opengovpartnership.org/sites/default/files/Israel\_0.pdf
- http://www.Data.gov.il
- http://maps.google.co.uk/intl/en/landing/transit/#dmy

Moldova requires each Ministry to release new datasets

In April 2011, Moldova became one of the first countries in Eastern Europe to launch an Open Data portal. The portal, www.date.gov.md brings together datasets published by various Ministries and central administration offices. The Prime

Minister issued a directive which required Ministries to release three new datasets each month.

- http://www.opengovpartnership.org/sites/default/files/Moldova\_0.pdf
- <a href="http://http://www.date.gov.md/">http://http://www.date.gov.md/</a>

The government of Chile has published 1,003 datasets

These 1,003 datasets, published on the government website *datos.gob.cl* are ordered by ministry, categories, and popular tags.

• <a href="http://datos.gob.cl/datasets">http://datos.gob.cl/datasets</a>

# **Intermediate Step:** Develop a government-wide policy on open data, through an inclusive process

## Justification

The centrepiece of many governments' open data initiatives is a government-wide policy committing to releasing new government data and to setting standards for how data is released. This policy serves as the primary substantive description of how the government will manage and release information. Open data policies should be practically aspirational, meaning that they should both define a vision for why the policy is being implemented, while also being able to provide actionable steps for government and relevant oversight authorities to follow to see the policy through to implementation. Creating regulations or guidance can ensure a strong, reliable policy, and usually means the difference between a policy passed for show versus policy passed for substance.

Open data access is a broad concept, and a well-designed open data policy should be relevant to many different communities. A strong policy requires consultation and collaboration with stakeholders both inside and outside government, both during the development of the policy and in its implementation.

Open government data policies are often best when developed iteratively, adapting to help strengthen and grow fledgling efforts and to identify where continued revision is needed. By being open (or even requiring) future review and iteration, open data policies will be able to keep current with best practices, technological advances, and feedback from existing policy oversight.

## Recommendations

- 1. Create opportunities and channels to engage with data users such as consultations, social media accounts, dedicated email addresses and staff who are able to process and respond.
- 2. Hold broad, inclusive consultations to take advantage of public expertise and build a legitimate process. Assign specific responsibilities for hosting consultations and pay special attention to excluded communities.
- 3. Proactively solicit for information from prospective data users about what kinds of information they would like both initially and on an ongoing basis.
- 4. Review existing policies and barriers to open data access and reuse that may exist in the country.
- 5. Assign specific responsibility for drafting the policy, while involving government officials from across government. This should include responsibility for incorporating public suggestions into the policies.
- Create requirements to establish open data as the default, ranging from data standards to new requirements for designing new data systems, to crafting complimentary laws with publication and data standards built in from the start.
- 7. The policy should include deadlines and actionable goals and benchmarks that can be used as a metric for compliance.
- 8. Consider establishing a single authority empowered to resolve conflicts, provide consistent oversight, and ensure compliance. This may be a role for an existing <u>Information Commissioner</u> or a new authority.
- 9. Ensure sufficient funding is dedicated for implementation.
- 10. Build new iterations of the policy after its release, to strengthen it.

## Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <a href="http://opendatahandbook.org/pdf/OpenDataHandbook.pdf">http://opendatahandbook.org/pdf/OpenDataHandbook.pdf</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Bank Open Data Toolkit <a href="http://data.worldbank.org/open-government-data-toolkit">http://data.worldbank.org/open-government-data-toolkit</a>

## Country Examples

Canada developed an Open Government License

Canada's OGP Action Plan included include a specific commitment to developing a new Open Government Licence. The goal of this commitment was to remove restrictions on the reuse of published Government of Canada information (data, info, websites, and publications), aligning better with international best practices for licensing. Various licences in use to this point were inconsistent, contained restrictive clauses, and were written in language only a lawyer could understand.

http://www.opengovpartnership.org/sites/default/files/Inspiring%20Story%20-%20Canada.pdf

The Australian state of New South Wales opened up its draft open data policy to comments on the web

After consulting with stakeholders, the Australian state of New South Wales released a draft <u>Open Data Policy</u> in May 2013 for public comment. The public was given about a month to participate in a discussion forum on the website *engage.haveyoursay.nsw.gov.au* and provide input to the following questions: (1) Which 'open data principles' should be included in the policy?; (2) Which jurisdictions have the best open data policies and why?; and (3) What can governments do to promote open data in the public service?

<a href="http://engage.haveyoursay.nsw.gov.au/opendata">http://engage.haveyoursay.nsw.gov.au/opendata</a>

The city of Oakland drafted their open data policy using a collaborative method involving open, online comments and public meetings

The 2013 open data policy for the city of Oakland, California, was drafted using a collaborative method in which the public was invited to comment and participate directly in a public hearing.

• <a href="https://docs.google.com/document/d/1s7\_p8Duji9aH7MmULqpBqOU13iKVqeBalD1Gk4Y2v4/edit?pli=1">https://docs.google.com/document/d/1s7\_p8Duji9aH7MmULqpBqOU13iKVqeBalD1Gk4Y2v4/edit?pli=1</a>

The Flemish government's open data policy that makes open-by-default the standard

The Flemish government in Belgium approved an open data policy in 2011. The policy contains six main elements:(1) open data is the default option, and public digital availability the norm; (2) re-use of the data is allowed for any purpose; (3) open standards need to be used; (4) data is to be made available at the first source where possible; (5) integral approach to realizing open data, involving all levels of government; and (6) a central data warehouse on Flemish government's own data is foreseen.

• <a href="http://epsiplatform.eu/content/flemish-government-outline-open-data-policy">http://epsiplatform.eu/content/flemish-government-outline-open-data-policy</a>

The US government established a public open source project to facilitate the implementation and evolution of its Open Data Policy

When the US Government established its Open Data Policy it recognised that technology moves much faster than policy ever could. Often when writing policy for technology, agencies are stuck with outdated methods as soon as they publish new policies.

It therefore established Project Open Data on GitHub, a popular code-sharing website used by the 'open source' community. Project Open Data is an online collection of code, tools, and case studies to help U.S. agencies adopt the Open Data Policy. Anyone – government employees, contractors, developers, the general public – can view and contribute by editing the content, adding new pages, or adding tools.

At the onset, the General Services Administration is providing a moderator role - giving oversight and support, but over time, the vision is that contributors both inside and outside of government can be empowered to take on additional leadership roles.

http://project-open-data.github.io/

# Intermediate Step: Mandate the publication of new data sets

## Justification

Governments produce tremendous amount of information, but often only a small subset is available on the Internet, even as more and more people look online for these records and resources. Open data initiatives provide an opportunity to identify data sets and records that could be, but are not yet, made available publicly – or online. Identifying and publishing this 'new' data is key to fulfilling the vision of any government's open data programme as it integrates open data norms into government procedure.

Requiring 'new' data to be published can in some instances refer to information that will be created, collected and released for the first time -- a unique opportunity to follow best practices in open data publishing from the start. In other instances, 'new' data can mean identification of existing datasets and mandating their release as open data.

Information can run the gamut from corporate registration data to the video, audio, and minutes from a public meeting. It can also include historic information that has previously been locked in paper-based archives. Specific mandates can be made about a variety of kinds of data -- information ranging from transportation data to lobbying registration databases to the video and audio of public meetings -- though careful consideration should be given to the language used to describe what information is affected. Descriptive phrases such as 'high-value' or 'high priority', when used without direction or indication of how to assign value or priority, can open up loopholes that slow or prevent the release of information desired by the public.

## Recommendations

1. Work with government officials and members of key public stakeholder groups to identify data valuable to internal

and public processes that can be released.

- 2. Establish open data legislation which requires the release of specific classes or categories of datasets as open data.
- 3. Be clear about the scope of 'new' information and identify key agencies, committees or other relevant agents necessary for the digitization and publishing process.
- 4. Create specific requirements for ongoing updates of open data, and aim to release government data as quickly as it is gathered and collected (in 'real time').
- 5. Release new data online in a way that is free of intellectual property restrictions or fees, in a structured format and ensure that the data is kept updated in a timely manner.

#### Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <a href="http://opendatahandbook.org/pdf/OpenDataHandbook.pdf">http://opendatahandbook.org/pdf/OpenDataHandbook.pdf</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Bank Open Data Toolkit <a href="http://data.worldbank.org/open-government-data-toolkit">http://data.worldbank.org/open-government-data-toolkit</a>

## **Country Examples**

In Japan, the Parliament's National Library plans to digitise its entire collection to make available online

The National Diet Library of Japan, the country's only national library, is on its way to full-text digitisation, which will make Japanese literary artefacts widely available and searchable online.

http://www.futuregov.asia/articles/2011/aug/05/japan-digitises-national-diet-library/

In Slovakia, government contracts are published online

Corruption in public procurement in Slovakia has been a long-standing problem. Problems in public procurement occur through the manipulation of tenders before or after the awarding of the bid, for example by limiting competition through setting unreasonable conditions, or not fully enforcing contracts, or changing them significantly after tendering. One key example was the 'Notice Board Scandal,' a high profile procurement scandal which took place in 2007 when the Ministry of Development published a tender request for construction services totalling 119.5 million Euros on a small notice board in the hallway inside the ministry building where few could see it. A firm that was known to have close ties to the head of the ruling party won the contract. More than a year after the fact, the scandal came to light and was invalidated by the Slovakian Office of Public Procurement.

Slovakian law was overhauled in response to the 2011 update of the EU Procurement Directives and the concern over high profile public procurement scandals. Major reforms included:

- 1. The introduction of e-procurement, in which dissemination of tenders, tender documents, the submission of bids and the publication of notification of awards is done publicly through a single portal;
- 2. The introduction of reverse auction mechanisms for procuring goods and services
- 3. Mandatory publication of all public contracts on a centralized online government contract repository.

In the Slovak Republic, <u>Act No. 546/2010</u> Coll. supplementing Act No. 40/1964 requires all public contracts, with certain limited exceptions, to be published online. To avoid secret contracts, any unpublished contracts are declared to be unenforceable. The Government <u>Public Procurement Office</u> manages Slovakian procurement rules. This office

publishes the official Public Procurement Journal, legal interpretation of the Public Procurement Act, maintains a <u>register of procurement documents</u> and operates the procurement portal, which is called <u>EVO</u>.

These reforms have made it significantly easier for organizations and people outside the government to access public data about procurement. Previously access tender documents and other procurement data was granted primarily through requests under Freedom of Information Laws (FOI). If requests were not granted and appeals could take so long that the information was no longer relevant.

Now, through EVO all of that information is published including the contract itself and information on the bids received and the process of contracting.

The availability of data has lowered the barriers to entry for participating in the oversight process. This has enabled much greater public participation in uncovering suspect procurements. Before the reforms, exposing corruption relied on whistleblowers alerting journalists or watchdogs of suspicious proceedings. Now more tips come from local activists and individuals. For example teachers, highlighted information about large Ministry of Education procurements for flowers and alcohol and the Ministry of Finance conducted an audit.

Opening up the information makes it possible compare contractors and look at patterns across cities and institutions. Local people who may know who the mayor is friends with, and which local businesses have relationships with people of influence are able to spot issues that a researcher farther removed from the process might not be able to.

Despite these positive developments corruption in Slovakian public procurement remains a challenge. While the availability of data has been a positive step, there remain barriers to using it, and where there is no real threat of enforcement, transparency and disclosure are limited in their ability to bring about effective change. Researcher using the data say that rationalizing the manner in which the data is released and formatted would make it easier to use, reducing the cost of finding corruption and increasing the likelihood that improper processes will be uncovered. The NGOs TI-Slovakia and Fairplay Slovakia maintain an online <u>Open Contracts</u> website built off the procurement data scraped and structured from public sources. This portal visualizes procurement expenditures by procurers, suppliers, sectors and regions as well as provides downloadable structured procurement data in bulk. Having data available in these formats also enabled TI-Slovakia to conduct broader analyses than were previously possible.

Standardised data formats, bulk downloading, structured formats like XML would make it easier to use the data. Another key problem is that there are no data licenses attached to public data so it is not clear how it can be used. Additional information about pre-tender requirements would also be valuable.

Formal mechanisms and institutional means of sanction also need to be strengthened. The Sunlight Foundation concludes that "Most significantly, transparency alone, it appears, cannot change deeply ingrained corrupt practices in a short time span. Transparency can only highlight the problem, and provide tools for oversight and investigation. Enforcement mechanisms, both formal and informal, must be brought to bear to sanction those whose transgressions are revealed by transparency-enabled oversight."

[Source: Sunlight Foundation case study]

- http://sunlightfoundation.com/blog/2013/08/12/case-study-public-procurement-in-the-slovak-republic/
- http://www.zmluvy.gov.sk/
- <a href="http://www.otvorenezmluvy.sk/">http://www.otvorenezmluvy.sk/</a>

The Brazilian ministry of finance publishes large amount of budget data in machine-readable formats

Brazil has developed a number of instruments for fiscal transparency. The most well known initiative perhaps is the transparency portal <a href="www.portaltransparencia.gov.br/">www.portaltransparencia.gov.br/</a>, which was started in 2004 and which draws together information from across the federal government. The portal includes information on public revenues, budgets and spending as well as income and assets of public servants and information on procurement. It is updated daily and provides searchable, open access to the data, as well as offering specific sections focused on areas of particular interest such as the World

Cup and the Olympics.

The portal aims to provide information which can be easily accessed and used. For example budget lines are tagged with popular names (for example 'bolsa familia' as well as the official title 'Transferência de renda e apoio à família no acesso à saúde e a à educação'). The information in the budget portal is provided in the form of open, machine readable data, so that it can be used and reused by civil society, media and other organisations to create analysis, visualisations and tools to navigate the information.

As the practice of transparency has developed, so too has the legal framework. In 2012 Brazil established a new Transparency Law obliging all Brazilian public entities (executive, judiciary and legislative bodies at the federal, state and municipality levels, as well as in the federal district) to publish detailed budget data online in real time. The transparency initiative is led by the Office of the Comptroller General. Significant effort has been put into education and dialogue, both within and outside of government, to understand user information needs, to support users to use the data and to generate high quality information flows.

As part of its first OGP Action Plan Brazil has been providing more budget information on its transparency portal, improving data on social benefits and on contracts. In its second Action Plan there is a plan to rebuild the Transparency Portal completely, based on learning from the first ten years, to improve quality and usability and to connect budget information to datasets on actions. The federal government is now working to encourage states and municipalities to develop their own portals.

[Source: Based on a webinar presentation by Otavio Castro Neves, July 30 2013]

http://www.opengovpartnership.org/webinar-introducing-fiscal-openness-working-group

The Senate of Italy publishes legislative data on its own open data portal

The Italian Senate publishes legislative data on its data portal *dati.senato.it*. The portal provides information for citizens, researchers and journalists to analyse and share information of what is being proposed, discussed and voted in the Senate. The data is released under Creative Commons (CC BY 3.0) for free reuse.

http://dati.senato.it/

# Advanced Step: Create or appoint an oversight authority

# Justification

A single authority empowered to resolve conflicts, provide consistent oversight, and ensure compliance with new open data measures is a valuable asset to any open data policy. Commonly, open data initiatives either direct a pre-existing officer (i.e. a chief technology or administrative officer) or a specific department to oversee execution and compliance, although new positions and authorities can also be created. Specifying an authority, review board, or similar body is an important step to making sure that an open data policy can actually be executed and provides a resource to address unforeseen hurdles in implementation. New oversight bodies should conduct their work independently and publicly, and can be bolstered by creating new regulations or guidance for implementation.

Recommendations

For any authority created or granted, care should be given that the new position has powers of enforcement to follow through on their work and address resistance or non-compliance.

## Standards & Guidance

- OpenGovData.io http://opengovdata.io/
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Bank Open Data Toolkit http://data.worldbank.org/open-government-data-toolkit

## **Country Examples**

Australia's information commissioner is responsible for all information held by the government

According to the Australian Information Commissioner Act 2010, the information commissioner's function is to report on any matter related to the collection, use, disclosure, management administration or storage of, or accessibility to, information held by the Government.

http://www.comlaw.gov.au/Details/C2010A00052

In Canada, the information commissioner investigates access to information complaints and advocates for more proactive disclosure within government

The Information Commissioner in Canada investigates complaints about federal institutions' handling of access requests. The Information Officer also encourages federal institutions to disclose information, and continually makes the case for greater freedom of information through targeted initiatives, such as the annual Right to Know Week, and ongoing dialogue with Canadians, Parliament, federal and provincial institutions.

<a href="http://www.oic-ci.gc.ca/eng/abu-ans\_what-we-do\_ce-que-nous-faisons.aspx">http://www.oic-ci.gc.ca/eng/abu-ans\_what-we-do\_ce-que-nous-faisons.aspx</a>

In the U.S. state of Utah, a Transparency Advisory Board acts as the oversight authority for the state's open data policy

In the U.S. state of Utah, the Utah Transparency Advisory Board acts as the oversight authority for the state's open data policy. The Board is comprised of six members knowledgeable about providing public access to public financial information. Its responsibilities include making public information more accessible through an information website *transparent.utah.gov*.

http://le.utah.gov/~2013/bills/sbillenr/SB0283.pdf

Advanced Step: Create public listings of government data, and audit data

# availability and management

## Justification

Open Government Guide

Government officials, policy-makers, and members of the public can only request or analyse what they know exist. Too often, government officials themselves are not aware of the details or amount of information that they possess. A comprehensive index or listing of government information both enables policy-makers and administrators to determine whether information is being appropriately managed, and empowers public oversight of those determinations. Publicly accounting for agency information helps ensure that information is managed to benefit the public interest, and can create efficiencies among government departments.

To provide up-to-date information, agencies can also be required to regularly audit their information holdings.

## Recommendations

- 1. Craft a high level policy requiring each individual department to index all of their data.
- 2. Design the variables and labels that will accompany all listed government datasets -- i.e. is it public or not, could it be made public, is it accessible through FOI request, what is the justification or classification for non-release, if public, where it can be found, etc.
- 3. Publish data indexes online so that public datasets can be directly linked to.
- 4. Explore opportunities to use the auditing process as an empowering mechanism for government agencies to be recognized for the information they collect, handle and share.
- Standards & Guidance
  - Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- Country Examples
- In Canada, a government wide initiative has been undertaken to identify all government data holdings

The Canadian Data Inventory Project is a government-wide stock-taking of federal data holdings. The inventory consists of the metadata on datasets held within government departments and will be linked, when possible, to specific key policy issues. Other metadata will include the title, subject area and subtopics, time and geographic coverage, data source and size, ownership and contact information and a description of the dataset. Together with this data inventory project, work is also being done to assess data needs and identify data gaps.

In the U.S. city of San Francisco, the government's open data policy calls for all departments to publish an inventory of data held

According to the San Francisco's Open Data Policy, each City department must make reasonable efforts to make

available all datasets under the department's control. In addition, the policy calls for an Open Data Plan to be prepared and to include a summary description of all datasets under the control of each City department.

• <a href="http://sunlightfoundation.com/blog/2013/04/25/open-data-policy-evolution-san-francisco/">http://sunlightfoundation.com/blog/2013/04/25/open-data-policy-evolution-san-francisco/</a>

In the United States, the 2013 Open Data Policy called for federal agencies to perform an audit and create an index of datasets

The US <u>Open Data Policy</u> from 2013 require agencies to index all of their data (internally), to make a public list of all their public data, and requires all agencies to list all their data that *can* be made public.

• http://sunlightfoundation.com/blog/2013/05/09/open-data-executive-order-shows-path-forward/

The England and Wales Land Registry contains an inventory of all available data

The Land Registry is a UK government department established in 1862, responsible to the Secretary of State for Business, Innovation and Skills. It keeps and maintains the Land Register for England and Wales; one of the world's largest property datasets.

A number of <u>free datasets</u> have been published since 2012 under the Open Government Licence (OGL) in CSV and Excel formats, and as of January 2013 as linked data. The Land registry is progressively adding more datasets, focusing on those it judges to be of wider public interest, information frequently requested and information that is not available from elsewhere. As part of this process the Land Registry released a dataset inventory to provide a transparent, comprehensive list of the data it holds, clearly outlining whether it can release it as open data, and inviting feedback to prioritise future data releases.

- <a href="http://data.gov.uk/dataset/land-registry-dataset-inventory">http://data.gov.uk/dataset/land-registry-dataset-inventory</a>
- http://www.landregistry.gov.uk/media/all-releases/press-releases/2013/land-registry-goes-big-on-open-data

The National Audit Office in the UK audited government data holdings and released a report on their findings to the public

The UK National Audit Office scrutinises public spending on behalf of Parliament and has statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources.

In 2012 the NAO carried out a cross-government review of the government's progress in implementing transparency. This included a survey and interview of 16 departments and a review of central and local government data releases to assess compliance with Treasury guidance on departmental spending data, and progress towards implementation of the public data principles developed by the Public Sector Transparency Board.

• http://www.nao.org.uk/wp-content/uploads/2012/04/10121833.pdf

# Advanced Step: Establish new legal rights to empower the public

Justification

Laws regulating access to data and public records are not limited to managing internal processes for publishing; they can also give the public new oversight powers to defend their access and support continued compliance with open data policies, and even the quality and integrity of the data. These powers can be expressed through the right to sue or by strengthening the powers of ombudsmen, anti-corruption agencies or other mechanisms for the public to investigate and settle disputes about government data.

- Recommendations
- Standards & Guidance
  - Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
  - World Bank Open Data Toolkit http://data.worldbank.org/open-government-data-toolkit
- **Country Examples**
- In Indonesia, individuals have the right to pursue legal recourse if they are prevented from obtaining information under the freedom of information act

The Indonesian Public Information Disclosure Act from 2008 (Article 4) gives individuals the right to file a suit in court if they are obstructed from obtaining, or fails to obtain information for which they entitles.

• http://ccrinepal.org/files/documents/legislations/12.pdf

Many government's FOI laws give citizens the right to sue the government over freedom of information requests

The U.S. Freedom of Information Act, for example, provides a person with the right to sue the government if he/she has had no response to an information request in a fixed period of time.

<a href="http://www.justice.gov/oip/amended-foia-redlined.pdf">http://www.justice.gov/oip/amended-foia-redlined.pdf</a>

Some countries, such as Canada, have freedom of information ombudsmen with special legal enforcement powers

In Canada, the Information Commissioner investigates complaints about federal institutions' handling of access to information requests and has strong investigative powers to assist her in mediating between dissatisfied information applicants and government institutions. As an ombudsperson, the Commissioner may not order a complaint to be resolved in a particular way, though she may refer a case to the Federal Court for resolution.

• http://www.oic-ci.gc.ca/eng/abu-ans\_what-we-do\_ce-que-nous-faisons.aspx

# Advanced Step: Proactively engage with and support data users

## Justification

Many of the most successful open data initiative do not stop at publishing open data and waiting to see what happens. To maximise the impact of public information they proactively engage with citizens and end users, to understand and respond to their needs and demands. This might include running or supporting events, workshops, hackathons, competitions, and fellowships, as well as having dedicated staff and communication channels through which to support data users and intermediaries.

## Recommendations

To engage data users, governments can:

- 1. Run or support events, workshops, hackathons, competitions, fellowships or other initiatives to facilitate the reuse of public information.
- 2. Ensure that there are government officials who are able to proactively engage with, and understand and respond to, the demands of data users (e.g. at events or through relevant online channels).
- 3. Set up and resource dedicated communication channels to engage with data users such as social media accounts, email lists, webinars and events.

#### Standards & Guidance

- Open Data Definition <a href="http://opendefinition.org/">http://opendefinition.org/</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Bank Open Data Toolkit <a href="http://data.worldbank.org/open-government-data-toolkit">http://data.worldbank.org/open-government-data-toolkit</a>
- World Wide Web Consortium: Publishing Open Government Data <a href="http://www.w3.org/TR/gov-data/">http://www.w3.org/TR/gov-data/</a>

## Country Examples



NASA hosted the world's largest hackathon

The International Space Apps Challenge is an international mass collaboration focused on space exploration that takes place over 48-hours in cities around the world. The event embraces collaborative problem solving with a goal of producing relevant open-source solutions to address global needs applicable to both life on Earth and life in space. Themes are Earth Watch, Technology in Space, Human Spaceflight, Robotics and Asteroids. NASA is leading this global collaboration along with a number of government collaborators and 100+ local organizations.

- <a href="https://2014.spaceappschallenge.org/about/">https://2014.spaceappschallenge.org/about/</a>
- http://www.opengovpartnership.org/sites/default/files/USA 0.pdf

In Israel the government worked with Google to make transit data more useful

Data.gov.il is a single window portal that aims to give access to public records data produced from information held by the government. The idea is to encourage creative use of the data by civil society and the larger public by providing tools for information presentation, standardized downloading and standard APIs.

When Google Israel tried to use this data to create a transit app they identified many inaccuracies. Google Israel ran its validation tools over the government database and made recommendations for improvement. "We found the e-Gov team very open to the process of validation and improvement. It took 6-10 months of iteration with the government until we were able to create the transit map for 25,000 bus stations and 53 train stations across the country"

- <a href="http://www.opengovpartnership.org/sites/default/files/Israel\_0.pdf">http://www.opengovpartnership.org/sites/default/files/Israel\_0.pdf</a>
- <a href="http://www.Data.gov.il">http://www.Data.gov.il</a>
- http://maps.google.co.uk/intl/en/landing/transit/#dmy

# **Advanced Step:** Require that open data commitments apply to all organizations handling public data

## Justification

Governments often use third-party entities, contractors, and quasi-autonomous government agencies to carry out public services and generate, handle or research, government information, but the use of outside services should not obscure access to government information. Ensuring that open data is defined not solely as data held by the government but as information collected, stored, processed, or housed otherwise on behalf of the government ensures that public data is treated consistently.

## Recommendations

- 1. Communicate to agencies, and contractors about the role and value of open government data.
- 2. Integrate open data requirements into grants and contracts with quasi-governmental agencies and other similar actors, such as multi-state agencies, government-sponsored entities, publicly-funded universities, and self-regulatory organizations should release.
- 3. Specify open data formats and disclosures in contracts with private sector providers.
- 4. Employ open source solutions whenever possible to enable sharing.

#### Standards & Guidance

• Open Data Guidelines for Procurement <a href="http://sunlightfoundation.com/procurement/opendataguidelines">http://sunlightfoundation.com/procurement/opendataguidelines</a>

## Country Examples

... In the US, the White House Office of Science and Technology Policy requires federal agencies that fund

**. .** .

research make the results and underlying data available to the public

A memo *Increasing Access to the Results of Federally Funded Scientific Research* from the Office of Science and Technology Policy from February 2013 includes a requirement for all U.S. federal agencies that spend over \$100 million annually supporting research and development to make the results of that (non-classified) research, as well as the underlying data, available to the public within a year of publication.

• http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp\_public\_access\_memo\_2013.pdf

The US city of Chicago is developing contract provisions to promote open data in technology related procurements

Chicago's open data policy includes a provision requiring the chief data officer to work with the chief procurement officer to develop contract provisions to promote open data policies in technology-related procurements.

• <a href="http://www.cityofchicago.org/city/en/narr/foia/open\_data\_executiveorder.html">http://www.cityofchicago.org/city/en/narr/foia/open\_data\_executiveorder.html</a>

# Innovative Step: Create unique identifiers for organisations, things and places

## Justification

Many government datasets refer to other entities – for example national budgets refer to departments, company registers refers to companies, charity registers refer to charities (which may also be companies) and education performance tables refer to schools. Without a standardised way of referring organisations, locations and things, cross referencing between different datasets requires manual cross-examination against other contextual information. Some analyses can become difficult or impossible, since similar names may or may not refer to the same entities.

When identifiers are shared across data silos, they create connections and make the data more adaptable. The value of the two connected datasets becomes more than just the sum of their parts.

## Recommendations

- 1. Create guidelines for the naming and using of unique identifiers for government datasets and the entities they refer to.
- 2. Create reusable sets of identifiers for common sets of public entities, such as Government Departments, Local Authorities, Schools and Railway Stations.
- 3. Work with governments, and through standards bodies and other consensus groups to unify unique identifiers in key areas of collaboration.

## Standards & Guidance

- 6 Degrees of Corporations <a href="http://sunlightfoundation.com/sixdegrees/resources/">http://sunlightfoundation.com/sixdegrees/resources/</a>
- Open Data Guidelines for Procurement <a href="http://sunlightfoundation.com/procurement/opendataguidelines">http://sunlightfoundation.com/procurement/opendataguidelines</a>
- Sunlight Foundation: Open Data Policy Guidelines <a href="http://sunlightfoundation.com/opendataguidelines/">http://sunlightfoundation.com/opendataguidelines/</a>
- World Wide Web Consortium: Linked Data <a href="http://www.w3.org/DESIGNISSUES/LINKEDDATA">http://www.w3.org/DESIGNISSUES/LINKEDDATA</a>
- Country Examples
- Belgium piloted a system to develop unique identifiers for addresses and streets

The Core Location Pilot 'Interconnecting Belgian National and Regional Address Data' analysed the possibility of developing unique identifiers for addresses and streets in Belgium.

- https://joinup.ec.europa.eu/svn/core\_location/pilot/D5.2.1\_Core\_Location\_Pilot-Interconnecting\_Belgian\_National\_and\_Regional\_Address\_Data.pdf
- The UK government published guidelines on the use of unique resource identifiers

The UK Government website *data.gov.uk* provides guidance about publishing Linked Data/unique resource identifiers within the UK public sector.

- http://data.gov.uk/resources/uris
- The US White House requires predicable URLs for committee documents and data

In order to ensure that members of the public have easy access to U.S. legislation, the U.S. White House enacted the 'Standards for the Electronic Posting of House and Committee Documents & Data' in 2011. These standards included a requirement for files to be posted using permanent URL links.

• <a href="http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/hearing\_docs/2011\_12\_16\_posting\_standards.pdf">http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/hearing\_docs/2011\_12\_16\_posting\_standards.pdf</a>

# **Privacy and Data Protection**



Lead author: Open Rights Group, Privacy International and

## Introduction

Privacy is an internationally recognised human right, enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the constitutions of more than 100 countries across the globe. Privacy is not only an important right in itself, but it is a key element of individual autonomy and dignity, and a strong enabler of political, spiritual, religious and even sexual freedoms. It is central to defining the relationship between a citizen and their government. Concrete expressions of the right to privacy are context specific, and may reflect cultural and societal differences.

The right to privacy encapsulates a right to protection of personal data: individuals have the right to decide whether to share or exchange their personal information and on what terms. Technologies are rapidly changing the nature and value of information, with huge volumes of personal data rapidly generated, transmitted, shared and collated. It is essential that governments are transparent and accountable in their handling of citizens' personal information.

The right to privacy and the <u>right to information</u> - and freedom of expression - are both essential human rights and need to be balanced on a case by case basis. There are occasions when these rights will be in conflict, such as in mandating disclosure of the private interests of politicians. But in most cases these "information rights" are not opposed, and in fact mutually reinforce each other. They work in tandem to hold the powerful to account by establishing the right to know, mainly about the government, but also what information the government and relevant institutions may hold and utilise in decisions about a citizen (Banisar, 2011).

Transparency efforts that respect privacy will try to correct information asymmetries between the powerful and rest of the population, while minimising intrusion to what is necessary to make the powerful accountable. Privacy should not be used as an excuse to avoid proper scrutiny.

Open government and transparency programmes place more information in the public domain, and can generate negative reactions if ordinary citizens feel that it is they - and not the powerful - who are exposed. The publication of health records, tax returns or even court transcripts have all proved problematic for individual privacy in different contexts. Technologies used for accountability - for example apps and websites collecting complaints about corruption - can have serious privacy implications. Such technologies involve the collection or storage of large amounts of potentially sensitive data, and as such raise risks of identification by third parties, and unforeseen access to data by governments (Open Rights Group, 2014).

The rights to privacy and data protection have a bearing on a multitude of government institutions, but are also important in the regulation of the private sector, including NGOs involved in development projects.

Police and security services are special cases since their responsibilities involve non-consensual intrusion into the private sphere in pursuit of public aims such as criminal justice and the protection of public safety and national security. Privacy issues relate to search and seizure powers, communications surveillance activities, and the establishment of DNA databases. The chapter of this guide on the <u>Police</u> and Security Sector contains specific recommendations.

The recommendations in this chapter are not prescriptive but examples to be adapted to local circumstances in order to enhance existing protections.

References

Open Rights Group (2014) Open Data and Privacy Primerhttps://www.openrightsgroup.org/ourwork/reports/open-data-and-privacy-primer

Banisar, D. (2011) The Right to Information and Privacy: Balancing Rights and Managing Conflicts, Washington DC: World Bank. http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Right%20to%20Information%20and%20Privacy.pdf

#### **Expert Organisations**

Privacy International <a href="http://https://www.privacyinternational.org/">http://https://www.privacyinternational.org/</a>

Open Rights Group <a href="http://https://www.openrightsgroup.org/">http://https://www.openrightsgroup.org/</a>

Electronic Frontier Foundation <a href="http://https://www.eff.org/">http://https://www.eff.org/</a>

OECD http://www.oecd./sti/security-privacy

Global Privacy Enforcement Network <a href="http://https://www.privacyenforcement.net">http://https://www.privacyenforcement.net</a>

# Summary of illustrative commitments

#### Initial

- Enact privacy and data protection legislation
- Establish a programme of public education about protecting personal information
- Introduce guidelines for the handling of personal information in open government programmes
- Publish laws regulating the surveillance powers of law enforcement and intelligence agencies

#### Intermediate

- Assess the public privacy impact of open government programmes
- Publish transparency reports about surveillance, interception and access to communications data
- Repeal any requirements compelling the identification of phone or internet users

#### Advanced

- Incorporate 'privacy by design' in open government and transparency programmes
- Reform legislation relating to surveillance by state agencies to ensure it complies with human rights

## Innovative

- Establish safeguards to ensure that new technologies used for surveillance and interception respect the right to privacy
- Give citizens control of their personal information and the right to redress when that information is misused
- Publish details of computer algorithms used by government

## **Detailed Recommendations**

# Initial Step: Enact privacy and data protection legislation

## Justification

Data protection law is an important part of preserving personal privacy rights, which otherwise could be easily overwhelmed by the power of government agencies and corporations that hold information about individuals.

Privacy and data protection legislation is necessary in the context of open government programmes in order to give assurances to citizens. As public engagement increases, citizens are asked to trust their government and contracted agencies with their opinions, values and beliefs. Non binding agreements are not enough, as citizens cannot depend on the goodwill of the incumbent government for their privacy.

The concept of data protection implies that individuals in principle have the right to decide whether to share their personal information and to determine on what terms they are prepared to do so. Data protection laws generally incorporate safeguards protecting the security of personal data and allowing others to use it only in prescribed circumstances. More than 100 governments have enacted or are in the process of enacting data protection legislation. It is important that these laws cover both the public and private sector, as both have their own set of privacy risks for individuals. Data protections laws enhance government transparency by letting citizens know what information the state holds on them.

In addition to protecting individual privacy adequate data protection laws are an economic imperative for countries to attract investment in information-based industries, such as international call centres, data centres, and data processing services.

#### Recommendations

- Enact privacy and data protection legislation regulating the use of personal information by both the private and public sectors.
- 2. **Establish a data protection authority** to oversee compliance with data protection legislation and to mediate complaints. If an authority exists, ensure it has the capacity to enforce privacy laws.
- 3. **Provide educational material to inform citizens and businesses about data protection standards**, their application and opportunities for redress when data breaches occur.
- 4. **Introduce meaningful punishments for breaches of privacy**. Fines should be proportional to a company's turnover to avoid them being incorporated into pricing.
- 5. Apply for accreditation with the EU data protection regime and introduce the necessary changes in the law.

## Standards & Guidance

- Council of Europe: Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data <a href="http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm">http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm</a>
- European Union: European Data Protection Directive 1995 <a href="http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?">http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?</a>
  <a href="http://europa.eu/legal-content/EN/TXT/PDF/?">http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?</a>
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  <a h
- OECD: Guidelines on the Protection of Privacy and Transborder Data Flows of Personal Data
   <a href="http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata">http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata</a>

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## **Country Examples**



The data protection framework of Uruguay has been accredited by the EU as providing adequate protection

The EU Commission recognised Uruguay's legal framework as providing 'adequate protection' for personal data under the EU Data Protection Directive 95/46/EC. This allows full data transfer with the EU without the need for additional safeguards. To achieve this distinction, Uruguay has had to prove to the competent authorities the appropriate adoption and compliance with the provisions on protection of personal data protection.

Other countries recognised as providing 'adequate' data protection are Argentina, Andorra, Canada, Switzerland, Faeroe Islands, Guernsey, Israel, Isle of Man, Jersey and the US Safe Harbor.



The Dominican Republic committed to enact the law on personal data protection as part of its OGP

The Open Government Partnership Action Plan for the Dominican Republic contains a commitment to create a legal framework for the protection of personal data, both in public and in the private domain.

# Initial Step: Establish a programme of public education about protecting personal information

## Justification

An important step towards securing the protection of individuals' personal information is educating citizens about the value of that information and the reasons why they should expect that data to be protected. Individuals need to be informed about the nature of digital technologies and the internet, how companies gather and use data, and how governments might be able to gain access to that data. New technologies require new skills and awareness about how to stay safe and protect personal information (see Electronic Frontier Foundation, 2002). This is particularly important for the legitimacy of government programmes that increase the use of personal data in policy making and service delivery. Empowering individuals with respect to personal information is in line with the Organisation for Economic Cooperation and Development Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1980), which emphasise the participation of individuals in the protection of their own personal data.

#### Recommendations

- 1. Carry out public education campaigns about personal information, including current topics such as how it can be linked with other data and analysed in ways that might endanger privacy. These should be translated into local languages and disseminated through appropriate media (e.g. community radio).
- 2. Provide individuals with simple steps they can take to protect their personal information, both online and offline, to ensure that citizens play a proactive role in the protection of their personal data.

3. **Introduce privacy and transparency together** in the national curriculum for schools.

## Standards & Guidance

- Council of Europe: Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data <a href="http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm">http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm</a>
- European Union: European Data Protection Directive 1995 <a href="http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?">http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?</a>
  <a href="http://europa.eu/legal-content/EN/TXT/PDF/?">http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?</a>
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  <a h
- OECD: Guidelines on the Protection of Privacy and Transborder Data Flows of Personal Data <a href="http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata">http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata</a>
   <a href="http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata">http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata</a>
   <a href="http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata">http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata</a>
- United Nations: Guidelines for the regulation of computerized personal data files <a href="http://www.refworld.org/cgibin/texis/vtx/rwmain?docid=3ddcafaac">http://www.refworld.org/cgibin/texis/vtx/rwmain?docid=3ddcafaac</a>

## Country Examples

The UK Government supports the Get Safe Online advice site

Get Safe Online was created in 2005 as a joint Government-industry partnership in order to provide unbiased, user-friendly advice about online safety for consumers and smaller businesses. It is supported by funding from the Cabinet Office and cooperation from other Government bodies. The Serious Organised Crime Agency (SOCA) provides staff to help with the annual "Get Safe Online Week" which includes conferences, media events and workshops.

The UK Information Commissioner's Office has published a booklet about protecting personal information

The UK's Information Commissioner's Office – the independent authority set up to promote access to information and to protect personal information in the UK – has published a booklet on protecting personal information. It contains advice and tips on protecting, accessing and correcting personal information, as well as information on how to reduce unwanted texts, junk mail etc. and how to identify theft and fraud.

**Initial Step:** Introduce guidelines for the handling of personal information in open government programmes

## Justification

Government programmes to increase transparency and accountability need to consider privacy early in the conception stage, and not at the point of delivery. Privacy concerns can generate negative reactions, as has been the case with the release of health data in the UK. Plans to allow better scrutiny of outcomes by releasing more data have led to concerns that patients would see their privacy invaded.

In most cases personal data should not be published at all and almost certainly not as open data. When personal data is

published in the public interest potential negative impacts should be minimized. For example, personal information should not be made available for marketing purposes through the publication of data on subsidies and taxes or disclosure of registers and judicial documents. Data minimisation (identifying and holding only the minimum amount of personal data that needs to be held to fulfil a purpose) and other practical measures, such as controlling access to personal information through registration, can help control the risks of misuse.

Another potential conflict is the publication of performance data from public services – schools, hospitals, welfare, etc - for accountability purposes. This kind of data is normally "anonymised", but there are growing concerns about the risks of reidentification of individuals by combining different data sources. There should be transparency and accountability over the release of such data with aggregate statistics, instead of individual level data, always being the better privacy option.

Data collected in programmes of citizen engagement has to be handled with special care. In some extreme cases there could be serious risks of reprisals, such as in the reporting of corruption. In some cases the information management risks will not be strictly related to personal data. For example, disclosure of the location of natural resources or protected species may negatively affect a whole community.

## Recommendations

- 1. **Publish guidelines for the disclosure of personal information in public registers**, including data minimisation and access control if appropriate.
- 2. Publish guidelines and offer support for the incorporation of privacy and responsible data handling in the design of open government programmes.
- 3. Publish guidelines for the release of personal information about public employees, e.g. seniority criteria.
- 4. Publish guidelines for the sharing of personal information with private contractors. Data should be minimized to that needed to fulfil the purpose of the contract. Contractors delivering the services should be subjected to the same controls as public bodies.
- 5. **Use Open Data Institute certificates in open data releases.** In datasets containing personal information these should include the legal basis for release, de-identification options, etc.

## Standards & Guidance

- European Commission Article 29 Working Party: Opinion 05/2014 on Anonymisation Techniques http://www.cnpd.public.lu/fr/publications/groupe-art29/wp216\_en.pdf
- Open Data Institute: Open Data Certificates <a href="http://https://certificates.theodi.org/about">http://https://certificates.theodi.org/about</a>

**Initial Step:** Publish laws regulating the surveillance powers of law enforcement and intelligence agencies

## Justification

Many countries still rely on secret laws and confidential interpretations by secret courts to carry out surveillance, while in other countries these activities are not fully regulated. The administration of justice and the protection of national security in democratic countries require a transparent and open legal framework detailing the powers and responsibilities of police and public security agencies, including intelligence agencies. Where law enforcement and intelligence agencies are empowered to conduct surveillance in order to achieve security and policing aims, these powers must be clearly delineated and articulated in a way that enables individuals to foresee their application and scrutinise their use.

A fundamental principle of international human rights law is that interferences with the right to privacy must be necessary, proportionate, and in accordance with the law. The European Court of Human Rights has emphasised that for surveillance to be "in accordance with the law" legislation must give citizens enough detail on the following aspects:

- The nature of the offences which may give rise to surveillance;
- The categories of people liable to be subject to surveillance;
- A limit on the duration of surveillance;
- The procedure to be followed for examining, using and storing the data obtain;
- The precautions to be taken when communicating the data to other parties; and
- The circumstances in which data may or must be erased or the tapes destroyed.

## Recommendations

- 1. Publish all laws and regulations setting out the surveillance powers of law enforcement and intelligence agencies, and adopt such laws where these do not exist. These should cover internal regulations and procedures, although internal regulations should be minimised where possible. Surveillance regulations should be legislated to ensure they are subject to sufficient scrutiny.
- 2. **Ensure laws and regulations setting out surveillance powers are sufficiently clear in scope and detail** to meet the requirements of foresee-ability and accessibility necessitated by the rule of law. Ensure they are published with enough supporting documentation and explanatory notes so citizens understand how they work in practice.
- 3. **Educate citizens about the oversight mechanisms in place** that investigate and monitor the compliance of law enforcement and intelligence agencies with the laws and regulations pertaining to surveillance powers. Provide information about means of redress for citizens who believe that agencies have breached legislation relating to surveillance.

#### Standards & Guidance

- International Principles on the Application of Human Rights to Communications Surveillance <a href="http://https://en.necessaryandproportionate.org/text">http://https://en.necessaryandproportionate.org/text</a>
- UN High Commissioner for Human Rights: The Right to Privacy in the Digital Age
   <a href="http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A.HRC.27.37\_en.pdf">http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A.HRC.27.37\_en.pdf</a>
- United Nations: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/03/PDF/G1313303.pdf?OpenElement

# **Intermediate Step:** Assess the public privacy impact of open government programmes

## Justification

A Privacy Impact Assessment, or PIA, is a formal analysis of how personally identifiable information is collected, used, shared, and maintained. PIAs provide accountability by demonstrating that privacy has been incorporated in the design of a programme. This allows for risks to be discovered early and mitigated. PIAs allow organisations to communicate more clearly with the public their responsible management of personal data and how they deal with privacy concerns.

Recommendations

- 1. **Mandate PIAs for all e-government and open government programmes.** Mandate that PIAs are published, including technical information on how data may be protected, such in de-identification processes. Third party providers of services should be included within the scope of PIAs and agree to be accountable as well.
- 2. Provide guidance on how to carry out PIAs (for example, see the UK's Code of Practice).

## **Country Examples**

Privacy Impact Assessments are legally required for e-government programmes in the United States

In the US, PIAs are required by the E-Government Act of 2002, Section 208, which regulates the management and promotion of Federal electronic government services and processes. The Act defines the required top level components of a PIA, including how the information will be secured.

# **Intermediate Step:** Publish transparency reports about surveillance, interception and access to communications data

## Justification

Transparency around the use of surveillance powers is a crucial means of ensuring that law enforcement and intelligence agencies are kept in check and the privacy of individuals is not interfered with outside the strict confines of the law. Transparency allows the citizenry to watch over the government, ensure that it is not exceeding its powers, and to know when the balance between protecting security and infringing on human rights has tipped too far in favour of the police and public security forces.

In recent years, growing numbers of internet services and communications providers have taken to publishing transparency reports, detailing the numbers of requests they receive from governments for access to individuals' communications data, and the number of requests they get for the removal of information from their services. Examples include:

- Facebook Global Government Requests Report -<a href="https://www.facebook.com/about/government\_requests">https://www.facebook.com/about/government\_requests</a>
- Google Transparency Report http://www.google.com/transparencyreport/
- Microsoft Law Enforcement Requests Report
   -https://www.microsoft.com/about/corporatecitizenship/en-us/reporting/transparency/
- Twitter Transparency Report -https://transparency.twitter.com/
- Vodafone Law Enforcement Disclosure Report
   -http://www.vodafone.com/content/sustainabilityreport/2014/index/operating\_responsibly/privacy\_and\_security/law\_enforcement.html

Governments should embrace a similar process. By publishing transparency reports detailing the number of requests they make to communications services providers and internet services, and the number of authorisations granted to law enforcement and intelligence services for different types of online or offline surveillance, governments can ensure that its surveillance is scrutinised by the public in a way that ensures accountability.

#### Recommendations

- 1. Enact legislation compelling law enforcement and intelligence agencies to publish yearly disaggregated data about the number of requests made and acceded to by the private sector for access to corporate communications data, and the number of requests made to and approved by the courts or other oversight mechanisms for authorisation to conduct online or offline surveillance.
- 2. **Ensure transparency reports are published in an easy and accessible way** that is also consistent, machine readable and openly licensed for reuse.

## Standards & Guidance

• Global Network Initiative: Principles on Freedom of Expression and Privacy <a href="http://https://globalnetworkinitiative.org/sites/default/files/GNI">http://https://globalnetworkinitiative.org/sites/default/files/GNI</a> - Principles 1\_.pdf

## **Country Examples**

The UK's Interception of Communications Commissioner publishes limited annual statistics

The Commissioner's role includes reviewing interception warrants for real-time surveillance (historically known as "telephone tapping") and safeguards relating to the use of information. He reports annually to the Prime Minister as to whether the institutions within his oversight mandate are operating in accordance with the law. The Commissioner's annual report covers the issuing of warrants to MI5, police, Special Branch and other government agencies, but not the Foreign Office or world-wide electronic intelligence-gathering agency GCHQ. It only gives general aggregate figures, and although the amount of data has been increased in recent years, human rights organisations say that this remains inadequate for meaningful oversight, review and accountability of interception and surveillance'

- <a href="http://www.iocco-uk.info/">http://www.iocco-uk.info/</a>
- http://www.statewatch.org/analyses/no-244-gchq-intercept-commissioner.pdf

# The USA publishes annual Wiretap reports

U.S. Courts issue an annual Wiretap report detailing the use of surveillance authorities by law enforcement agencies. The annual report provides comprehensive data on all federal and state wiretap applications, including the types of crimes investigated, as well as the costs involved and whether arrests or convictions resulted. They do not include names, addresses, or phone numbers of subjects under surveillance. However the <u>Foreign Intelligence Surveillance Court</u> annual report provides much less information.

**Intermediate Step:** Repeal any requirements compelling the identification of phone or internet users

Justification

One of the most important features of the Internet is the ability to anonymously access and impart information, and to

communicate securely without having to be identified. Initially, this was possible because there was no "identity layer" built into the Internet. However, in the name of security and law enforcement, Governments around the world are increasingly restricting opportunities for anonymous communication. For example, in some countries individuals must identify themselves at cybercafés and have their transactions on public computers recorded. In other cases, identification and registration are also required when buying a SIM card or mobile telephone device, for visiting certain major websites, or for making comments on media sites or blogs (Donovan and Martin, 2014). Here we must make a clear distinction between private companies asking for data for commercial purposes and mandated identification by governments.

Restrictions on anonymity facilitate State communications surveillance by making it easier to identify individuals accessing or disseminating prohibited content, making such individuals more vulnerable to other forms of surveillance. Thus restrictions on anonymity dissuade the free expression of information and ideas and can in practice result in people being unable to access vital social spheres, undermining their rights to expression and information, and exacerbating social inequalities. This includes many open government projects that rely on mobile technologies to give citizens a voice or a platform for action. Furthermore, restrictions on anonymity allow for large amounts of data collected and compiled by the private sector to become personally identifiable. This may result in a significant burden and responsibility on corporate actors to protect the privacy and security of such data. Or alternatively drive them to monetise it, with the risk of further privacy invasions.

## Recommendations

- 1. Repeal any laws or regulations that require the use of real names or the verification of identity in online fora, social media or other internet spaces.
- 2. Remove requirements that individuals identify themselves when using cybercafés or public computers.
- 3. Open government engagement programmes may on occasion need to **identify participants**, **but only after a clear case** has been made.

#### Standards & Guidance

- GSMA: The Mandatory Registration of Prepaid SIM Card Users A White Paper <a href="http://www.gsma.com/publicpolicy/wp-content/uploads/2013/11/GSMA">http://www.gsma.com/publicpolicy/wp-content/uploads/2013/11/GSMA</a> White-Paper <a href="mandatory-Registration-of-Prepaid-SIM-Users-32pgWEBv3.pdf">Mandatory-Registration-of-Prepaid-SIM-Users-32pgWEBv3.pdf</a>
- United Nations: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression <a href="http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/03/PDF/G1313303.pdf?OpenElement">http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/03/PDF/G1313303.pdf?OpenElement</a>

# **Advanced Step:** Incorporate 'privacy by design' in open government and transparency programmes

## Justification

Privacy by design promotes privacy and data protection compliance from the moment a project is conceived. This approach is not a substitute for any legislation, but it will help organisations comply with their obligations under local laws.

## Recommendations

Incorporate the seven *Privacy by Design* principles in open government programmes:

- 1. Proactive not Reactive; Preventative not Remedial: Anticipate and prevent privacy-invasive events before they happen.
- 2. Privacy as the Default Setting: Deliver the maximum degree of privacy by ensuring that personal data are automatically

protected in any IT system or business practice. Privacy settings should get built into the system, by default so that no action is required on the part of the individual to protect their privacy.

- 3. **Privacy Embedded into Design**: Privacy should not be bolted on as an add-on, after the fact but be built into core functionality.
- 4. **Full Functionality**: Accommodate all legitimate interests and objectives in a positive-sum "win-win" manner, not through a dated, zero-sum approach, where unnecessary trade-offs are made. Privacy by Design avoids the pretence of false dichotomies, such as privacy vs. security, demonstrating that it is possible to have both.
- 5. **Full Lifecycle Protection**: Extend privacy throughout the entire lifecycle of the data involved, from start to finish. This ensures that at the end of the process, all data are securely destroyed, in a timely fashion.
- 6. **Visibility and Transparency**: Assure all stakeholders that the business practice or technology is operating according to the stated promises and objectives, subject to independent verification. Component parts and operations should remain visible and transparent, to users and providers alike.
- 7. **Respect for User Privacy– Above all:** Privacy by Design requires architects and operators to keep the interests of the individual uppermost by offering such measures as strong privacy defaults, appropriate notice, and empowering user-friendly options.

## Standards & Guidance

- GSMA: Privacy Design Guidelines for Mobile Application Development <a href="http://www.gsma.com/publicpolicy/privacy-design-guidelines-for-mobile-application-development">http://www.gsma.com/publicpolicy/privacy-design-guidelines-for-mobile-application-development</a>
- Privacy by Design: 7 Foundational Principles <a href="http://www.privacybydesign.ca/index.php/about-pbd/7-foundational-principles/">http://www.privacybydesign.ca/index.php/about-pbd/7-foundational-principles/</a>

# **Advanced Step:** Reform legislation relating to surveillance by state agencies to ensure it complies with human rights

# Justification

As technologies that facilitate surveillance of communications advance and the powers of intelligence agencies expand, governments must ensure that laws and regulations related to communications surveillance adhere to international human rights and adequately protect the rights to privacy and freedom of expression. There needs to be an updated understanding of how international human rights law applies in the current digital environment, particularly in light of the increase in, and changes to, communications surveillance technologies and techniques.

A very useful tool to assess compliance is the International Principles on the Application of Human Rights to Communications Surveillance. These were developed to provide governments with a framework to evaluate whether current or proposed surveillance laws and practices are consistent with human rights. The Principles are the outcome of a global consultation with civil society groups, industry and international experts in communications surveillance law, policy and technology. These principles are the global standard for balancing the need for secrecy around surveillance with the requirements for accountability inherent in open government. This is one of the hardest problems for policy makers seeking to create genuinely accountable states and an urgent priority. Getting this balance wrong can undermine the very basis of democracy by weakening fundamental rights.

Recommendations

- 1. Thoroughly review all laws and regulations pertaining to the surveillance powers of law enforcement and intelligence agencies to identify where legislation conflicts with, or falls short of, the standards articulated in the International Principles.
- 2. Amend legislation to ensure compliance with the International Principles.

Standards & Guidance

 International Principles on the Application of Human Rights to Communications Surveillance <a href="http://https://en.necessaryandproportionate.org/text">http://https://en.necessaryandproportionate.org/text</a>

**Innovative Step:** Establish safeguards to ensure that new technologies used for surveillance and interception respect the right to privacy

Justification

Law enforcement and intelligence agencies collect, hold, or have access to a significant amount of information – some of it of a private nature about victims, witnesses, crimes, and suspects – and much of it confidential. This information must be lawfully collected and used for only as far as is necessary and proportionate for law enforcement, and must be safeguarded from being misappropriated by criminals, journalists or private investigators, or for use by politically motivated State forces.

Technology developments are changing the nature of this information. People now transmit vast amounts of digital data about themselves and leave trails of metadata about their whereabouts, their contacts, and their transactions. Other data can be more cheaply collected, digitised and analysed. RFID tags enable individual products to be tracked, DNA can be sequenced, while facial recognition and number plate recognition software enable data mining of CCTV images. Taken alone or analysed collectively this data can be used to reveal a person's identity, behaviour, associations, physical or medical conditions, race, colour, sexual orientation, national origins, or viewpoints; or enable the mapping of the person's location, movements or interactions over time.

These technologies can play an important role in preventing and detecting crime and enabling justice. They have also been used to support more accountable policing, for example there is early promising evidence from pilots of police officers using body-worn cameras that this encouraged lawful and respectful interaction and reduced the use of force.

However all of these technologies also raise privacy concerns. Pervasive or systematic monitoring has the capacity to reveal private information far in excess of its constituent parts, leaving the application legal principles to new technological contexts inadequate and unclear. As the development and use of these technologies advance, it is crucial that laws and regulations adhere to international human rights and adequately protect the rights to privacy and freedom of expression. The European Court of Human Rights has acknowledged that the mere collection and storing of personal data, including DNA and photographs, by law enforcement agencies can amount to an interference with the right to privacy. This is even when that data is publicly available and is systematically collected and stored in police files (*Segerstedt-Wiberg v Sweden* (2007) 44 EHHR 2; *S and Marper v United Kingdom* (2009) 48 EHRR 50).

Recommendations

The following recommendations draw on the 'International Principles' and on 'Tshwane Principles," Principle 10E.

States should:

- 1. **Publish sufficient information** to enable individuals to fully comprehend the scope, nature and application of the laws permitting communications surveillance.
- 2. Authorise communications service providers to publish the procedures they apply when dealing with surveillance, adhere to those procedures, and publish records of State communications surveillance.
- 3. Publish, at a minimum, aggregate information on the number of requests for communications surveillance approved and rejected, and a disaggregation of the requests by service provider and by investigation type and purpose.
- 4. Establish independent oversight mechanisms to ensure transparency and accountability of surveillance. Oversight mechanisms should have the authority to access all potentially relevant information about surveillance, to assess whether it is conducted lawfully, and to evaluate whether the State has been transparently and accurately publishing information about the use and scope of communications surveillance techniques and powers. The independent oversight mechanism should publish periodic reports on its findings.

For law enforcement agencies, the operational implications of this include the need to:

- 1. Review information security measures in the light of new technologies and techniques to ensure they remain robust.
- 2. Submit new or expanded surveillance techniques or technologies to the scrutiny of the judiciary or other democratic oversight mechanism to ascertain whether it falls into the realm of complies with constitutional protections and international human rights standards.

**Innovative Step:** Give citizens control of their personal information and the right to redress when that information is misused

# Justification

Increasingly businesses and government collect and analyse a large amount of personal data on their customers and service users. Giving people greater access to electronic records of their credit rating, or their past buying and spending habits can help them to make better buying choices. For example, data that a phone company holds about your mobile use may help you choose a new tariff.

It is of key importance that consumers are aware of the data they are giving to businesses, and the potential uses for this information. They must have control over their personal data and have mechanisms in place to prevent businesses deleting or replacing incorrect or sensitive data from their records; allowing them to prohibit the collection of personal data if they do not want to share it.

In many countries there is a growing lack of trust in how both governments and private institutions handle personal information. This has generated interest in technologies that allow consumers to be in control of their data. In the UK, there are new Personal Information Management Services, such as <u>Mydex</u>, a social enterprise that offers a platform for users to capture, organise and take control of their personal data. This company has been certified as a provider of digital identity for e-government by the UK administration.

Personal clouds keep personal data safe and allow sharing data under terms and conditions of choice; they also allow choice over which apps to run on the data. <u>The Respect Network</u> is a group of cloud providers that enable members anywhere in the world to share sensitive private data over trusted private connections.

In many open government programmes citizens could be given control over their information by using these kinds of technologies. This would not just induce confidence but would give citizens shared responsibility and ownership of the programmes. Protecting personal information is important in all public programmes from welfare, health education to open government technologies for accountability. Giving citizens control over their data does not remove the need to have

sound privacy policies and practices. In particular, giving users control without educating them about privacy could open the way for them to be exploited by unscrupulous individuals or organisations.

## Recommendations

- 1. **Identify key sectors for the release of personal data.** Work with sector regulators, information commissioners and consumer groups to identify key sectors such as banking, mobile phones and energy, as priorities for the private sector to release personal data to consumers electronically;
- 2. Work with companies to develop systems to make sure consumers can access their own data securely;
- 3. Encourage businesses to develop applications (apps) that will help consumers make effective use of their data;
- 4. **Enact and enforce legislation** that provides consumers with adequate mechanisms to manage the type, amount and use of personal data by businesses;
- 5. Consider regulation to compel companies to disclose data to customers;
- 6. In open government initiatives, **implement technical solutions for the control of personal information**, such as data stores, vendor relationship management, private clouds.

# Innovative Step: Publish details of computer algorithms used by government

## Justification

As interactions between citizens and state institutions and services become increasingly digital, there is the potential for new forms of 'algorithmic regulation'. For example, vehicle license plate recognition is already used for congestion charging. Collecting data from in car GPS systems could allow drivers to be automatically ticketed for exceeding the speed limit, or help them find parking spaces, while the development of self-driving vehicles and integration of public transport, traffic control and smart transport sharing services will require collection and sharing of further data.[1]

This new digital regulation has risks for privacy. Once data is collected for one purpose, it is easy to imagine new uses for it, and data combined from different sources can reveal more than is needed. For example, tracking our speed while driving also means tracking our location. If computer algorithms are used to score, profile, decide or have any impact on citizens, these should be subjected to the same public scrutiny and accountability as any other component of open government. This means algorithms have to be public.[2]

We are only at the beginning of this data revolution, and privacy safeguards must be developed alongside.

## Recommendations

- 1. Inform the public about the use of algorithmic regulations and consult on privacy and design issues.
- 2. **Develop algorithmic regulations with clearly specified goals** and wherever possible design real-time quality measurements to track and improve performance towards these goals and avoid 'mission creep' in the use of the data.
- 3. Adopt 'privacy by design' principles when developing algorithmic regulations, discarding or anonymising data that is not needed to meet the goals.
- 4. **Explicitly include algorithms within the scope of Access to Information Laws**, and ideally establish a policy to proactively publish all public regulation algorithms and their objective.

- 5. **Develop methods for usable transparency** so that the relevant aspects of an algorithm can be presented in an understandable and plain-language way, perhaps with multiple levels of detail.
- 6. **Ensure that the data used to make determinations is auditable**, and whenever possible, open for public inspection.
- 7. **Periodically undertake and publish deeper analysis** of whether the algorithms themselves are correct and performing as expected.

# **Public contracting**



Lead author: Open Contracting Partnership

## Introduction

Public contracts play a vital role in the financial health of a country and the lives of its citizens by generating revenues and providing essential goods, works, and services. Public contracts cover all economic sectors and types of agreements, including **procurement**, **licenses and concessions** and the **sale of public property**. It has been estimated that public contracts procuring goods, works, and services alone are worth approximately USD 9.5 trillion per year.(Kenny, 2012)

Therefore, it is critical that public contracts should be fairly awarded and offer good value-for-money. However, in many countries around the world, public contracting has been identified as the government activity most vulnerable to wastefulness, mismanagement, inefficiency, and corruption. (World Bank, 2011)

Citizens, media, and civil society want to know why a school was not built, why medicines are so expensive, why a road is in disrepair after only one year, or how many local workers the new mine will be hiring. To answer these questions requires access to information contained in contracts and documents related to their procurement and performance. But, in many countries there is limited public information about how contracts are negotiated, what has been contracted for, how they are being performed, and who is responsible. Sometimes even parliamentarians and supreme audit institutions are prevented by confidentiality clauses from understanding how the government is allocating public resources. Likewise, there are few chances for citizens to monitor public contracts.

It is increasingly recognised that 'open contracting' is required for governments to be held accountable for the use of public resources. (OECD, 2007) Disclosure and participation are critical tools to improve the management of public resources and *open contracting* refers to norms and practices for increased disclosure and participation in public contracting. It covers the entire process, including formation, award, execution, performance and completion of public contracts, and the full range of contract types, from basic procurement to joint ventures, licenses and production sharing agreements. Open contracting practices can be implemented at all levels of government and can apply to all public contracting, including contracts funded by combinations of public, private and donor sources.

#### References

Kenny, Charles with Jonathan Karver, 2012, Publish What You Buy The Case for Routine Publication of Government Contracts, Center for Global Development Policy Paper 011

World Bank, 2011, Curbing Fraud, Corruption, and Collusion in the Roads Sector

OECD, 2007, Integrity in Public Procurement: Good Practice from A to Z

#### **Expert Organisations**

Open Contracting Partnership <a href="http://www.open-contracting.org/">http://www.open-contracting.org/</a>

## Summary of illustrative commitments

## Initial

- Develop a framework for public contracting that ensures a transparent and equitable process
- Recognize the right of the public to access public contracting information

## Intermediate

- Proactively disclose core classes of documents and data about public contracting
- Provide capacity building to support stakeholders to understand, monitor and act upon contracting data

## Advanced

• Create mechanisms for participation and redress in public contracting

## Innovative

• Facilitate funding to support participation in public contracting

## **Detailed Recommendations**

**Initial Step:** Develop a framework for public contracting that ensures a transparent and equitable process

## Justification

Clear, transparent and fair frameworks for public contracting are linked to operational benefits such as saving time and money on finding and processing bids. At the same time transparent processes deter a culture of corruption and create conditions for open competition, supporting the goal of securing goods and services that deliver greater value money. (Kaspar and Puddephatt, 2012) Transparent contracting frameworks should not require excessive bureaucracy which prevents small firms and organisations from competing for tenders, but rather should open up a level playing field.

In awarding licenses in the extractive industries competition among potential investors is crucial to help offset some of the asymmetry regarding access to information that tends to disadvantage governments. (World Bank, 2012)

Recommendations

Public contracting frameworks should be characterised by:

- 1. Well-defined, concise, and comprehensible regulations, guidelines and procedures that are enforceable and open to public scrutiny.
- 2. Transparent advertising of opportunities, clear and standardised tender documents and guidelines.
- 3. Clear and public selection and award criteria.
- 4. Disclosure of awards.
- 5. Rationale behind awards.
- 6. Conflict of interest policies for officials.
- 7. Mechanisms for appeal and information requests.

Public contracts should be awarded through competitive processes whenever possible.

Information relating to procurement procedures and contracts that have been awarded should be made publicly available.

- Standards & Guidance
  - OECD Methodology for Assessing Procurement Systems (MAPS) http://www.oecd.org/dac/effectiveness/45454394.pdf
  - OECD Principles for Integrity in Public Procurement <a href="http://www.oecd.org/gov/ethics/48994520.pdf">http://www.oecd.org/gov/ethics/48994520.pdf</a>
  - Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>
  - Open Data Guidelines for Procurement <a href="http://sunlightfoundation.com/procurement/opendataguidelines">http://sunlightfoundation.com/procurement/opendataguidelines</a>

## Country Examples

In Ecuador, the introduction of an e-reverse auction in the purchase of medicines achieved an expenditure reduction of USD 327 million

In Ecuador, the introduction of an e-reverse auction in the purchase of medicines significantly reduced the overall cost of obtaining information on contracts and simplified the bidding process. In total, this process achieved an expenditure reduction of USD 327 million.

The health sector in Ecuador is made up of 4 major institutions that have around 2800 public health establishments carrying out autonomous purchases. This traditional and fragmented purchase of medicine hurts planning, efficiency and control.

The National Institute of Public Purchases -INCOP – as the directing entity of Ecuador's public purchases, developed a process for purchasing medicines through a Reverse Auction of Medicines. By consolidating the demand they were able to get a better position in the market to and fixing prices for two years with winning bidders signing a framework agreement for two years. Health providers are then able able to purchase medicines at fixed price from the resulting electronic medicine catalogue.

The process using electronic bidding through the <u>INCOP</u> website allows for fair competition. In the first rounds of bidding it is estimated that savings of \$327 (or 42% of the existing medicines budget). Although the bidding was carried out openly, the system still allowed a local content requirement to be included and 41% of the awarded medicine was of Ecuadorian origin. The preferences were given with the purpose of job creation, innovation and industrial development.

http://pro-act.org/profiles/blogs/acquiring-medicine-for-the-ecuadorian-public-health-sector-just-a

in Peru public land for sale must be advertised for a minimum of 90 days

In Peru, a land auctioning process has been in place since the 1990s and since then 235,500 ha of public land has been auctioned for nearly US\$50 million. About 20 of the country's 50 main agro-export companies have received land through these auctions.

Where a government agency, ministry, regional or local government wishes to divest public land, the intention to divest the land is published, along with the minimum investment required and the minimum bid price for the land, in the official gazette, local and international newspapers, and a government Web site for a minimum of 90 days. Likewise, if an investor approaches the government, the evaluated proposal is published for a minimum of 90 days to allow other potential investors to present offers.

Bids are ranked by price offered and the amount of projected investment. Each auction takes 4-5 months and data on the minimum bid value of the land, the investment commitment, and data on land size are publicly available. Business plans are also made public Redress can be remedied if the property was expropriated. If within one year of the conclusion of the court process the expropriated property is not used for its planned purpose, it automatically reverts to the original owner.

Peru's success in divesting public land through auctions is credited to the transparency of the process as well as to oversight from a high-powered and independent technical committee representing private and the public sectors. Competitive bidding for land provides a mechanism by which the host government achieves better terms and is able to extract some of the surplus created by the project, while eliminating direct negotiations between private buyers and public officials. However, the extent to which business plans incorporate community benefits, or how social and environmental concerns are considered during the awarding of investment projects, remains unclear.

http://www.globalwitness.org/sites/default/files/library/Dealing\_with\_disclosure\_1.pdf

http://siteresources.worldbank.org/INTARD/Resources/ESW Sept7 final final.pdf

in Sierra Leone the law requires that oil contracts must be awarded through competitive auctions

Sierra Leone has a long history of mining as its major economic activity. The mining sector provides employment and livelihood to over 135,000 workers, the overwhelming majority of whom are engaged in artisanal, small-scale mining operations. Artisanal mining constitutes an estimated 84 percent of total diamond exports from Sierra Leone. Sierra Leone does not currently produce any petroleum, but there are offshore prospects.

The petroleum sector is regulated by the Petroleum Exploration and Production Act of 2001. Under this Act, Sierra Leone developed a model petroleum agreement which provides a 10 percent royalty, a 37.5 percent income tax rate and annual rental between \$30 and \$100 per sq. km. A revised Petroleum Exploration and Production Bill was submitted to parliament in July 2011 that included several clauses seeking to improve transparency, including a requirement that oil contracts be awarded only through competitive auctions, that contracts be published and that payments be disclosed in accordance with the terms and procedures of EITI.

Paragraph 39 of the Petroleum (Exploration and Production) Act form 2011 states that "A Minister may, following a transparent, fair and competitive process and on the advice of the Directorate, grant a petroleum licence to two or more applicants who offered the most favourable terms and conditions to the State."

- <a href="http://www.revenuewatch.org/countries/africa/sierra-leone/extractive-industries">http://www.revenuewatch.org/countries/africa/sierra-leone/extractive-industries</a>
- http://www.revenuewatch.org/sites/default/files/Sierra Leone Petroleum Act 2011b.pdf

The Philippine Procurement law requires the proactive publication of key information

In 2002, the Congress of the Philippines passed Republic Act No. 9184, the "Government Procurement Reform Act," to address the problem of a vague and complex web of overlapping procurement regulations which made the process vulnerable to manipulation.

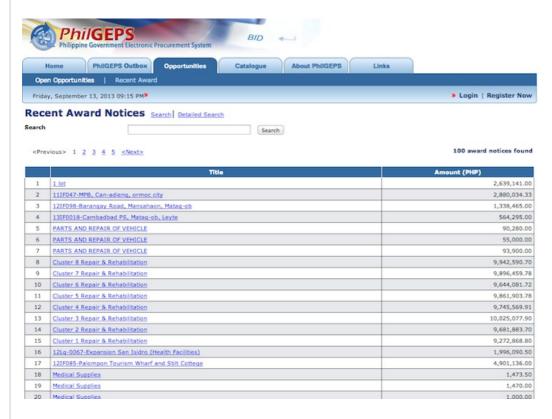
The Act, along with its implementing rules and regulations, mandates transparency and accountability measures to help combat corruption and inefficiency in public procurement. The bill specifically stresses that information and communication technology (ICT) should play a central role in how the government meets these goals.

The Philippine Government Electronic Procurement System PhilGEPS serves "as the primary and definitive source of information on government procurement." According to law, all public tenders, from those conducted by federal agencies to those of the smallest Local Government Unit (LGU) must pass through the PhilGEPS system. It hosts information on:

- Invitation to Bid/Request for Expression of Interest;
- Bidding Documents;
- Supplemental/Bid Bulletin;
- Notice of Award;

- Approved Contract; and
- Notice to Proceed

In addition there are procurement related documents that are required by the regulations to be made available to the bidders or the public upon request, such as the Minutes of the Pre-Bid Conference and Minutes of the Bid Opening.



Despite the introduction of PhilGEPS and the mandate that all public procurement pass through the electronic bulletin system, journalists, watchdogs and other CSOs continue to face significant information availability problems. They report that the compliance with reporting requirements is lacking, the information tracked by government entities is incomplete, and the data that is nominally available is subject to a range of barriers to public use.

Key limitations are that PhilGEPS does not capture all of the relevant information necessary for third-party oversight, in particular lacking details of the contract management phase, in which there are opportunities for contracts to be manipulated. Furthermore full access to PhilGEPS is restricted to accredited contractors who have paid a registration fee. It does not provide a way to access bulk data to use for statistical or visual analysis. Instead, to access procurement information one must already know where to look, and must look one tender at a time.

Developments to improve the system include piloting of performance based bonuses tied to PhilGEPS compliance, and development of more comprehensive access for the public and CSOs.

Source: Sunlight Foundation Case Study

- http://sunlightfoundation.com/blog/2013/10/07/case-study-public-procurement-in-the-philippines/
- <a href="http://www.lawphil.net/statutes/repacts/ra2003/ra\_9184\_2003.html">http://www.lawphil.net/statutes/repacts/ra2003/ra\_9184\_2003.html</a>
- http://philgeps.gov.ph/

## information

## Justification

Many countries have enacted access to information laws or regulations, reflecting the growing recognition of the right of citizens to access State-held information. This right has been interpreted as imposing a positive obligation on States to proactively disclose information of public interest, including contracts.

Therefore, it is important that contracting information is made available to the public in as complete a form as possible, with any exceptions or limitations narrowly defined. Where contracting information is exempted from disclosure by government, it is important that citizens, as well as parliaments and other oversight authorities, have recourse to subject the exemptions to impartial review.

## Recommendations

- Adopt rules to make 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 accessible to the public, as well as any applicable pre-studies, standard bid documents,
  performance evaluations, guarantees, and auditing reports.
- 2. These rules may take the form of a national or sub national level law, that governs all or a particular sector, or agency level policies or guidance.
- 3. The rules should clearly lay out the circumstances in which contracting information may be exempted from disclosure, provide for reasons to be given for the exemption or redaction, and a mechanism for redress, preferably judicial review.
- 4. Ensure that laws and policies governing public access to public contracting information are applied to state-owned companies and sovereign wealth funds.
- 5. Include in model agreements and standard contracting documents language indicating the disclosable nature of the contracting documents.
- 6. Preclude confidentiality clauses, draft them narrowly to cover permitted exemptions, or include provisions to allow for the contract and related information to be published.

## Standards & Guidance

- Open Contracting Principles <a href="http://www.open-contracting.org/global\_principles">http://www.open-contracting.org/global\_principles</a>
- Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>

## **Country Examples**

Denmark's Model License for Exploration & Production of Hydrocarbons contains a standard provision on disclosure

In a survey of more than 150 confidentiality clauses in oil and mining contracts worldwide found only one recognizes that the public interest in information should outweigh the company's interest in confidentiality. Denmark's Model License of 2005 for Exploration & Production of Hydrocarbons contains a standard provision on disclosure, stating: [Information can be disclosed if] no legitimate interest of the Licensee requires the information to be kept confidential; essential public interests outweigh Licensee's interest in maintaining confidentiality; information of a general nature is furnished in connection with issuance of public statements [...]

• http://www.revenuewatch.org/sites/default/files/RWI-Contracts-Confidential.pdf

Ethiopia launched a new Procurement Proclamation which requires disclosure of contracting information

In Ethiopia there has been strong support for procurement transaparency from the Commissioner, Federal Ethics and Anti-Corruption Commission. This support was strengthened when the Ethiopian Roads Authority, the Ministry of Health, the Ministry of Education, and the Ministry of Water and Energy—signed memoranda of understanding with the Construction Sector Transparency Initiative (CoST) to participate as a pilot country. A senior representative of the Public Procurement and Property Administrator Agency (PPPAA) joined the initiative's multi sector group. alongside other representatives from government - from the Federal Ethics and Anti-Corruption Commission, Roads Authority, Ministry of Urban Development and Construction- as well as from the private sector and civil society.

Initial studies found that there was a legal between requirements for disclosure and the procuring entities'understanding of those requirements. It also revealed that the procurement law prohibited the disclosure of information relating to tender submissions and evaluations. This contributed to poor governance of projects resulting in wide differences between budgeted costs and timelines, and the actual costs and times of delivery. In 2010 a new Procurement Proclamation was issued requiring disclosure of key information related to public contracts.

CoST Ethiopia has developed an e-procurement system with the PPPAA where procuring entities will be required to disclose the CoST Project Information Standard. The Ethiopian MSG will then train the procuring entities on using the e-procurement system. This includes the Ethiopian Roads Authority who is in a good position to mainstream information disclosure due to the development of a new database and a number of disclosure policies that are already in place.

- <a href="http://www.ppa.gov.et/">http://www.ppa.gov.et/</a>
- http://www.constructiontransparency.org/ db/ documents/25. Briefing note 10 (Ethiopia).pdf
- http://www.constructiontransparency.org/ db/ documents/Briefing note 12 (Success Stories).pdf

In Victoria, Australia disclosure requirements are part of the standard terms and conditions for contracts

In Victoria, Australia, current policy and rules require that private parties be made aware of contract disclosure requirements at the time of tender. This is included in the Standard Tender and Contract Terms on Disclosure for contracts over \$100,000 Policy adopted in 2002 by the Victoria Government Purchasing Board.

• <a href="http://www.procurement.vic.gov.au/CA2575BA0001417C/pages/procurement-practitioners-stage-2---bid-process-and-contract-award-step-5---evaluation,-selection-and-contract-award-disclosure-of-contracts->100000\*-policy">http://www.procurement.vic.gov.au/CA2575BA0001417C/pages/procurement-practitioners-stage-2---bid-process-and-contract-award-disclosure-of-contracts->100000\*-policy</a>

Liberia publishes information on bids and contracts

In Liberia the Land, Mines and Energy Ministry publishes information on the number of bids received, bidding requirements, and winning bids. Most mineral development agreements are published, and the Ministry is launching a

Mineral Cadaster Information Management System.

• <a href="http://www.revenuewatch.org/countries/africa/liberia/overview">http://www.revenuewatch.org/countries/africa/liberia/overview</a>

South Sudan enacted a law that makes confidentiality clauses in petroleum contracts invalid

South Sudan, Petroleum Law (2012) 78(3), declares confidentiality clauses in petroleum contracts to be invalid to the extent that they contradict disclosure requirements.

- http://www.southsudanankara.org/docs/The Petroleum Act 2012.pdf
- The Indian Right to Information Act makes contracts disclosable

The Indian Right to Information Act (2005) specifies that contracts are disclosable within the definition of information (subject to some limitations).

- http://www.righttoinformation.gov.in/
- http://rti.gov.in/rti-act.pdf
- The UK issues guidance on what information can be exempted from tenders

In the UK, tenderers for public contracts are advised to consider the Guidance on Contract Information that is Exempt from the Freedom of Information Act to evaluate whether information in the tender can be exempted under a non-disclosure agreement. Contracts are then redacted in accordance with the Freedom of Information Act and official guidance.

- https://www.gov.uk/tendering-for-public-sector-contracts/disclosing-information-in-your-tender
- <a href="http://www.ico.org.uk/~/media/documents/library/freedom\_of\_information/detailed\_specialist\_guides/awareness\_guidance\_5\_annexe\_- public\_sector\_contracts.ashx">public\_sector\_contracts.ashx</a>
- Transparency in public contracting is written into the South African Constitution

Section 195 of the South African Constitution states that "People's needs must be responded to, and the public must be encouraged to participate in policy-making...Public administration must be accountable...Transparency must be fostered by providing the public with timely, accessible and accurate information." and Section 217(1) South African Constitution Section 217(1) of the Constitution states that "when an organ of state contracts for goods and services it must do so in a manner which is fair, equitable, transparent, competitive and cost effective.

• <a href="http://www.info.gov.za/documents/constitution/">http://www.info.gov.za/documents/constitution/</a>

# **Intermediate Step:** Proactively disclose core classes of documents and data about public contracting

## Justification

Developing a system of proactive disclosure (meaning that contracts and the other core classes of information are routinely published) has several benefits:

- Promotes equality of access to information as all members of society can access without having to file requests.
- Improves records management system.
- Saves time and money proactive disclosure may even be more affordable than dedicating staff time to search for documents and evaluate every access to information request individually.[1]

This information needs to be available in a systemized and organized manner so that it can be read and processed by computers and can be easily reused and analyzed by citizens, civil society, the private sector and government.

Many governments are shifting to e-procurement and standardised contracting documents to provide a simple, secure and efficient means for managing the whole procurement process online. This reduces the obstacles to disclosure as documents are already in digital form and are organised with metadata. While e-procurement portals are aimed at bidders, a separate interface should be developed that allows ordinary people to find out about projects or contracts affecting them or their area.

## Recommendations

Define core classes of information for proactive disclosure. This should include:

- 1. **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.
- 2. **Related document**s such as Pre-studies, standard bid documents, performance evaluations, guarantees, and auditing reports;
- 3. **Key pieces of information concerning contract formation**, including: The planning process, method of award, scope and specifications for each contract, criteria for evaluation and selection, 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, results of the evaluation, including the justification for the award; and the identity of the contract recipient and any statements of beneficial ownership provided.
- 4. **Information related to performance of the contract**, including subcontracting arrangements, schedules and milestones, status of implementation, dates and amounts of stage payments made or received, service delivery and pricing, arrangements for ending contracts, final settlements and responsibilities, risk assessments, including environmental and social impact assessments, assessments of assets and liabilities of government, 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.

Develop systems to collect and publish this data in a structured manner on a timely, current, and routine basis and in a

form that enables easy use, participation, and analysis.

- 1. Where feasible, contracting information should be digitized and made available to the public on an online portal.
- 2. Structured formats such as structured XML and inclusion of all relevant meta-data allows for user-friendly searching and access.
- 3. Digital information should be retained and made available in perpetuity.
- 4. Where possible use non-proprietary software applications
- 5. Where possible, citizens should have the ability to subscribe to services to alert them of certain types of contracting developments through the use of email, SMS text, or other technologies.

## Standards & Guidance

- Developing Data Standards for Open Contracting <a href="http://www.open-contracting.org/developing\_data\_standards">http://www.open-contracting.org/developing\_data\_standards</a> for open contracting
- OECD Methodology for Assessing Procurement Systems (MAPS) <a href="http://www.oecd.org/dac/effectiveness/45454394.pdf">http://www.oecd.org/dac/effectiveness/45454394.pdf</a>
- OECD Principles for Integrity in Public Procurement <a href="http://www.oecd.org/gov/ethics/48994520.pdf">http://www.oecd.org/gov/ethics/48994520.pdf</a>
- Open Contracting Data Standard <a href="http://www.open-contracting.org/significant\_step\_forward\_for\_global\_transparency">http://www.open-contracting.org/significant\_step\_forward\_for\_global\_transparency</a>
- Open Contracting Principles <a href="http://www.open-contracting.org/global\_principles">http://www.open-contracting.org/global\_principles</a>
- Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>

## **Country Examples**

in Afghanistan the Ministry of Economy is required to publish all contracts

In Afghanistan, Presidential Decree 45 requires the Ministry of Economy to publish all contracts signed in the past three years. Mining contracts are available on the website of the Ministry of Mines.

• <a href="http://www.afghanistan-un.org/2012/07/the-office-of-the-president-of-islamic-republic-of-afghanistan-decree-on-the-execution-of-content-of-the-historical-speech-of-june-21-2012-in-the-special-session-of-national-assembly/?utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed:+PermanentMissionOfAfghanistanToTheUnInNewYork+(Permanent+Mission+of+Afghanistan+to+the+UN+in+New+York)bestth

In Colombia the law requires all documentation related with a public contract to be published

In Colombia, Law 80 of 1993 and Law 1150 of 2007 and associated decrees make it obligatory for all government entities, at the national, department, and municipal levels, to publish documents and information related to contracts. All documentation beginning with the preliminary studies and including the contract itself should be published, through the <u>Public Procurement Electronic System</u> (SECOP).

By visiting the website <a href="http://www.colombiacompra.gov.co/">http://www.colombiacompra.gov.co/</a> users can access contracts closed in the past two years. A review by the Center for Global Development found that no information is being withheld from the public

domain related to the main agents involved, the salaries paid to all personnel involved, any taxes and legal fees, or the cost per unitmaterials/inputs used.

However there are some limitations to the system. Extractives contracts are presently excluded from the system. In addition a self-evaluation done by the Intersectoral Commission of Public Contracting (CINCO) in 2008 also mentions problems related to full coverage of the system, due to lack of connectivity in some areas. Furthermore CGD's research found that some contracts of concern appear to have been taken down from. For example there are limited contracts available related to the Bogotá Transmilenio Project which was at the centre of a contracting scandal.

- <a href="http://colombiacompra.gov.co/">http://colombiacompra.gov.co/</a>
- https://www.contratos.gov.co/puc
- http://pro-act.org/forum/topics/open-contracting-from-principles-to-practice
- http://www.opengovguide.com/wpcontent/uploads/2013/09/1426431\_file\_Kenny\_Publish\_What\_You\_Buy\_FINAL\_0.pdf

## In Slovakia, government contracts are published online

Corruption in public procurement in Slovakia has been a long-standing problem. Problems in public procurement occur through the manipulation of tenders before or after the awarding of the bid, for example by limiting competition through setting unreasonable conditions, or not fully enforcing contracts, or changing them significantly after tendering. One key example was the 'Notice Board Scandal,' a high profile procurement scandal which took place in 2007 when the Ministry of Development published a tender request for construction services totalling 119.5 million Euros on a small notice board in the hallway inside the ministry building where few could see it. A firm that was known to have close ties to the head of the ruling party won the contract. More than a year after the fact, the scandal came to light and was invalidated by the Slovakian Office of Public Procurement.

Slovakian law was overhauled in response to the 2011 update of the EU Procurement Directives and the concern over high profile public procurement scandals. Major reforms included:

- 1. The introduction of e-procurement, in which dissemination of tenders, tender documents, the submission of bids and the publication of notification of awards is done publicly through a single portal;
- 2. The introduction of reverse auction mechanisms for procuring goods and services
- 3. Mandatory publication of all public contracts on a centralized online government contract repository.

In the Slovak Republic, <u>Act No. 546/2010</u> Coll. supplementing Act No. 40/1964 requires all public contracts, with certain limited exceptions, to be published online. To avoid secret contracts, any unpublished contracts are declared to be unenforceable. The Government <u>Public Procurement Office</u> manages Slovakian procurement rules. This office publishes the official Public Procurement Journal, legal interpretation of the Public Procurement Act, maintains a <u>register of procurement documents</u> and operates the procurement portal, which is called <u>EVO</u>.

These reforms have made it significantly easier for organizations and people outside the government to access public data about procurement. Previously access tender documents and other procurement data was granted primarily through requests under Freedom of Information Laws (FOI). If requests were not granted and appeals could take so long that the information was no longer relevant.

Now, through EVO all of that information is published including the contract itself and information on the bids received and the process of contracting.

The availability of data has lowered the barriers to entry for participating in the oversight process. This has enabled much greater public participation in uncovering suspect procurements. Before the reforms, exposing corruption relied

on whistleblowers alerting journalists or watchdogs of suspicious proceedings. Now more tips come from local activists and individuals. For example teachers, highlighted information about large Ministry of Education procurements for flowers and alcohol and the Ministry of Finance conducted an audit.

Opening up the information makes it possible compare contractors and look at patterns across cities and institutions. Local people who may know who the mayor is friends with, and which local businesses have relationships with people of influence are able to spot issues that a researcher farther removed from the process might not be able to.

Despite these positive developments corruption in Slovakian public procurement remains a challenge. While the availability of data has been a positive step, there remain barriers to using it, and where there is no real threat of enforcement, transparency and disclosure are limited in their ability to bring about effective change. Researcher using the data say that rationalizing the manner in which the data is released and formatted would make it easier to use, reducing the cost of finding corruption and increasing the likelihood that improper processes will be uncovered. The NGOs TI-Slovakia and Fairplay Slovakia maintain an online <u>Open Contracts</u> website built off the procurement data scraped and structured from public sources. This portal visualizes procurement expenditures by procurers, suppliers, sectors and regions as well as provides downloadable structured procurement data in bulk. Having data available in these formats also enabled TI-Slovakia to conduct broader analyses than were previously possible.

Standardised data formats, bulk downloading, structured formats like XML would make it easier to use the data. Another key problem is that there are no data licenses attached to public data so it is not clear how it can be used. Additional information about pre-tender requirements would also be valuable.

Formal mechanisms and institutional means of sanction also need to be strengthened. The Sunlight Foundation concludes that "Most significantly, transparency alone, it appears, cannot change deeply ingrained corrupt practices in a short time span. Transparency can only highlight the problem, and provide tools for oversight and investigation. Enforcement mechanisms, both formal and informal, must be brought to bear to sanction those whose transgressions are revealed by transparency-enabled oversight."

[Source: Sunlight Foundation case study]

- http://sunlightfoundation.com/blog/2013/08/12/case-study-public-procurement-in-the-slovak-republic/
- http://www.zmluvy.gov.sk/
- http://www.otvorenezmluvy.sk/

In the Democratic Republic of Congo, all contracts relating to natural resources are required to be published

Decret No 011/26 du 20 mai 2011 portant obligation de publier tout contrat ayant pour objet les resources naturelles. Contracts are available on the website of the <u>Ministry for Energy and Mines</u>.

• <a href="http://mines-rdc.cd/fr/index.php?option=com\_content&view=article&id=92">http://mines-rdc.cd/fr/index.php?option=com\_content&view=article&id=92</a>

In the UK potential opportunities that might be advertised in the future are published, so that all companies can view the pipeline of opportunities

In the UK, Contracts Finder now has details of the potential opportunities over the next few years. Termed "pipelines," they are intended to help businesses prepare for opportunities that might be advertised in the future.

https://online.contractsfinder.businesslink.gov.uk/Common/Browse Pipelines.aspx?site=1000□=en

Many countries have developed electronic databases of public contracting information

The following are a few examples of electronic databases of public contracting information: <u>Colombia</u>, <u>Chile</u> (Concessions), <u>Guinea</u> (Extractive Industries), <u>Korea</u>, <u>Philippines</u>, <u>Slovak Republic</u>, <u>USA</u>, <u>UK</u>, and <u>New York City</u>.

Mongolia addresses contracting specifically in its Right to Information Law

In Mongolia, the Law on Information Transparency and Right to Information, Article 10, states "The principles of transparency, fairness, efficiency, economy and accountability shall be upheld in the procurement policy and such policy shall be made available in an easily accessible manner on the website of the organization, and made public through other means."

Documents required to be published are bid invitations and regulations concerning bid selection processes; criteria for the selection of bidders as well as of criteria under which a contractor was selected; brief information on successful or unsuccessful bidders as well as the detailed reasons, conditions and legal grounds for selections; reports on the procured goods and services, including procurement audit and reports, conclusions and other monitoring reports.

http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan047231.pdf

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http://unpan1.un.org/intradoc/groups/public/documents/UN-DPADM/UNPAN047231.pdf

New York City's Checkbook NYC website integrates budgets and contracts

New York City, which spends roughly \$70 billion annually, has long had a central budget to combat waste and fraud. In 2010 it set up a transparency initiative; Checkbook NYC website, enabling the public to keep an eye on New York City's spending with detailed, up-to-date information about revenues, expenditures, contracts, payroll, and budget in an easy-to-use, dashboard format. A subcontractor reporting system on the City's Payee Information Portal, rolled out in 2012, requires all vendors with contracts over a certain dollar amount to report their subcontractors online.

Checkbook NYC was released for use and modification under an open source license to encourage programmers and governments that adopt the system to contribute improvements and additional features for release in future versions.

http://Checkbooknyc.com

The Philippine Procurement law requires the proactive publication of key information

In 2002, the Congress of the Philippines passed Republic Act No. 9184, the "Government Procurement Reform Act," to address the problem of a vague and complex web of overlapping procurement regulations which made the process vulnerable to manipulation.

The Act, along with its implementing rules and regulations, mandates transparency and accountability measures to help combat corruption and inefficiency in public procurement. The bill specifically stresses that information and communication technology (ICT) should play a central role in how the government meets these goals.

The Philippine Government Electronic Procurement System PhilGEPS serves "as the primary and definitive source of information on government procurement." According to law, all public tenders, from those conducted by federal agencies to those of the smallest Local Government Unit (LGU) must pass through the PhilGEPS system. It hosts information on:

- Invitation to Bid/Request for Expression of Interest;
- Bidding Documents;
- Supplemental/Bid Bulletin;
- Notice of Award;
- Approved Contract; and
- Notice to Proceed

In addition there are procurement related documents that are required by the regulations to be made available to the bidders or the public upon request, such as the Minutes of the Pre-Bid Conference and Minutes of the Bid Opening.





Despite the introduction of PhilGEPS and the mandate that all public procurement pass through the electronic bulletin system, journalists, watchdogs and other CSOs continue to face significant information availability problems. They report that the compliance with reporting requirements is lacking, the information tracked by government entities is incomplete, and the data that is nominally available is subject to a range of barriers to public use.

Key limitations are that PhilGEPS does not capture all of the relevant information necessary for third-party oversight, in particular lacking details of the contract management phase, in which there are opportunities for contracts to be manipulated. Furthermore full access to PhilGEPS is restricted to accredited contractors who have paid a registration fee. It does not provide a way to access bulk data to use for statistical or visual analysis. Instead, to access procurement information one must already know where to look, and must look one tender at a time.

Developments to improve the system include piloting of performance based bonuses tied to PhilGEPS compliance, and development of more comprehensive access for the public and CSOs.

Source: Sunlight Foundation Case Study

- http://sunlightfoundation.com/blog/2013/10/07/case-study-public-procurement-in-the-philippines/
- http://www.lawphil.net/statutes/repacts/ra2003/ra\_9184\_2003.html
- http://philgeps.gov.ph/

The State of Minas Gerais, Brazil requires proactive disclosures about PPP projects

The State of Minas Gerais has been serving as a model for other states in Brazil on practices related to disclosure of project information, draft and final signed contracts, as well as bidding process documentation and technical background reports.

For PPP projects in Minas Gerais, Brazil, a preliminary project summary is published online during a public consultation period, along with the bidding documents, including selection criteria, and the draft of the contract, technical background papers and feasibility studies. Once the tender process is completed, full versions of contract documents are published and the project summary is updated (describing, *inter alia*, guarantees provided by the government). If the contract is renegotiated or amended, such variations are published once agreement is reached. Monthly performance reports are also published.

According to Resolution 72 of 2003, Article 5, web pages should be "easy to read and present content with clarity, coherence, relevance, timeliness, organization, simplicity, objectivity and truthfulness." 52 Article 7 specifies that all information contained in websites of the State's public entities must be rigorously updated, while Article 9 establishes a communication service, "Talk to Us" ("Fale Conosco"), which facilitates the direct access to information held by public institutions.

Through this open channel, citizens can request information, and requests must be responded to within 2 working days, either by disclosing information, referring the public to another institutional source, or requesting more days to fulfil the request. All available information on projects is, however, extensively disclosed proactively.

All documents are disclosed in their original form in the public domain and are signed off by the original producer of the document. When information is extracted from the original documents and placed in a separate format, such as in the case of the project factsheet and guarantees or payment reports, the PPP Unit checks each piece of information.

[Source: World Bank, 2013, Disclosure of Project and Contract Information in Public-Private Partnerships]

http://www.opengovguide.com/wp-content/uploads/2013/09/Disclosure\_of\_Project\_PPP.pdf

# **Intermediate Step:** Provide capacity building to support stakeholders to understand, monitor and act upon contracting data

## Justification

In some cases governments have gone to great effort to make information available to the public, only to have low usage of this information.(Smith, 2011)

In order for information to be useful, citizens must be empowered to access it, must have the capacity to use it, and be incentivised to engage.

Governments can play a key role in empowering people to understand, monitor and act upon contracting data by establishing a program of capacity building to support relevant stakeholders, both within and outside of government. The importance and impact of public contracting is such that it is likely worth the efforts of companies, governments and donors to build citizen capacity and create an enabling environment for participation. For example, civil society may lack the skills necessary to analyse and understand the technical, legal and financial elements of the deals that their government negotiated with companies.

## Recommendations

- 1. Work with CSOs and business organisations to put in place civic education programs for citizens or groups wishing to engage in the monitoring of contracting activities. This engagement can also be used to help identify the most useful contracting information.
- 2. With regard to individual contracts of significant impact, contracting parties should craft strategies for citizen understanding of the key terms and benefits and engage citizen monitoring groups.

### Standards & Guidance

- OECD Principles for Integrity in Public Procurement <a href="http://www.oecd.org/gov/ethics/48994520.pdf">http://www.oecd.org/gov/ethics/48994520.pdf</a>
- OECD Public Engagement for Better Policy and Services <a href="http://www.iadb.org/intal/intalcdi/pe/2009/03785.pdf">http://www.iadb.org/intal/intalcdi/pe/2009/03785.pdf</a>
- Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>

### Country Examples

Brazil provides citizens education on public budgets

Brazil publishes an annual Citizen's Budget. However it also backs this up with several other innovative communication streams.

To better explain to citizens what the budget is, its importance and other aspects of the subject, a radio program titled Moment Budget is produced to provide information to the listener in a simple and direct language.

The Virtual School of the Federal Budget Secretariat (SOF) was created in 2008 by the Ministry of Planning, Budget and Management. It provides online courses on the understanding public budgets. Courses are aimed at both government employees and members of the public, and civil society. By 2011 the Virtual School graduated approximately 2000 citizens.

The government also created a specific Public Budget Primer for children, available as a booklet and a website. In the form of a comic, the booklet provides an introduction to the idea of the Public Budget in relation to children and their concerns.

- http://www.orcamentofederal.gov.br/educacao-orcamentaria
- <a href="http://fiscaltransparency.net/wp-content/uploads/2013/11/Brazil-Experience-Public-Participation.ppt">http://fiscaltransparency.net/wp-content/uploads/2013/11/Brazil-Experience-Public-Participation.ppt</a>

In the Philippines, both government and private sector are active at training monitors

The government <u>Procurement Policy Board</u> holds trainings for monitors wishing to understand more about the procurement process and related laws and regulations. The <u>Makati Business Club</u> is an active participant in a Coalition Against Corruption. The coalition provides training and on the Government Procurement Reform Law for volunteers so they can participate as observers in Bids and Awards Committees.

# **Advanced Step:** Create mechanisms for participation and redress in public contracting

## Justification

Contracting processes and outcomes can be improved with citizen feedback. Such citizen participation mechanisms complement government oversight and redress mechanisms. Feedback enables projects to be better designed to meet local needs, and issues to be identified in implementation.

Public hearings and consultations are particularly relevant where contracts affect land or delivery of services to a particular constituency. Constituents or affected communities should be invited to participate during the planning and pre-bidding phases, in needs assessments, feasibility studies and environmental and social impact assessment. Their inputs are crucial to ensure that the contracting process ultimately meets needs and delivers to the public good. (Human Rights Watch, 2013)

Civil society and the media can play a significant role in promoting transparency and accountability in public contracting. If issues are observed then government implementing agencies and oversight authorities can be alerted to take action. However often citizens groups seeking to participate in public contracting are frustrated by a lack of legal basis or support for stakeholder participation and hesitance of officials to engage with them.

### Recommendations

1. Establish legislation or policies calling for public consultation, civil society observers of public contracting, and civil society monitoring of contract performance, and requiring that public bodies are receptive to these inputs and take corrective action as a result of citizen feedback.

- 2. Enter into cooperation agreements with civil society organizations to monitor their public contracting.
- 3. Enact whistle-blower protection mechanisms.
- 4. Provide a suitable avenue of redress for citizens, including unsuccessful bidders, to resolve contracting issues.

## Standards & Guidance

- Open Contracting Principles <a href="http://www.open-contracting.org/global\_principles">http://www.open-contracting.org/global\_principles</a>
- Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>
- The Open Contracting Community of Practice <a href="http://pro-act.org/">http://pro-act.org/</a>

## Country Examples

in Colombia citizens' oversight organizations can supervise the entire public contracting process

In Colombia, Law 850 of 2003 allows citizens' oversight organizations to supervise the entire public contracting process, from resource allocation to the oversight of the execution and technical quality of the contracted good or service.

The Law states that citizens have the right to constitute "veedurias ciudadanas" or citizen oversight committees, which can be temporary mechanisms for CSOs to control public administration, procurement, processes, etc. The veedurias enable citizens and/or CSOs to oversee public management and the performance of administrative, judicial, electoral and political authorities, public and private entities, or nongovernmental organizations. They are responsible for executing programs, contracts, or public services.

One of the main objectives of the "veedurias ciudadanas" is to strengthen mechanisms to control corruption in public procurement and public management. The Law 489 of 1998 states that the public administration is obliged to provide support to citizens when they constitute a veedurías. This Law also establishes that controlling authorities and the judiciary should support the veedurías in order to investigate and respond to their denunciations.

http://report.globalintegrity.org/Colombia/2008/scorecard/2

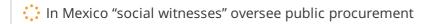
In Guatemala the government has taken action where multistakeholder reviews found problems in public construction projects

Having joined the Construction Sector Transparency Initiative (CoST) in 2010, CoST Guatemala recently published their third CoST Assurance Report, disclosing information from 25 public construction projects. The first disclosure in July 2011 examined six projects including roads, sporting facilities and river dredging. An average of 53 per cent of the project information required by CoST was disclosed by the procuring entities, which marked a great improvement.

The CoST Guatemala programme has highlighted several issues that have led to government action. Following a recommendation from the assurance team procuring entities have to ensure that sufficient budget is in place before contracting firms. This is to avoid unnecessary delays in starting construction. The Multi Stakeholder Group also voiced concerns about NGOs being used to siphon offfunding intended for infrastructure projects. The General Directorate for Roads has annulled the works contract for the design and reconstruction of the Belize Bridge in Guatemala City, based on the Assurance Team highlighting the inappropriate use of procedures for contracting in emergencies such as natural disasters. Over time the average level of proactive disclosure of project information has risen from 25% in the

CosT baseline study to 65%. Disclosure is becoming a routine process for CoST Guatemala.

- <a href="http://cost-guatemala.org/">http://cost-guatemala.org/</a>
- http://www.constructiontransparency.org/ db/ documents/CoST Briefing Note 1 Impact Stories.pdf
- https://openknowledge.worldbank.org/bitstream/handle/10986/10092/636620BRI0CoST00Box0361520B0PUBLICO. pdf



In Mexico, since 2004, the federal government of Mexico has required the involvement of "social witnesses" in public bidding for goods, works, and services over a certain threshold value. Since 2009, participation of a social witness has been mandatory in procurements valued at more than \$23 million for goods and services and US \$43 million for public works. Non-government organizations and individuals may be selected as social witnesses by the Ministry of Public Administration. Their function is to propose strategies for improving transparency, impartiality and compliance with the legal framework, and must issue an alert if they detect any irregularities in the course of the procurement. At the conclusion of the procurement proceedings, the social witness issues a publicly available statement including observations and, as appropriate, recommendations. The statement is posted on the government's central procurement website and in the file of the tender.

The "Social Witness" program is the result of an initiative of the NGO Transparencia Mexicana to facilitate the participation by civil

society as external observers in public procurements. Originally, social witnesses par!cipated as a result of guidelines issued by Ministry of Public Administration (MPA) in 2004. The guidelines stipulated that MPA keep a registry of individuals and non-governmental organizations which may participate in all stages of a procurement conducted by any institution of the Federal Public Administration.

in Mexico", Transparency Internalonal USA, CIPE, Transparencia Mexicana, 2011,

According to Transparencia Mexicana, the Social Witness program has significantly reduced the costs of public contracts and has increased the number of bidders participating in the procurement process in Mexico.

- http://www.diputados.gob.mx/LeyesBiblio/pdf/14.pdf
- <a href="http://corruptionresearchnetwork.org/marketplace/resources/C-M%20SERIES%20-%20A%20new%20Role%20for%20Citizens%20in%20Public%20Procurement.pdf/">http://corruptionresearchnetwork.org/marketplace/resources/C-M%20SERIES%20-%20A%20new%20Role%20for%20Citizens%20in%20Public%20Procurement.pdf/</a>

In Mongolia,civil society and professional organizations play a formal role in bid evaluation and contract monitoring

In June 2011, the Government of Mongolia amended the Public Procurement Law of Mongolia (PPLM) to include a new formal role for civil society and professional organizations in bid evaluation and contract monitoring. Private and specialized non government organizations can be selected according to the provision 35-39 of this law to perform monitoring, evaluation and auditing of customer's activity, contract performance and quality progress and execution.

Mongolia is at the threshold of a major socio-economic transformation driven by the exploitation of its vast mineral resources. Since 2004 when the mining boom began, the economy has grown at an average rate of over 8 percent each

year. Sound infrastructure is particularly critical for this vast, land-locked, sparsely populated, country. In order for it to both develop and benefit from the huge new Southern mines. Mongolia's infrastructure investments will need to increase at an unprecedented pace, placing great demands public procurement systems. Procurement in Mongolia has been characterized by the familiar problems of political interference and lack of transparency, which are particularly pronounced given the small size of the formal sector and the close ties between politicians and the construction industry. As a result, time and cost over-runs in infrastructure projects are ubiquitous. Increasing the technical capacity, transparency, and accountability of public procurement is an urgent need for government systems to keep pace with the staggering transformation that is underway.

The rationale for involving CSOs in monitoring procurement emphasizes the ability of CSOs to provide feedback to government on bid evaluations and contracts and to disseminate their findings to the public. Through disseminating its observer reports, CSOs can help to inform citizens and thereby strengthen citizen ability to reward or sanction politicians and officials for their management of public resources. It is hoped that greater citizen awareness of procurement-related problems will increase public officials' incentives to respond to CSOs' feedback, including holding contractors accountable for their performance.

Implementing the PPLM, especially the requirement for CSO oversight of bid evaluations and contract performance, will be challenging for both the Government and CSOs. Sustainable funding arrangements that are shielded from political interference will be essential for the success of civil society monitoring will be crucial. Mongolia has also opted into the <u>Global Partnership for Social Accountability</u> (GPSA) to enable Mongolian civil society groups to apply for financial support from the international donor community to monitor public contracting In addition, Mongolian agencies have entered into memoranda of understanding with civil society groups to monitor their public contracting.

[Source: World Bank]

- <a href="http://blogs.worldbank.org/governance/voluntarily-tying-government-s-hands-civil-society-oversight-of-procurement-in-mongolia">http://blogs.worldbank.org/governance/voluntarily-tying-government-s-hands-civil-society-oversight-of-procurement-in-mongolia</a>
- <a href="http://pro-act.org/profiles/blogs/the-building-of-a-procurement-partnership-in-mongolia">http://pro-act.org/profiles/blogs/the-building-of-a-procurement-partnership-in-mongolia</a>

In the Philippines, citizens participate in all stages of the procurement process and may also observe implementation

The Philippines Procurement Law mandates citizen participation in all stages of the procurement process, from pre-bid conference, opening of bids, bid evaluation, post-qualification and award of contract. Under this system, procuring entities are required to invite outside organizations to sit in on meetings of their Bid and Awards Committees (BACs). Observers may also observe contract implementation, and citizens are able to file complaints with the local ombudsman if they suspect irregularities.

In the extractives sector, although there is currently a moratorium on new mining operations, the Philippines Mining Law requires a "multi-partite monitoring team" to be operational before the mining project can receive an environmental compliance certificate. This body is to be composed of representatives of the national government, affected communities, indigenous communities, an environmental civil society organization, and the project proponent. In addition Philippine agencies have entered into memoranda of understanding with civil society groups to monitor their public contracting.

However the system has struggled to respond to the volume of procurements, because of resource limitations for the CSOs involved and the lack of trained staff. According to some estimates civil sector oversees less than 1 percent of

procurement proceedings and are not likely to see the misconduct, since they are not present during the pre-bidding parts of the process where misconduct most likely occurs. The degree to which CSO observers are granted a meaningful and participatory role varies greatly depending on the procuring entity.

To date the civil sector observer system has been seperate from the ICT enabled e-procurement of PhilGEPS. ICTs can enable asynchronous and remote observation, which can significantly ease the resource burden of observation and allow for more targeted risk assessment.

- http://www.gppb.gov.ph/laws/laws/RevisedIRR.RA9184.pdf
- http://sunlightfoundation.com/blog/2013/10/07/case-study-public-procurement-in-the-philippines/

The Philippine National Textbook Delivery Programme uses citizen participation to improve accountability in public procurement

The National Textbook Delivery Program (NTDP) in the Philippines is a civil society-led initiative supported by state institutions that has focused on improving transparency in the delivery and distribution of textbooks. Civil society organisations were spurred into action because of the low level of accountability in the education sector with 40 percent of textbooks deliveries not being accounted for and 21 percent of textbooks procured by the Department of Education not being delivered to the designated schools. By effectively monitoring textbook delivery at the community level, the initiative has been able to reduce the average cost of textbooks, reduce the time spent on the process of getting textbooks to schools, and improve the quality of textbooks.

In light of the problems facing textbook procurement, senior officials at the Department of Education initiated the NTDP in order to improve transparency and accountability. They ensured the assistance of G-Watch – an independent monitoring project that undertakes research and advocacy on themes related to governance and public management – and its network of civil society organisations around the country. Several civil society organisations agreed to participate in the NTDP, for example by providing volunteers doing the monitoring work at the local level. These organisations were expected to be the government's eyes and ears as they observed and ensured the transparency of the bidding process, inspected the quantity and quality of the textbooks being produced, and monitored that the right number of books were delivered at the right time. They reported to G-Watch as the national coordinator if textbooks were not of the right quantity or quality. G-Watch, in turn, reported that information to the Department of Education who had the power to make the contractor abide by its contract.

Monitoring actual delivery forced the publishing companies to be more efficient since failure might result in a loss of business the following year. The participation of locally based civil society organisations also invited community participation in the transparency mechanism, adding to the pressure for the Department of Education and the publishing companies to get their act together as more than one set of eyes were scrutinising their performance.

The successful implementation of the NTDP has resulted in the Secretary at the Department of Education issuing Order No. 59, 'Institutionalising NGO and Private Sector Participation in the Department's Procurement Process'. Another initiative to institutionalise this participatory transparency initiative is the Textbook Walk, which invites an entire community to participate in the monitoring of textbooks when they are delivered to a given school. G-Watch has conducted training for event organisers and prepared educational materials to the textbook monitoring process, and has implemented the Textbook Walk in various districts across the Philippines.

- <a href="http://www.idea.int/resources/analysis/loader.cfm?csmodule=security/getfile&pageid=51958">http://www.idea.int/resources/analysis/loader.cfm?csmodule=security/getfile&pageid=51958</a>
- http://www.oecd.org/site/adboecdanti-corruptioninitiative/meetingsandconferences/42877391.pdf

The UK created a "Mystery Shopper" service to resolve complaints related to procurement processes

In 2011 The Prime Minister and Minister for the Cabinet Office announced a series of measures to open up public procurement to greater participation by small and medium sized enterprises. One of the announcements made was the launch of the Mystery Shopper service. This service exists to provide a structured mechanism for suppliers to raise concerns about public procurement practice and processes.

Suppliers can use this service anonymously to escalate issues about problems in Government supply chains to the Cabinet Office. The aim is to provide a clear, structured and direct route for suppliers to raise concerns about public procurement practice when attempts at resolving issues with a contracting authority or a first tier supplier have failed, and to help the Cabinet Office identify areas of poor procurement practice so it can work with the contracting authority to put them right and reduce the likelihood of similar issues arising in other authorities.

Reports of cases investigated are published on the Cabinet Office website.

• <a href="http://https://www.gov.uk/government/publications/mystery-shopper-results">http://https://www.gov.uk/government/publications/mystery-shopper-results</a>

## Innovative Step: Facilitate funding to support participation in public contracting

Justification

A key challenge to sustainability of open contracting remains the lack of sustainable resourcing to enable participation.

Civil society organizations in particular, require funding and there is often competition for limited resources, particularly from the government. However providing direct funding may undermine the role of civil society as independent watchdogs and create the potential for conflicts of interest. In order to preserve this independence, innovative sustainable funding solutions must be reached.

## Recommendations

- 1. Developing countries can opt into the <u>Global Partnership for Social Accountability</u>, a donor-funded grant system that provides strategic and sustained support to beneficiary groups and civil society organizations (CSOs) working with their governments, to promote greater transparency and accountability. This would allow civil society groups to apply for core funding for monitoring activities.
- 2. Governments, foundations and/or companies could convene, or contribute to a national multi-stakeholder governed fund (potentially from funds set aside from public contracts themselves) from which civil society can apply for funds to undertake this work.

## Standards & Guidance

- Global Partnership for Social Accountability
   <a href="http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,">http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,</a>, contentMDK:23017716~pagePK:220503~piPK:220476~the
   <a href="mailto:sitePK:228717,00.html">SitePK:228717,00.html</a>
- Open Contracting: A New Frontier for Transparency and Accountability <a href="http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo">http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo</a>

Country Examples

Seventeen countries have joined the Global Partnership for Social Accountability

The GPSA is a coalition of donors, governments and civil society organizations (CSOs) that aims to improve development results by supporting capacity building for enhanced citizen feedback and participation. The GPSA will contribute to country-level governance reforms and improved service delivery. To achieve this objective, the GPSA provides strategic and sustained support to CSOs' social accountability initiatives aimed at strengthening transparency and accountability.

Support is provided on two fronts: funding and knowledge. Through a global grant competition, grants str made available to CSOs for capacity building, research and knowledge dissemination, networking and programmatic activities related to social accountability in their country. The GPSA is also developing a global platform for knowledge exchange and research, especially in measuring and documenting 'what works' in social accountability and the impact of social accountability interventions.

Before a Call for Proposals is issued, multi-stakeholder consultations are held in each country to define thematic priority areas that CSO proposals will need to address. The countries that have formally opted in enable their CSOs to access funding are:

- Bangladesh
- Belarus
- Colombia
- The Dominican Republic
- Honduras
- Indonesia
- Kyrgyz Republic
- Malawi
- Moldova
- Mongolia
- Mozambique
- Paraguay
- Senegal
- The Philippines
- Tajikistan
- Togo
- Tunisia

## [As of June 2013]

 http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:23017716~pagePK:220503~piPK:220476~ theSitePK:228717,00.html

# **Public services**



Lead author: Twaweza and Involve

## Introduction

The provision of public services—such as health care, education, sanitation and criminal justice—is a key task for government. People care about public services and depend on them being delivered well. Public services provide the most common interface between people and the state, and their functioning shapes people's sense of trust in and expectations of government. At a national level, public services underpin human welfare and economic growth.

Public services need to be delivered with integrity, centred around citizens, and responsive to their needs, particularly the needs of the most vulnerable. Promoting greater transparency and enabling ordinary citizens to assess the quality, adequacy and effectiveness of basic services, to voice their needs and preferences and to become involved in innovation offers an opportunity to enable better use of public funds, and improve service delivery (Ringold et al, 2013)

Public services account for a large proportion of government budgets, but increased spending has often not been matched by improvements in outcomes. In the worst case, public services can be bedeviled by corruption which leads to money intended for books, teachers, dispensaries, medical supplies and infrastructure being syphoned off by officials or private contractors (World Bank, 2004). Around the world, children still leave school are unable to read and do basic arithmetic, and the quality of healthcare remains uneven. Data show that just increasing resources, equipment, financial, or personnel, does not guarantee that the quality of education or health care will improve. The quality of service delivery is critical.

Even where the integrity of public resource flows can be secured, approaches to public service delivery designed for a previous age struggle to respond to present day needs driven by complex challenges, such as those created by aging populations, chronic health conditions, mega cities and poverty and inequality.

Public services are traditionally organized in a way that puts the public in a passive role, as the recipient of a standardised service. This contrasts with innovations in other areas of life such as retail, travel and media where people are used to giving feedback on the goods and services they receive, and playing an active role in making choices. Citizens are connected like never before and have the skill sets and passion to solve problems. Local people often know what the solutions to problems in their area, but are rarely empowered by bureaucratic processes, instead facing public services which may be impersonal, irrelevant, and inefficient.

Governments are experimenting with redesigning parts of the system so that citizens can play a more active role as a user community for public services. This can mean participative processes and forums, community monitoring and citizens' budgets, or new forms of commissioning. Technology and open data enable a different kind of participation. Open government data APIs allow anyone to write a citizen-facing application using government data, creating new interfaces to government, and opening up new possibilities. (Lathrop et al, 2010)

However translating information into action is a difficult challenge. The relationships between citizens, policy-makers, program managers, and service providers are complicated and are not easily altered through a single intervention, such as an information campaign or scorecard exercise. (Ringold et al, 2012)

Particular attention needs to be given to human motivation and incentives. Research by Twaweza in Uganda for example found that formal information sources were not seen as particularly influential and citizens are often either too afraid to act, do not consider it their responsibility or do not know what to do. (Twaweza, 2013)

References

Lathrop, Daniel and Laurel Ruma, 2010, Open Government, Collaboration, Transparency and Participation in Practice, O'Reilly Media https://github.com/oreillymedia/open\_government

Ringold, Dena, Alaka Holla, Margaret Koziol and Santhosh Srinivasan, 2012, Citizens and Service Delivery: Assessing the Use of Social Accountability Approaches in Human Development, Washington DC: World Bank

World Bank, 2004, World Development Report 2004: Making Services Work for Poor People, Washington D.C.: World Bank

Twaweza, 2013, Uganda baseline report http://twaweza.org/uploads/files/TwawezaBaselineReport-AllD-18April13.pdf

### **Expert Organisations**

World Bank The Participation and Civic Engagement Group http://go.worldbank.org/FMRAMWVYV0

OECD <a href="http://www.oecd.org/gov/publicengagement.htm">http://www.oecd.org/gov/publicengagement.htm</a>

Twaweza http://www.twaweza.org

Involve <a href="http://www.involve.org.uk">http://www.involve.org.uk</a>

Feedback labs http://feedbacklabs.org

Govlab <a href="http://thegovlab.org/">http://thegovlab.org/</a>

South Asia Social Accountability network <a href="http://www.sasanet.org/">http://www.sasanet.org/</a>

Affiliated Network for Social Accountability in East Asia and the Pacific http://www.ansa-eap.net/

Affiliated Network for Social Accountability <a href="http://www.ansa-africa.net">http://www.ansa-africa.net</a>

# Summary of illustrative commitments

## Initial

- Establish easy feedback mechanisms for public services
- Publish and promote information on the public services people are entitled to

## Intermediate

- Involve citizens in the commissioning, design, delivery and assessment of public services
- Provide cooperation to independent monitoring efforts and take action on issues raised
- Publish key public service performance data

## Advanced

• Systematically track and publish performance indicators across public services

## **Detailed Recommendations**

## Initial Step: Establish easy feedback mechanisms for public services

## Justification

User feedback can play an important role in improving public services. User feedback can:

- help service providers to improve their efficiency and effectiveness
- be a source of innovative ideas for the improvement of services
- help commissioners and policy makers to identify issues with policy and/or delivery
- ensure that public resources are spent effectively
- uncover instances of negligence or corruption

Often there are formal complaints mechanisms in place for public services (including the option of contacting political representatives) but these routes require individuals to put a lot of effort into pursuing a complaint, and require them to challenge powerful institutions and professionals. Citizens may not be willing or able to challenge providers if they lack information or time or if they do not feel empowered to do so. Where providers come from more powerful or affluent backgrounds, citizens may not feel in a position to question them,or they may be concerned about the repercussions of giving negative feedback. Many people will simply grumble and accept poor service. Policymakers meanwhile can often have little access to the everyday experiences and realities of a large majority of citizens. This makes it difficult to know whether policies are properly implemented or actually working.

Making it easy for people to give feedback and empowering them to report things that aren't working, without having to escalate it into formal complaint mechanism can create a powerful feedback loop for public services. Feedback mechanisms should be set up that are built around what people already use and like (e.g. mobile phones, markets, prayer groups, schools). Technology opens up new avenues through which citizens can give their views, such as using SMS, and online.

Collecting feedback is only the beginning. Service providers must respond. This often requires culture change on the part of public service deliverers. Receiving feedback from public service users, particularly complaints is often seen as something to be wary of, not celebrated. However effective public sector organisations should view complaints not as a problem, to be ignored, dismissed or under-valued; but as useful early warning signs that something has gone wrong, which then enable public services to engage with citizens (Simmons et al, 2013)

## Recommendations

#### Governments should

- 1. Require that public service providers put feedback and complaints mechanisms in place and provide data on complaints and feedback received;
- 2. Conduct comparisons across services.
- 3. Aggregate public feedback on services to inform policy and/or commissioning decisions
- 4. Support the development of channels operated independently of service providers and government by civil society, and respond to feedback gathered through mechanisms developed independently.

While feedback mechanisms should be tailored to the specific context, common best practice is to:

• Keep a range of channels open for feedback and complaints, providing choice in the way feedback can be given and

issues raised, and ensuring they are tailored to the needs of users, including disadvantaged groups.

- Make it easy to give feedback and make complaints, for example using use new technology such as SMS messages and websites, as well as through intermediary organisations.
- Ensure that suitable processes and requirements are in place that citizens feedback is acted upon by service providers and policy makers.
- Ensure that the result of user feedback is reported back to users individually (where possible) and collectively Evaluate the use and effectiveness of mechanisms, and adapting and/or replacing as necessary

### Standards & Guidance

- Civicus Monitoring and Evaluating Public Services <a href="http://www.pgexchange.org/index.php?">http://www.pgexchange.org/index.php?</a>
   option=com\_content&view=category&id=59&ltemid=135
- The World Bank: Citizens and service delivery <a href="http://elibrary.worldbank.org/content/book/9780821389805">http://elibrary.worldbank.org/content/book/9780821389805</a>

## Country Examples

In Tanzania the government established wanachi.go.tz a website to submit and track complaints and feedback

Wananchi.go.tz is a website was developed by the government to enable Tanzanian citizens to send feedback, opinions, complaints to the government and to track and follow up on queries.

#### The system aims:

- 1. To help improve citizen awareness and satisfaction about the services they receive or believe they should be receive by enabling fast and efficient resolutions of relevant citizen submissions
- 2. To collect data that will assist the Government of Tanzania to identify opportunities for improvement and change, to optimise service and minimise complaint in the future

As part of its OGP commitment the government has committed to improve the website to make it more robust and responsive as a platform for citizens to participate in the running of Government, and produce monthly reports on effectiveness of the citizen's website.

• http://www.Wananchi.go.tz

In the UK the National Health Service asks all patients leaving hospital if they would recommend it to their friends and family

Since 2012 patients leaving NHS hospitals are asked whether they would recommend their ward to friends and family. This is what is known as a 'Net Promoter' question which is often used by companies in customer service programmes. The overall score for each ward can be positive or negative depending on the number of 'promoters' (people who would recommend the service) and 'detractors' (people who would not).

The anonymous survey covers around 4,500 NHS wards and 144 A&E services. It allows hospital trusts to gain real time feedback on their services down to individual ward level Results are reported weekly to hospital managers and boards, and overall scores are published each quarter.

• https://www.gov.uk/government/news/nhs-friends-and-family-test-giving-patients-a-greater-voice

indonesia set up a social media channel for complaints

LAPOR! ("to report", in Indonesian) is a social media channel where Indonesian citizens can submit complaints and enquiries about development programmes and public services. Comments are transferred directly to relevant ministries or government agencies, which can respond via the website. Users can access the system through the web, through SMS, through facebook and twitter and mobile applications, and each report is given an ID number so that users can track it to resolution.

Examples of issues reported include potholes, and difficulties in accessing government services, comments on projects and infrastructure developments. LAPOR! now has more than 225,350 registered users and receives an average of 1,435 inputs per day. It is connected with 64 ministries and the Ministry of Non-Government Institutions. It has also been connected with the Local Government and the Provincial Government of Jakarta.

- <a href="http://lapor.ukp.go.id/">http://lapor.ukp.go.id/</a>
- http://www.opengovpartnership.org/sites/default/files/Indonesia.pdf
- http://www.opengovpartnership.org/sites/default/files/Indonesia\_0.pdf
- http://

Mexico set up a digital platform to 'improve your school'

Mexico spends more per student than most industrialized nations but has the lowest levels of academic achievement in the OECD. As part of its OGP Action Plan the government-civil society working group set out to improve the information that parents have about schools, and enable them to 'improve your school'.

The Mexican Institute for Competitiveness (IMCO) cross referenced test results with basic data on all schools and made them accessible on a new website 'Mejora tu Escuela'. Users can search and compare schools, and provide their own comments. Where problems are identified, like deteriorating infrastructure or principals that mismanage the school budget, they are linked to possible solutions that can be implemented by parents and local CSOs."The more information you have on schools, the more likely you are to demand higher quality education", says Gabriela Segovia of the Federal Institute on Access to Information and Data Protection (IFAI).

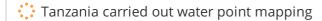
- http://www.mejoratuescuela.org/
- <a href="http://www.opengovpartnership.org/sites/default/files/Mexico\_0.pdf">http://www.opengovpartnership.org/sites/default/files/Mexico\_0.pdf</a>

Montenegro developed a mobile app to allow citizens to report local problems

The Be Responsible app is a mobile app that allows citizens to report local problems – from illegal waste dumps, misuse of official vehicles and irregular parking, to failure to comply with tax regulations, failure to issue fiscal receipts. The most popular categories to date have been

ecology and improper parking.

• http://www.budiodgovoran.me/



Working with local stakeholders, the government has created an information system which can link every level of the water supply chain to rural communities, highlighting issues of equity and functionality at all levels. Water point mapping provides a baseline of information for improving performance of the water system.

http://www.opengovpartnership.org/sites/default/files/Inspiring%20Story%20-%20Tanzania.pdf

# **Initial Step:** Publish and promote information on the public services people are entitled to

## Justification

Too often citizens do not know what their basic entitlements and responsibilities are, or what are the expected performance of service providers. The lack of information prevents people accessing services, allows for underperformance of services and makes it easier for local officials and service providers to divert public resources for illicit gain. Many countries have established Service Charters, backed by information campaigns which make clear what services and benefits people are entitled to receive, the performance standards they should expect, and the grievance redress channels they can use when things go wrong (Centre for Good Governance, 2008).

This lets people know about the services and programs available to them and arms them with information that they can use to hold providers accountable for delivering those services. Citizens can use information to have better-informed direct interactions with individual providers, such as physicians, and with provider organizations, such as village education committees, and they can have better-informed indirect interactions with policy makers, including through voting.

## Recommendations

- 1. Require public sector organisations (ministries, departments, agencies, local government) to publish information on what level of service people are entitled to. This may take the form of a service charter detailing the role of the organisation, services provided to each client group, any user costs involved, details of grievance redress mechanism and how to access it; and expectations from the clients.
- 2. Develop the Charter not only with senior experts, but with interaction of frontline staff.
- 3. **Disaggregate service commitments to the lowest level** (e.g. 'x and y services are free for pregnant women, z dollars per student will be sent to each school per student, x functioning water points per 1000 population in a ward). However the charter does not have to imply a uniform pattern on every service and can also indicate choices.
- 4. **Communicate the information internally within each public organisation** and integrate into internal performance management.
- 5. Set specific targets for communication: e.g. 'At least 80% of all citizens will be easily able to access this information'.
- 6. **Make this information easily accessible using simple language and visual displays**, and deliver it through public noticeboards at public service locations and local government offices, TV, internet and mobile phone platforms. The

information should also be published as open data to enable third parties to reuse and disseminate it.

7. Work with civil society organisations and the media to inform citizens of their rights, the services and benefits they are entitled to receive, the performance standards they should expect, and the grievance redress channels they can use when things go wrong. Cooperate with independent monitoring efforts that seek to assess the reach and quality (meaningfulness, value) of the public dissemination of information, and should commit to specify and take swift measures to remedy problems.

## **Country Examples**



ASAN is Azerbaijani for 'Easy'. It is a one-stop shop where people can access the services of various government agencies. Service centres in major cities, mobile busses, an online service and telephone hotline.

- <a href="http://www.opengovpartnership.org/sites/default/files/Azerbaijan\_1.pdf">http://www.opengovpartnership.org/sites/default/files/Azerbaijan\_1.pdf</a>
- <a href="http://asan.gov.az/en/contactinfo">http://asan.gov.az/en/contactinfo</a>

Brazil's Bolsa Família program is backed by a widespread information campaign

Brazil's Bolsa Família program of family income support covers 12.7 million families. The program relies on diverse approaches to inform people about their rights and obligations. The program, and its payment calendar is advertised on the internet, local radio ads, and pamphlets and posters that are distributed around poor neighborhoods and public offices. Once a family is admitted in the program, social assistance professionals provide guidance on how the program works using a document called the Agenda da Família, which is provided to all new beneficiary families. Targeted efforts have been made to improve outreach to highly disadvantaged groups, such as indigenous populations, quilombolas (African descendant groups), and the homeless, using material in local dialects and using appropriate graphic design and training local agents on how to reach each group.

• <a href="http://documents.worldbank.org/curated/en/2011/01/15499676/citizens-service-delivery-assessing-use-social-accountability-approaches-human-development-sectors">http://documents.worldbank.org/curated/en/2011/01/15499676/citizens-service-delivery-assessing-use-social-accountability-approaches-human-development-sectors</a>

Chile set up a one-stop shop for accessing public services

ChileAtiende is the multi service network which was created in 2012 to bring the benefits and services of public institutions to individuals, throughin-person service points and mobile offices, a website and a call center that provides guidance on the services and benefits provided by the state by dialing '101'.

The system started out by using the infrastructure of the Social Security Institute, but brings together services from many government departments including the national health fund (Fondo Nacional de Salud, Fonasa), the national consumer protection agency (Servicio Nacional del Consumidor, Sernac), the Civil Registry, the Social Investment Fund (Fondo Solidario de Inversión Social, FOSIS), the Housing and Urban Development Ministry (Ministerio de Vivienda y Urbanismo, Minvu) and the Health Ministry. Citizens can apply for services and subsidies, pay social security contributions, obtain medical vouchers and register for certificates at the same office.

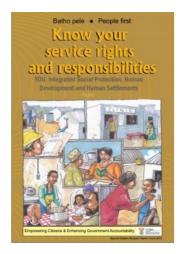
- <a href="http://www.chileatiende.cl/">http://www.chileatiende.cl/</a>
- http://www.gob.cl/english/featured/2013/09/03/president-pinera-signs-bill-to-set-up-the-chileatiende-national-

citizens-attention-service.htm

- http://www.opengovpartnership.org/sites/default/files/Chile.pdf
- http://www.opengovpartnership.org/sites/default/files/Chile\_0.pdf
- Chile's healthcare system sets out guarantees on access, quality and cost of public healthcare

Chile's Regime of Explicit Health Guarantees (AUGE) guarantees a certain set of services for all users. It prioritises health problems based medical criteria and defines a maximum waiting period for receiving services at each stage ("access") the set of activities, procedures, and technologies necessary for treating the medical condition ("quality"); and the maximum that a family can spend per year on health ("financial protection").

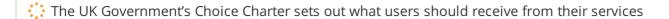
- http://siteresources.worldbank.org/EXTSOCIALDEV/Resources/3177394-1168615404141/3328201-1192042053459/Chile.pdf
- More than 600 government organizations in India have issued Citizen's Charters
  - http://goicharters.nic.in/faq.htm
- South Africa has carried out a national public education campaign on Know Your Service Rights and Responsibilities



The campaign aims to inform citizens about their service rights, responsibilities, and legal mechanisms available to hold government accountable. The "Know Your Service Rights and Responsibilities" booklet was developed in 2010 and more than 35,000 brochures were distributed with the aim to distribute more through 2013 and 2014.

As part of the national OGP Action Plan the Department of Public Service and Administration intensified engagements with communities on the campaign for example informing people about how to apply for housing subsidies and each government department has an outreach programme. However a key weakness of the booklet is that it has only been produced in English.

- http://www.dpsa.gov.za/batho-pele/docs/Know%20your%20Service%20rights/English.pdf
- <a href="http://www.opengovpartnership.org/country/south-africa/irm">http://www.opengovpartnership.org/country/south-africa/irm</a>



The Choice Charter, published in 2013 sets out four basic principles for public service users:

- You can have a say in how a public service is provided to you.
- You will be given the opportunity to take up and exercise the choices
- available.
- You will be given clear, accessible and high-quality information and advice to inform your choices
- You have clear avenues to complain if you do not receive the choices you are entitled to.

Individual Choice Frameworks have been developed for a number of public services in heathcare, education and social housing, which, set out what choices should be available to people, who is be responsible for providing this choice, relevant quality standards, inspections and licensing requirements, sources of information to help people make informed decisions and details of complaints procedures.

• <a href="https://www.gov.uk/government/publications/choice-charter">https://www.gov.uk/government/publications/choice-charter</a>

# **Intermediate Step:** Involve citizens in the commissioning, design, delivery and assessment of public services

## Justification

The constituency most affected by and often most knowledgeable about the realities, constraints and opportunities regarding service delivery are the millions of citizens and grounded CSOs (including local faith and business groupings), and yet this constituency is often the least consulted or involved in solving persistent service delivery challenges.

Creating serious and practical opportunities for citizen involvement can provide a huge untapped reservoir of knowledge and good will, align incentives effectively and create greater trust, all of which are essential to solve service delivery challenges. New technologies and decreasing costs of communication, particularly the mobile phone and fast- growing social media platforms such as Facebook, enable unprecedented avenues for information sharing and demand- driven, contingent collaboration.

One approach to this is to involve citizens actively in the governance of and commissioning of public services, for example on school boards and health councils and in monitoring public private partnerships delivering public services.

Another is the co-production of public services where service users act not as passive recipients but as individuals with skills and mutual responsibilities with professionals. While still at a developmental stage in many areas of public service delivery, co-production has started to be mainstreamed in a few areas, such as health and social care. Examples include parent-run nurseries, community-led justice, peer-education and medical self-help groups (OECD, 2011).

Open government data [link] approaches offer the potential for users to become involved in developing new interfaces to public services.

Governments can take specific actions here, setting up innovation units, grants, awards and new governance mechanisms, but also important are changes in internal culture of public sector organisations to encourage easier exchange and critique, to take feedback seriously and respond to it reliably, and to set incentives to tap into new ideas, solve problems through experimentation and rigorously evaluate and adopt them at scale.

### Recommendations

- 1. **Promote and support the monitoring and evaluation of public services by civil society and citizens** independently of and in collaboration with policy makers
- 2. **Consider opportunities to involve citizens at all stages** of the development and delivery of public services or government programmes.
- 3. Ensure that the participation of citizens is inclusive and does not exclude the less powerful.
- 4. **Give citizens and stakeholders influence** over which services are commissioned and how public funds are allocated through the adoption of participatory <u>budgeting</u>.
- 5. **Ensure that public service commissioning approaches enable user driven and innovative service approaches** to be funded.
- 6. Promote open government data as a tool for public service innovation
- 7. Document and share research and stories of how change has happened (including through this Guide)

## Standards & Guidance

• OECD: Together for Better Public Services – Partnering with citizens and civil society: http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf

### Country Examples

Brazil's Health Councils involve people in governing the health system

Brazil's Sistema Único de Saúde (SUS), is a universal, publicly-funded, rights-based health system. The Brazilian "Citizens' Constitution" established health as the right of all and guaranteed the right to participate in the governance of health. This is institutionalised through mechanisms for citizen engagement at municipal, state and national levels.

Across Brazil's 5,000-plus municipalities Health Councils are empowered by law to inspect public accounts and demand accountability. Each month tens of thousands of Brazilian citizens representing a spectrum of civic associations meet with those who run their health services and provide their health care. Every two or four years they come together in municipal health conferences, from which delegates are put forward for conferences at the state and national levels. At such events, proposed amendments collated from days of group work are debated, contested and voted for. Good ideas from citizens often become the basis for state and national policies. And when they do not, citizens who recognise the value of their ideas often continue to fight for them.

Research has found that the health councils are quite diverse and include representatives from social movements, disabled people's associations, religious groups, civil rights associations, trade unions and people with no associational ties. However breaking the grip of powerful actors on the councils often depends on a public manager who is willing to champion the cause of participation and work with civil society groups. The selection process of the councillors varies from council to council, with greater openness leading to more inclusivity. Inclusive measures include making information on the election process available, listing all the associations and movements in the region, using radio or

newspapers to publicise elections and granting candidatures to individuals as well as organisations.

Discussion techniques are used to help groups to communicate and express themselves better. This include limiting the length of time people can speak, to ensure people who want to participate get a chance to speak and to vote where decisions need to be made. Training of councillors and the council chairs in their roles and providing them with information on the functioning of the health system also helps to make some councils work better than others.

[Source: Open Democracy]

• <a href="http://www.opendemocracy.net/andrea-cornwall-vera-schattan-p-coelho-alex-shankland/taking-seat-on-brazils-health-councils">http://www.opendemocracy.net/andrea-cornwall-vera-schattan-p-coelho-alex-shankland/taking-seat-on-brazils-health-councils</a>

Denmark's Mindlab involves citizens and business in in problem solving with government ministries

<u>MindLab</u> is a Danish cross-governmental innovation unit which involves citizens and businesses in developing new solutions for the public sector. MindLab is instrumental in helping key decision-makers and employees from its parent ministries view their efforts from the outside-in, to see them from a citizen's perspective. MindLab uses this approach as a platform for co-creating better ideas.

It works with service users, citizens and other stakeholders at early planning stages of service delivery. For example, Mindlab worked with users to test mobile devices for doing tax returns and collected their feedback, which resulted in changing government plans and avoiding costly service mistakes. It developed social networks with and for highly skilled migrant workers to motivate them to stay in Denmark.

MindLab was created in 2002 for the Ministry of Economic and Business Affairs as an internal incubator for invention and innovation. At that time, the vision of an in-house laboratory as a centre of creativity and innovation was unique for a ministry.

In 2007, a new strategy and a new goal were set for MindLab: its focus would be the active involvement of both citizens and companies in developing new public-sector solutions. At the same time, MindLab acquired two additional parent ministries, namely the Ministries of Taxation and Employment. In this manner MindLab also became a fulcrum of intragovernmental cooperation. Finally, the strategy involved MindLab taking on a number of professional researchers, with the aim of establishing a more robust methodological foundation for its work.

Today, MindLab has considerable experience with innovation processes that are based on the realities experienced by citizens and businesses, and which also promote collaboration across the public sector. MindLab has become a part of three ministries and one municipality: the Ministry of Business and Growth, the Ministry of Education, the Ministry of Employment and Odense Municipality and form a collaboration with the Ministry for Economic Affairs and the Interior.

• <a href="http://www.mind-lab.dk/">http://www.mind-lab.dk/</a>

In Karachi, the local government adopted a co-management approach to sanitation

Orangi is a large informal settlement in Karachi, Pakistan. In 1982, residents suffered from high child mortality rates due to poor sanitation. Some of the communities were represented by residents' associations that followed clientelist strategies to try to improve services. They lobbied local politicians and promised votes in return for water pipes and public standpoints.

A local NGO called the Orangi Pilot Project (OPP argued that such a strategy was never going to work at the spatial scale

that was required or with an adequate quality of investment). They developed a model of community-installed and managed sanitation where the residents of a lane or street paid for the lane investment in sanitation (and monitored the quality of the work) while the municipality took on responsibility for the wider sewer network and the waste treatment plants.

At first, the municipality refused to participate in this work and the people discharged the wastewater from the lane sewers into local streams. Over time, the authorities recognized the co-production model could work, if they played their role.

After initial reluctance, the municipality eventually agreed to this co-management arrangement and the idea of rapidly through the settlement. The process strengthened local organisations and made them more likely to engage with formal political structures than clientist networks. Overall residents of, 96,994 houses built their neighbourhood sanitation systems, by investing over half a million dollars collectively. 20 years after the work began in Orangi, the city of Karachi decided that the strategy should be supported throughout the city.

• <a href="http://www.sed.manchester.ac.uk/research/socialmovements/publications/papers/Mitlin\_EnvironmentandUrbanization20.pdf">http://www.sed.manchester.ac.uk/research/socialmovements/publications/papers/Mitlin\_EnvironmentandUrbanization20.pdf</a>

US Citizen Corps trains volunteers to play a role in community safety and disaster preparedness

Following the tragic events that occurred on September 11, 2001, state and local government officials in the US increased opportunities for citizens to become involved in disaster preparedness and supporting local first responders.

Citizen Corps was created to help coordinate volunteer activities. It provides opportunities for people to participate in a range of measures to make their families, their homes, and their communities safer from the threats of crime, terrorism, and disasters of all kinds.

Citizen Corps programs build on local efforts to prevent crime and respond to emergencies. Programs that started through local innovation are the foundation for the national approach.

The Citizen Corps mission is accomplished through a national network of state, local, and tribal Citizen Corps Councils. These Councils build on community strengths to implement the Citizen Corps preparedness programs and carry out a local strategy to involve government, community leaders, and citizens in all-hazards preparedness and resilience.

http://www.ready.gov/

**Intermediate Step:** Provide cooperation to independent monitoring efforts and take action on issues raised

Justification

Because the quality and integrity of underlying data used by governments can be uneven, independent monitoring can help to provide additional means to collect feedback and provide data, through community monitoring of public works and public services. In many countries civil society groups have pioneered the development of feedback approaches such as public service report cards, social audits and community monitoring.

Social audits allow citizens receiving a specific service to examine and cross-check the information the service provider makes available against information collected from users of the service. This form of monitoring can cover all aspects of the service delivery process, such as funds allocated, materials procured, and people enrolled. The audit results are typically shared with all interested and concerned stakeholders through public gatherings, which are generally attended by users of the services as well as public officials involved in management of the service delivery unit.

Technologies such as SMS, apps, social media, online forums and websites can make it easier to people to submit feedback. For example in Tanzania Twaweza, set up a national mobile phone panel of 2,000 randomly selected residents invited to participate for two years. Participants receive mobile phones and agree to participate in monthly surveys on topics such as schools and health clinics.

#### Recommendations

1. **Promote and support the monitoring and evaluation of public services** by civil society and citizens independently of and in collaboration with policy makers

#### **Country Examples**

In Ethiopia the Protection of Basic Services Project is working to empower citizens to assess public services

In Ethiopia starting in 2006 the Federal Government, with international support, has carried out a project to address this deficit. Working with 45 CSOs across 86 districts the project piloted Community Score Cards, Citizens Report Cards, and Participatory Budgeting as a basis for face-to-face discussions between citizen groups and service providers. The World Bank reports that these regular discussions provided the opportunity for stakeholders to review the service delivery scores and discuss deficiencies, produce common performance indicators, agree on service delivery scores, develop joint action plans, and form joint committees to follow up on the implementation of the action plans. Government officials and service providers have been required to take account of citizens' demands and to respond, as feasible, with appropriate policies and solutions. The program is now being scaled up 172 districts implemented by 60-90 CSOs.

• <a href="http://www.worldbank.org/en/news/feature/2013/02/13/empowering-citizens-increasing-accountability-improving-service-delivery http://vimeo.com/15160542">http://www.worldbank.org/en/news/feature/2013/02/13/empowering-citizens-increasing-accountability-improving-service-delivery http://vimeo.com/15160542</a>

in India the National Rural Employment Guarantee Act is monitored through social audits

The NREGA program guarantees 100 days of employment per year to rural households whose adult members are willing to do unskilled manual work. Such programs are often bedevilled by large scale misappropriations by contractors, local political bosses and officials. Proactive disclosure of information, and citizen participation in monitoring was therefore designed into the program, and institutionalised through the legislation that created it in order to expose and prevent corruption.

The National Rural Employment Guarantee Act mandates that regular social audits be conducted be conducted at local level every six months. The NREGA guidelines identify 11 stages of the program where an individual or group can intervene to ensure public vigilance. The accountability and transparency measures enshrined in the NREGA have proved to be a catalyst for some state governments and civil society organizations to take innovative steps towards developing and institutionalizing accountability tools into the governance system

The government of Andhra Pradesh set up a separate unit to design and implement social audits of the NREGA

program. The core of the social audit approach is to involve the entire affected group or community in the process. In most cases, the members carrying out the social audits are volunteers who are directly affected by the program, and these volunteers are generally trained in the social audit process by a civil society organization. This extensive involvement of civil society organizations ensures that there is a high degree of autonomy and objectivity to the exercise. It is one of the most important checks and balances that have been built in to the process.

The village social auditors go from house to house cross verifying official records, scrutinizing job cards, examining the worksites, and gathering information through interviews with wage seekers. They then organize a village level meeting where findings from the audit are shared with the villagers. local political bosses, and officials. The presence of senior government officials enables immediate and effective grievance redressal albeit only where cases of petty corruption are unearthed. Over 500 field assistants and 10 technical assistants have been dismissed, and inquiries initiated against higher level officials. Corrupt officials facing public scrutiny have actually begun to return embezzled funds.

Aside from unearthing corruption, the social audits also offer a formal setting for senior officials to interact with front line staff and service users. This allows for real time feedback on the status of the scheme implementation. Through interactions with senior officials, front line workers can clarify doubts, and resolve problems. Moreover, because information on the NREGA is disseminated during the forum, both officials and wage seekers come away with a better understanding of the NREGA.

• <a href="http://knowledge.nrega.net/193/1/transparency-accountability\_Andhra.pdf">http://knowledge.nrega.net/193/1/transparency-accountability\_Andhra.pdf</a>

In the Philippines the Department for Education cooperates with the Checkmyschool monitoring initiative



Started in 2011, Checkmyschool (CMS), is a participatory monitoring initiative that aims to improve service delivery in public education. It was established as a joint initiative of the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA—EAP) Foundation Inc. and the Department of Education (DepEd), the branch of government that is responsible for regulating and managing the Philippine system of basic education..

CMS is an interactive and hybrid online platform used to validate the government's educational services on the ground, report on issues, and provide solutions. With access to the Department of Education's database, citizens can monitor funds and report on any discrepancies that are fed back into the platform through various channels, including Facebook and SMS. For those who don't have internet access, CMS has mobilized infomediaries to interact with stakeholders, and facilitate community involvement. CMS has also attracted a thousand plus volunteers, including students, to disseminate and validate information offline.

The platform uses Google Maps to map schools and allows users to report issues about textbooks, seats, toilets, teachers and computers. These issues are brought to the attention of the Department of Education's attention for action. Requests so far have been responded to fairly quickly.

- http://http://wbi.worldbank.org/wbi/stories/check-my-school-not-just-website
- http://www.checkmyschool.org/
- http://www.youtube.com/watch?feature=player\_embedded&v=y2HAeePMKOI#t=12

### Intermediate Step: Publish key public service performance data

#### Justification

Government departments have many systems for tracking and managing performance. Making these measurements public and accessible allows citizens (and authorities) to more effectively compare performance, assess value for money and exercise choice and accountability.

Often performance data is not standardized and quality can be variable. However the absence of perfect data should not prevent transparency. Measuring performance in key areas and making data public can be a first step to improving the quality of the data and performance management

#### Recommendations

- 1. **Provide information to the lowest disaggregated facility or community level** (e.g. school, health facility, village) so as to be meaningful and relevant to citizens, without undermining the privacy of service users.
- 2. **Present information about the same services and agencies from different sources** (e.g. administrative data, survey data, reports of the auditor general, reports of the public procurement authorities) side by side and using common institutional boundaries and standardized names
- 3. **Make available the information on user-friendly interactive online platforms** that allow users to tailor searches and queries, and in particular make comparisons across time, geographies, sectors and against policy commitments.
- 4. Ensure that information is made available on public noticeboards and on popular mobile phone platforms and foster synergies with other mass media (e.g. FM radio) and mass institutions (e.g. faith bodies, fast-moving consumer goods companies). This is particularly important in developing countries where computer-based internet access, while growing, is still constrained.
- 5. Publish information in an open data format to allow others to analyse and reuse it.

#### Standards & Guidance

- Civicus Monitoring and Evaluating Public Services <a href="http://www.pgexchange.org/index.php?">http://www.pgexchange.org/index.php?</a>
   option=com\_content&view=category&id=59&Itemid=135
- OECD: Focus on Citizens Public Engagement for Better Policy and services http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm
- OECD: Together for Better Public Services Partnering with citizens and civil society: http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf
- The World Bank: Citizens and service delivery http://elibrary.worldbank.org/content/book/9780821389805

#### Country Examples

In Korea city residents get up to date information on water quality

In Seoul, Korea citizens were previously suspicious of the quality of the tap water and avoided drinking it. There was no monitoring system to assess the quality of tap water. This resulted in a low rate of consumption of tap water, high sales volume of bottled water, reckless underground water development, and indiscriminate use of purifiers which led to pollution. There was waste of a precious resource and potential public health problems.

The new water monitoring system allows citizens to access real-time data on water quality via the Internet at the city's public engagement website oasis.seoul.go.kr They can also obtain data from water quality inspectors who visit houses for free. They can participate in the online assessment of the water quality; this has helped build trust and confidence in the water system. This programme uses citizen monitoring as part of a drinking water campaign, to help conserve resources. As a result, citizens confidence levels have risen, with a 20% increase in tap water consumption and greater conservation of ground water.

[Source: United Nations Public Service Awards (2009)]

<a href="http://unpan3.un.org/unpsa/Public\_NominationProfile.aspx?id=584">http://unpan3.un.org/unpsa/Public\_NominationProfile.aspx?id=584</a>

in Peru the government introduced standardised tests in schools to improve school standards

In Peru in spite of high primary enrolments in education, many students were not able to read. Parents surveyed said they were satisfied with the quality of education their children received. This gap between true learning levels and perceptions of quality suggested a lack of awareness of quality standards and potentially weak accountability in school management. In 2006, the government of Peru established a universal standard system to test all children completing second grade and to inform each school, child, and parent about the results by issuing report cards through local education offices. Media campaigns encouraged parents to request their child's test scores from schools and discuss the results with the school authorities to plan improvement strategies. One of the products was a radio miniseries about education standards and parental empowerment, produced in Spanish and translated into the indigenous languages of Quechua, Aymara, and Asháninka. The government also linked teachers' pay to evaluation as part of the education sector reform process. In spite of opposition from teacher unions, the government was able to pass this law with support from the electorate.

Several countries in Africa are working with the World Bank to collect Service Delivery Indicators on health and education

Service Delivery Indicators (SDI) is an Africa wide initiative being undertaken by governments together with the World Bank. It collects actionable data on service delivery in schools and health facilities. The SDI data are used to assess the quality and performance of education and health services for decision makers to track progress over time, and for citizens to hold governments accountable for public spending.

The Service Delivery Indicators are a set of 20 indicators that examine the effort and ability of staff and the availability of key inputs and resources that contribute to a functioning School or health facility. They seek to assess service delivery performance and quality at frontline schools and health facilities from the citizens' perspective.

A standardized survey is used allowing for data comparison across countries as well as in country regions, Data will be collected and analyzed every two years from a sample of 200-300 schools and clinics in each country.

SDI results will be published. In Kenya, Hivos is working to support Civil Society Organisations (CSOs), media

organisations and journalists to present the information revealed by the data to the general public, in user friendly ways.

- <a href="http://www.sdindicators.org/">http://www.sdindicators.org/</a>
- http://www.hivos.org/news/kenyan-launch-service-delivery-indicators-sdis-accountability-and-results

# **Advanced Step:** Systematically track and publish performance indicators across public services

#### Justification

Different countries manage their public services in different ways, in particular with regards to the degree to which services are centralised or decentralised, the involvement of private and voluntary sector delivery partners, and the extent to which users have choice between different providers. Whatever way services are delivered the state has a key role in defining outcomes, setting standards for public services and ensuring that all public service users are able to access the services they are entitled to.

Increasing focus is being put on transparency over how services are performing, both as a means for enabling service users to effectively exercise choice, and to allow them to influence the services they rely on and hold government accountable. At the heart of this are moves to systematically publish information on performance and user satisfaction.

Research into the impact of publishing performance information is limited, but it appears likely that publishing performance data encourages greater efficiency and effectiveness in public services. Beneficial effects are often due in the first instance to information by those professionally involved in providing the service than to feedback from the general public. However to be effective and gain the attention of providers, information should be meaningful and relevant and have the potential to arouse the interest of stakeholders (Mulgan, 2012).

Assessments of performance involve judgments about social value and political priorities. This must be taken into account both in the design of public service performance indicators and their interpretation. The simplest measures of the outcomes of a provider such as exam pass rates, or hospital mortality rates may need to be presented as value-added indicators to take into account factors such as the health and wealth of users. Composite indicators such as 'star ratings' can be easy to communicate, but opaque in what they assess. Any indicator can lead to gaming, for example with providers closing waiting lists to reduce the numbers waiting, or excluding children at risk of failure to increase average test scores.

#### Recommendations

- 1. **Develop performance indicators** in close consultation between politicians, users, officials and professionals involved in service delivery
- 2. **Take care in developing indicators to guard against distortion** by providers seeking to improve their score without improving underlying performance. Relying on a number of separate measures, rather than just one indicator
- 3. **Develop public performance indicators as part of a broader performance management regime** where data is taken into account by decision makers but is subject to discussion and open judgement.
- 4. **Sponsor research to assess the 'before-and-after' effects** before embarking on a new performance indicators framework .

- 5. **Publish information to the lowest disaggregated facility or community level** (e.g. school, health facility, village) so as to be meaningful and relevant to citizens, without undermining the privacy of service users.
- 6. **Present information about the same services and agencies from different sources** (e.g. administrative data, survey data, reports of the auditor general, reports of the public procurement authorities) side by side and using common institutional boundaries and standardized names
- 7. **Make available the information on user-friendly interactive online platforms** that allow users to tailor searches and queries, and in particular make comparisons across time, geographies, sectors and against policy commitments.
- 8. **Communicate indicators** in the media, through public displays, booklets and letters to parents and patients as well as online.
- 9. Publish information in an open data format to allow others to analyse and reuse it.

#### Standards & Guidance

- Civicus Monitoring and Evaluating Public Services <a href="http://www.pgexchange.org/index.php?">http://www.pgexchange.org/index.php?</a>
   option=com\_content&view=category&id=59&Itemid=135
- OECD: Focus on Citizens Public Engagement for Better Policy and services
   http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm
- OECD: Together for Better Public Services Partnering with citizens and civil society: http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf
- The World Bank: Citizens and service delivery http://elibrary.worldbank.org/content/book/9780821389805

#### **Country Examples**

In Sweden the government publishes performance reports on social services, health and medical care

Public performance reports have been a core part of the Swedish government's strategy for public service improvement. The vision is to provide up-to-date knowledge when you want it, the way you want it in order to support: the ability of citizens and patients to choose care providers; policy decisions and independent examinations; and indepth analyses and comparisons that encourage care providers and the social services to improve quality and efficiency. Areas covered include substance abuse and dependency care, dental care, cardiac care, elderly care, public health and primary care. In each area a set of indicators has been agreed and are regularly reported and that describe facilities with regard to quality and efficiency. Transparency has led to improvements in care. For example when mortality data for myocardial infarction patients prompted the lowest-per- forming hospitals to institute major improvement programs; within two years, they had cut their mortality rates in half.

- http://www.government.se/sb/d/15660/a/182988
- http://

Mexico set up a digital platform to 'improve your school'

Mexico spends more per student than most industrialized nations but has the lowest levels of academic achievement in the OECD. As part of its OGP Action Plan the government-civil society working group set out to improve the information that parents have about schools, and enable them to 'improve your school'.

The Mexican Institute for Competitiveness (IMCO) cross referenced test results with basic data on all schools and made them accessible on a new website 'Mejora tu Escuela'. Users can search and compare schools, and provide their own

comments. Where problems are identified, like deteriorating infrastructure or principals that mismanage the school budget, they are linked to possible solutions that can be implemented by parents and local CSOs. "The more information you have on schools, the more likely you are to demand higher quality education", says Gabriela Segovia of the Federal Institute on Access to Information and Data Protection (IFAI).

- http://www.mejoratuescuela.org/
- http://www.opengovpartnership.org/sites/default/files/Mexico\_0.pdf

Uganda publishes comprehensive national data on the performance of the rural water sector

With 35% of rural people still lacking access to an improved drinking water supply, deciding where to invest, how to develop services and which policies and strategies actually work is critical for Uganda. It requires data, analysis and the joint reflection of different stakeholders.

Water sector performance measurement in Uganda has been established in Uganda over the past ten years. In 2003 through meetings with stakeholders, and consultative workshops eight 'golden indicators' were selected such as % of people within 1.5 km (rural) and 0.2km (urban) of an improved water source , and % of improved water sources that are functional at time of spot-check Sanitation Sector .

Based on reports from local government, surveys and spot checks each year, an annual Sector Performance Report is prepared, consolidating the status, investment, progress and challenges on rural water supplies for the entire country.

Summary information from the Sector Performance Report feeds into the Government Annual Performance Report and the full report is uploaded on the Ministry website (http://www.mwe.go.ug). A simple, summarized version of the report is also put in the national newspapers for information to the public.

http://www.rural-water-supply.net/ ressources/documents/default/1-383-3-1354809704.pdf

No commitments for this level

## Records management



Lead author: International Records Management Trust

#### Introduction

Records management is the field of management responsible for the systematic control of the creation, receipt, maintenance, use and disposition of records, including the processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records (ISO 15489).

Record-keeping has traditionally been regarded as a routine clerical function. However, efficient records management is crucial for effective decision-making and for transparency and accountability.

Good records management ensures that accurate and reliable records are created and remain accessible, usable and authentic for as long as they are needed to provide the basis for improving services, controlling corruption and strengthening democracy. This benefits both those requesting information, by assuring that information is complete and reliable, and those holding information, by enabling them to locate and retrieve it easily to meet their operational needs and obligations for transparency and accountability.

In many countries, government records are not managed to meet international standards, and in some countries even the most basic records management controls are not in place. Furthermore, the adoption and use of digital technologies has often outpaced capacity to manage digital records, creating new challenges.

Poorly managed records are difficult to locate and hard to authenticate or preserve. This can result in misguided policy, inadequate or inappropriate services, misplaced funding and cover-up of fraud, with serious consequences for citizens' lives.

Successful open government policies, including Open Data and Right to Information (RTI), rest on sound records management, and countries are therefore beginning to orient their records management programmes to support the objectives of open government.

#### References

ISO 15489:2001 Information and Documentation – Records Management, http://www.iso.org/iso/catalogue\_detail?csnumber=31908

#### **Expert Organisations**

International Records Management Trust <a href="http://irmt.org/">http://irmt.org/</a>

International Council on Archives <a href="http://www.ica.org/">http://www.ica.org/</a>

Alliance for Permanent Access <a href="http://www.alliancepermanentaccess.org/">http://www.alliancepermanentaccess.org/</a>

ARMA International http://www.arma.org/

Association for Information and Image Management http://www.aiim.org/

## Summary of illustrative commitments

#### Initial

- Adopt a government-wide policy on records management in line with the right to information and open government goals
- Establish a public authority to lead on government records management
- Provide training on dealing with government records in line with RTI to all relevant officials

#### Intermediate

- Build the capacity of records management professionals
- Include records management requirements in the specification criteria for new IT systems and upgrades

#### Advanced

- Establish a central digital repository to provide permanent, lasting access to government records and data
- Establish standardised requirements for metadata across government

#### Innovative

• Develop a quality assurance strategy for open government datasets

#### **Detailed Recommendations**

**Initial Step:** Adopt a government-wide policy on records management in line with the right to information and open government goals

#### Justification

Government-wide records management policies identify requirements for all public authorities in creating, managing and preserving public sector records. This enables them to take a planned and consistent approach. The policy will have the greatest impact when it is harmonised with policies governing ICT, RTI and Open Data.

Normally, the central authority responsible for records management across the government should provide standards and guidance on establishing records management programmes, and requiring each government organisation to establish its own records management unit. In this way, records management can be developed as a critical organisational function similar to functions such as human resource and financial management.

#### Recommendations

A government wide records management policy should:

- 1. Be developed in consultation with stakeholders, including those responsible for managing Open Government, Open Data, and RTI initiatives.
- 2. Set out overall goals and expectations for records management.
- 3. Set out requirements for public authorities to assign authority for records management at a senior level, develop their own records management policies and establish professional units capable of managing records.
- 4. Include provisions for developing schedules on records retention and disposal, taking account of the legal and financial needs and obligations of government, and of the administrative and historical value of the records.
- 5. Establish overall responsibility to monitor compliance with the policy and the achievement of expected results.
- 6. Be aligned to policies supporting RTI, Open Government and Open Data.

#### Standards & Guidance

- ISO 15489:2001 Information and Documentation Records Management <a href="http://www.iso.org/iso/catalogue\_detail?csnumber=31908">http://www.iso.org/iso/catalogue\_detail?csnumber=31908</a>
- ISO 30300:2011 Information and Documentation Management System for Records http://www.iso.org/iso/catalogue\_detail?csnumber=53732

#### **Country Examples**

In 2011, the US President established a government-wide effort to reform records management policies and practices

The Presidential Memorandum – Managing Government Records – was signed by President Obama in 2011, marking the beginning of an executive branch-wide effort to reform records management policies and practices in the U.S. This effort is expected to improve openness and accountability by better documenting agency actions and decisions, and help executive departments and agencies minimise costs and operating more efficiently.

http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf

In Mexico the national archive and IFAI issued joint guidelines for the organisation of government archives

Mexico's Federal Law on Transparency and Access to Public Information from 2002 assigned jointly to the Mexican National Archive and the Federal Institute for Access to Public Information in Mexico (IFAI) the task of creating criteria to catalogue, characterise and handle administrative documents. The only guidance that the law provided these entities was that archiving and conservation criteria should be based on international standards and best practices. IFAI and the National Archive have since, for example, created the Automated and Integrated System of Request Tools and Archive Control, which allows users to easily access archiving guidelines and locate documents from all agencies.

http://inicio.ifai.org.mx/English/5%20IFAl%20and%20a%20culture%20of%20Transparency.pdf

The Government of Canada established a new policy on information management in 2007

The Canadian Policy on Information Management from 2007 offers a whole-of-government approach to records management. The policy states that using a whole-of-government approach to managing information and records supports managers' ability to transform organizations, programmes and services in response to the evolving needs of Canadians.

http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=12742

The UK has created guidance for public authorities in establishing their own records management policies

In the United Kingdom, the Code of Practice on Records Management (under section 46 of the Freedom of Information Act 2000) constitutes a government-wide policy on records management. It gives guidance on good practice in records management as well as guidance on the review and transfer of public records to an archives office for permanent preservation. The National Archive has published a set of guidance notes to support the good practice recommendations in that Code.

http://www.nationalarchives.gov.uk/documents/information-management/rm-code-guide3.pdf

**Initial Step:** Establish a public authority to lead on government records management

#### Justification

It is important to establish an agency with statutory responsibility for managing records across the public sector. This could be a national records authority, an archives body or a series of state or local bodies with equivalent authority. The agency needs a clear mandate for guiding the management of records and helping to ensure that government decisions, actions and transactions are documented in a trustworthy manner. It must also ensure that records are made available to citizens as the basis for public confidence and openness.

It is also important that the relationship between RTI, Open Data and records management is clear, and that inconsistent regimes for access to information are not created [Dokenia, 2013]. The International Council on Archives has endorsed the principle that national/ state archives should play a strong leadership role in facilitating the management of current government records, including those in digital form.

#### Recommendations

- 1. Enact a law to establish a records authority. The law should ensure:
- The records authority is empowered to set records management policy for government, and define good practice standards and quality controls for managing government records in all formats.
- The authority is positioned in a central cross-cutting position of authority rather than within the cultural sector.
- The authority's role is not replicated by other agencies, for instance the ICT authority or the Office of the Information Commissioner, but strong working relationships with these and other relevant agencies are established.
- The authority has high-level support, including budgetary support, for delivering its mandate, particularly in relation to Open Data, RTI and ICT/ e-government programmes.

#### Country Examples

In Sierra Leone the records authority has developed standards and guidelines for keeping civil servants' and teachers' records

After the conflict in Sierra Leone (1991-2002), the country's records management system needed to be almost entirely rebuilt. A Record Management Improvement Project was initiated in 2005 with funding from the UK Department for International Development to improve the country's records management system.

As a starting point, a Records Management Improvement Team was appointed to build the basis for sustainable improvement in records management. The Team tackled many issues but made pay and personnel records in the public sector its highest priority. Under the previous records management system it had, for example, been difficult to identify ghost workers or workers past statutory retirement age, leaving the system open to abuse. The previous system also undermined efficient personnel administration and planning for long-term staff development as it was difficult to determine skills, staffing requirements and vacancies.

The Team set about organising personnel files in payroll order, both in the Employment Secretary's Office (which managed the Civil Service) and in employing ministries, departments and agencies. The aim was to make it easier and faster to verify the payroll, staff lists and social security forms. Organising the files in relation to the payroll also would make it possible to determine the employees for whom no files existed, so that files could be created for all civil servants, including non-established employees. This strategy enabled a reduction in ghost workers from the civil service payroll, and subsequent public expenditure savings.

http://www.irmt.org/documents/building\_integrity/case\_studies/IRMT\_Case\_Study\_Sierra%20Leone.pdf

In Tanzania modern legislation empowers the national archives to define standards for keeping

The Tanzanian Records and Archives Management Act, 2002 established a Records and Archives Management Department. The Department's role, which is set out in this Act, includes ensuring that public offices follow good record keeping practices; establishing and implementing procedures for the timely disposal of public records of no continuing value; advising on best practices and established standards in record keeping in the public service; and establishing and implementing procedures for the transfer of public records for preservation.

http://polis.parliament.go.tz/PAMS/docs/3-2002.pdf

In the United Kingdom the National Archives and the Information Commissioner cooperated to develop a code of practice on records management

In the United Kingdom, a code of practice on records management was developed by the National Archives and the Information Commissioner as a supplement to the provisions stated in the UK's Freedom of Information Act from 2000. Its purpose is to help authorities comply with the freedom of information requirements relating to the creation, management, disposal, use and re-use of records and information.

http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-section-46-code-of-practice.pdf

Several countries have mandated their national archives to serve as records authorities

Governments in Canada, China, Ghana, India, Malaysia, Tanzania, the United Kingdom, and the United States, are among those that have mandated national archives to serve as records authorities.

Initial Step: Provide training on dealing with government records in line with RTI to all relevant officials

Justification

For officials to implement RTI laws properly, they must be aware of their responsibilities under the law.

It is important for public officials to have training in how to ensure that records are captured and held in reliable recordkeeping systems, that they are properly controlled and scheduled for retention and disposition and that those that are exempt from access are protected in line with Official Secrets, Privacy, Copyright and other information-related laws.

For practical reasons, it may make sense to focus initial training activities on information officers and other key personnel. Over time, however, it is important to provide training to all officials. This is important to ensure that they understand their obligations under the law, and also to promote better cooperation with and support to information officers.

Over time, all officials should receive at least some training on records management and the RTI. This can be provided in different ways, depending on the way the civil service is run in the country, including through incorporating modules on RTI in ongoing training courses provided to officials, by having information officers provide training to other staff at the public authority and through incorporating RTI training into entry level courses for officials.

#### Recommendations

- Identify the training and guidance needed to enable public servants to assess records, datasets and other information assets for disclosure and to prepare and update information accessibility statements.
- Review existing records management training and guidance and identify components that would be relevant for inclusion in the training and guidance developed for RTI, Open Government, and Open Data.
- Provide basic but specialised training to all information officers and staff at the independent oversight body. Over time, expand this so that some training on RTI is provided to all officials (i.e. staff of public authorities).
- Conduct reviews of the training and guidance to ensure their continued relevance and effectiveness.

#### Standards & Guidance

- ARTICLE 19 Training course for public officials <a href="http://https://www.ip-rs.si/fileadmin/user-upload/Pdf/Publikacije">http://https://www.ip-rs.si/fileadmin/user-upload/Pdf/Publikacije</a> ostalih pooblascencev/Article 19 foitrainersmanual.pdf
- CLD Training course for public officials <a href="http://www.law-democracy.org/live/wp-content/uploads/2012/08/Manual-Final.docx">http://www.law-democracy.org/live/wp-content/uploads/2012/08/Manual-Final.docx</a>

#### **Country Examples**

The UK Information Commissioner's Office has developed a set of training materials for use in the public sector

The website of the UK Information Commissioner's Office includes a wide set of training materials, including short films on how to manage personal information, and how to comply with the UK Data Protection Act, Freedom of Information Act, and the Environmental Information Regulations.

• http://ico.org.uk/for\_organisations/training

## Intermediate Step: Build the capacity of records management professionals

#### Justification

Records management is a technical field that requires professional training and education. Records management theory and practice continue to develop rapidly, and records specialists are increasingly required to work with ICT professionals to design and implement new or enhanced systems that enable information to be made available to the public. Working in teams with Open Data/ RTI and ICT/ e-government experts, they should be capable of enabling governments and citizens to maximise the value of the information held in records.

Recommendations

- 1. Identify the challenges to records management presented by changing technologies, legislation and policy, work practices, theory and client expectations and the expertise needed to address these challenges.
- 2. Assess the gap between required and existing expertise.
- 3. Create a strategy for developing the required expertise through recruitment, training, education, continuing professional development programmes, technical projects, and local and international partnerships as well as partnerships with the private sector where appropriate.
- 4. Secure budgetary support for the strategy.
- 5. Review schemes of service, organisational structures, job descriptions, salary scales, etc, to ensure that the records management function is represented at senior levels and that a career path for records specialists is clearly defined.

#### **Country Examples**

National Archives Australia supports capability development in the Australian government

The National Archives of Australia supports capability development in the Australian government by offering a range of training programmes and resources, such as face-to-face training courses, e-learning, and professional events. The Archives also engages with information and records professionals and stakeholders across the Australian Government, industry and the education sector.

• http://www.naa.gov.au/records-management/capability-development/index.aspx

**Intermediate Step:** Include records management requirements in the specification criteria for new IT systems and upgrades

#### Justification

Many government operations that traditionally depended on information derived from paper records have become partially or wholly automated. As governments migrate to an on-line environment, records in digital form are providing the basis for conducting business, serving the public, managing state resources, measuring progress and outcomes, and protecting governments' and others' rights.

Technology is making significant contributions to improving government programmes and services, achieving development goals and advancing e-government strategies. However, in too many cases, ICT systems are introduced without the essential processes and controls for the capture, long-term safeguarding and accessibility of digital records.

It is important that the records authority works closely with Open Data/ RTI and ICT/ e-government experts to ensure that records and data management requirements are fully integrated in new or modified government systems. The system functionality necessary to ensure that records remain authentic and accessible over time needs to be defined in records management requirements. This also helps to ensure that responses to formal requests for information can be processed correctly and quickly in relation to requirements defined by law and policy.

#### Recommendations

1. Develop functional requirements for managing records through their life cycle in relation to international standards.

- 2. Consider open source systems and formats for records in the context of digital preservation and long-term access needs. [LINK to 11 Establish A Government Digital Repository]
- 3. Identify existing and planned government systems that are generating records and datasets.
- 4. Ensure that the functional requirements are reflected in the design of existing and planned systems as well as in subsequent stages of the systems development life cycle (for instance, testing, implementation, production, evaluation).
- 5. Assign accountability for managing records and datasets generated in the systems.
- 6. Develop and apply standards and procedures for managing the records and datasets through their life cycle.
- 7. Provide training to technical staff, systems users and those making records and datasets available to the public to ensure that record-keeping requirements continue to be respected.
- 8. Undertake compliance audits, preferably within the context of systems audits, to ensure that the requirements are respected in the design of systems.
- 9. Conduct reviews of the functional requirements and update these as required.

#### Standards & Guidance

- Integrating Records Management in ICT Systems <a href="http://www.irmt.org/documents/educ\_training/term">http://www.irmt.org/documents/educ\_training/term</a> resources/IRMT\_Good\_Practice\_Indicators.pdf
- MoReq2010 http://www.moreq2.eu/home
- Principles and functional requirements for records in electronic office environments (ISO 16175)
   <a href="http://www.iso.org/iso/catalogue detail.htm?csnumber=55791">http://www.iso.org/iso/catalogue detail.htm?csnumber=55791</a>

#### Country Examples

National Archives of Australia have developed guidelines on electronic records management

National Archives of Australia have developed a set of guidelines for Australian Government agency staff involved in considering an electronic records management system, planning and managing its implementation. These guidelines concern key considerations for implementing electronic document and records management system; lessons learned from Australian government agencies; an implementation checklist; information for senior management, and case studies from various agencies.

http://www.naa.gov.au/records-management/agency/digital/EDRMS/index.aspx

National Archives of the Netherlands has developed a set of functional requirements for information and archives management in government organisations

The Dutch Archives School has developed a set of functional requirements for information and archives management in government organisations. This set of functional requirements establishes the mainstream condition with which archives must comply in the provision of information services, in observance of Dutch archival law, and in accordance with the Dutch NEN-ISO 15489-1 standard.

• <a href="http://en.nationaalarchief.nl/information-management-and-creation-of-archives/records-management/standards-for-records-">http://en.nationaalarchief.nl/information-management-and-creation-of-archives/records-management/standards-for-records-</a>

The New South Wales government has a strategy to ensure the protection and management of digital

Future Proof is a state records initiative for the New South Wales Government in Australia. In 2007, the Future Proof strategy was established to help ensure the protection and management of digital government records. Its website, futureproof.records.nsw.gov.au, has become a centralised information source on a range of record keeping issues relevant to the New South Wales public sector, and to digital record keeping more broadly. It also contains the Future Proof blog, which is a communication tool about digital record keeping issues.

http://futureproof.records.nsw.gov.au/our-top-10-tips-for-a-great-edrms-implementation

The Queensland State Archives has developed guidelines to assist public authorities to plan for the introduction of an electronic document and records management system

The Queensland State Archives has developed guidelines to assist public authorities to plan for the introduction of an electronic document and records management system. The tool is particularly written for Chief Information Officers and other Senior Information Management and IT Managers implementing or considering the implementation of an electronic records management system.

http://www.archives.qld.gov.au/recordkeeping/grkdownloads/documents/edrms.pdf

Advanced Step: Establish a central digital repository to provide permanent, lasting access to government records and data

Justification

Digital records of government decisions, actions and transactions need to be retained for their probative and evidentiary value, but they are difficult to capture and manage over time. They can include standard office documents, emails, images, videos and other formats. Digital preservation brings challenges such as format recognition, software preservation and compatibility and degradation of digital media.

Digital repositories are the means of ensuring long-term access to digital records, protecting their trustworthiness, demonstrating the traceability of data derived from them, and providing assurance that the records and data have not been compromised. National Archives, with their statutory responsibility for protecting and preserving government records, are the appropriate authority for developing digital repositories for government information.

Repositories should use open standards and formats to ensure that their contents remain accessible over time. There are internationally recognised standards that guide organisations on the establishment of Trusted Digital Repositories (TDRs) (ISO 14721) and their certification (ISO 16363) to assure the technical and organisational robustness of long-term preservation initiatives and the care of digital records.

Recommendations

- 1. Assess records creation in government, focusing on key transaction points where information is produced by processes or systems.
- 2. Examine digital records formats in government and the requirements for managing and preserving them.
- 3. Assess IT infrastructure and capacity in relation to current and projected digital information production.
- 4. Identify and develop a digital repository solution that meets government information needs and complies with the regulatory environment.
- 5. Develop processes for receiving digital records from government departments, including metadata and format requirements.
- 6. Develop policies and procedures to ensure that digital records are managed and preserved once they are accepted into the digital repository.
- 7. Define rules for identifying and authorising system users, allocating and administering access rights, and establishing log and audit trails.
- 8. Seek independent third-party certification of the digital repository as a TDR.
- 9. Establish a programme of monitoring and auditing to demonstrate compliance as a TDR.

#### Standards & Guidance

- Digital Repository Audit Method Based On Risk Assessment (DRAMBORA) http://www.repositoryaudit.eu/
- Nestor- Catalogue of Criteria for Trusted Digital Repository <a href="http://files.d-nb.de/nestor/materialien/nestor\_mat\_08-eng.pdf">http://files.d-nb.de/nestor/materialien/nestor\_mat\_08-eng.pdf</a>
- Open Archival Information System (OAIS) (ISO 14721)
   <a href="http://www.iso.org/iso/home/store/catalogue\_tc/catalogue\_detail.htm?csnumber=57284">http://www.iso.org/iso/home/store/catalogue\_tc/catalogue\_detail.htm?csnumber=57284</a>
- Repository Audit and Certification (ISO 16363) http://www.iso.org/iso/catalogue\_detail.htm?csnumber=56510
- Trusted Digital Repository: Attributes and Responsibilities (2002)
   <a href="http://www.oclc.org/content/dam/research/activities/trustedrep/repositories.pdf?urlm=161690">http://www.oclc.org/content/dam/research/activities/trustedrep/repositories.pdf?urlm=161690</a>
- Trustworthy Repository Audit & Certification: Criteria and Checklist http://www.crl.edu/sites/default/files/attachments/pages/trac\_0.pdf

#### **Country Examples**

New Zealand provides options for improving digital repository in its Digital Continuity Action Plan

Archives New Zealand has published a Digital Continuity Action Plan. The objective of the action plan, which applies to public sector digital information, is to ensure that public sector digital information is trusted and accessible when it is needed now and in the future. In terms of digital repository systems, the Action Plan sets out several action points for consideration: (1) Implementation of the National Digital Heritage Archive; (2) Leverage the public sector's investment in existing digital continuity initiatives; (3) Ensure New Zealand public sector has comprehensive digital archiving capacity; and (4) Investigate cross-agency infrastructure for storage and retrieval of digital information.

http://archives.govt.nz/advice/government-digital-archive-programme/digital-continuity-action-plan/html-version

Norway has established a central digital repository through its Noark5 and digital archive initiatives

In Norway, the Ministry of Government Administration, Reform and Church Affairs offers an Electronic Public Records System as part of the Norwegian Government's commitment to transparency and democracy within the public sector. Central government agencies use this tool daily to publicise metadata about the records they create online so that users can identify documents relevant to their interests and submit requests to see them. When these documents are a few years old, the National Archives of Norway receives the records from the ministries through a digital repository structure. In 2011, National Archives developed a 'smartphone app' to enable public access to records and data direct from its repositories.

- http://www.arkivverket.no/eng/Public-Sector/Noark/Noark-5-English
- http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/mow/VC\_Thurston\_26\_plenary1.pdf

## **Advanced Step:** Establish standardised requirements for metadata across government

#### Justification

Digital records and datasets must be held with sufficient contextual information (metadata) to be uniquely identifiable and accessible over time and so that activity logs can be audited as a safeguard to trustworthiness. Standardised metadata requirements limit the amount of resources that will be needed to clean up or supplement records metadata when aggregating records or migrating records between systems. Many organisations have built their standardised metadata requirements into functional record-keeping requirements.

#### Recommendations

- 1. Evaluate the way records, data and metadata are created, captured and used in government.
- 2. Identify a basic set of metadata elements needed to document the original context and the function that the records are documenting.
- 3. Consult with stakeholders, including senior civil servants and technical staff, to ensure that appropriate metadata elements have been identified.
- 4. Develop metadata requirements and issue them as a standard and/ or incorporate them in existing records management standards.
- 5. Ensure that any procurement of systems includes the requirement to comply with the metadata standard, for instance by making compliance with the standard mandatory for government systems.
- 6. Work with audit and evaluation groups to ensure the proper enforcement of the metadata requirements.

#### Standards & Guidance

• ISO 23081-2:2009 Information and Documentation – Records Management Processes – Metadata for Records <a href="http://www.iso.org/iso/iso\_catalogue\_tc/catalogue\_tc/catalogue\_detail.htm?csnumber=50863">http://www.iso.org/iso/iso\_catalogue\_tc/catalogue\_tc/catalogue\_detail.htm?csnumber=50863</a>

#### **Country Examples**

in Norway software for government must meet the Norwegian Archive Standard

Noark, which stands for 'Norwegian Archive Standard', has been the mandatory standard across public bodies since 1999 when the Archives Regulation was introduced in Norway. Noark 5, which builds on previous Noark standards, sets out requirements concerning record structure, metadata and functionality, but does not contain any obligations concerning how these requirements should actually be met in system development. Noark 5 therefore does not define a system, but facilitates for different solutions.

- http://arkivverket.no/arkivverket/Offentleg-forvaltning/Noark/Noark-5/English-version
- http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/mow/VC\_Thurston\_26\_plenary1.pdf



The United States has developed discretionary record-keeping standards which include metadata

Given the high-level endorsement of the Department of Defense Standard DOD 5015.2 standard by the Department of Defense, digital records management system vendors have voluntarily chosen to comply with the standard and use it as a marketing advantage when bidding to supply systems to the US Government.

http://www.archives.gov/records-mgmt/initiatives/dod-standard-5015-2.html

## Innovative Step: Develop a quality assurance strategy for open government datasets

#### Justification

Open Data initiatives depend largely upon the quality, trustworthiness and accessibility of the government records from which datasets are derived. If the source records lack integrity, then the data derived from the records will also lack integrity. Data quality and integrity can be difficult to determine where the procedures for managing and assessing the quality and integrity of the records are weak or incomplete. Where proper records and data management controls and effective quality assurance standards and procedures are in place, the public and government officials can have confidence that the data derived from the records can be trusted and that a comprehensive documentary record of government activities exists.

#### Recommendations

- 1. Identify government activities that are generating datasets that could be made available as part of Open Data initiatives.
- 2. Assess the quality and integrity of the datasets within the context of the quality and integrity of the source records (use risk assessment models and techniques where applicable).
- 3. Develop record-keeping quality control standards and procedures based on international standards and practices, and ensure a close relationship with quality control standards established for government datasets.
- 4. Develop and apply standards and procedures for managing the documentary relationship between the datasets and the other records documenting the given government activity or programme.
- 5. Ensure that personnel generating and making datasets available are trained in the application of standards and

procedures.

6. Establish a monitoring and compliance strategy to ensure that the integrity and quality of datasets and source records are monitored through time and the quality control standards and practices continue to be relevant and effective.

#### Standards & Guidance

- The Digital Curation Centre <a href="http://www.dcc.ac.uk/">http://www.dcc.ac.uk/</a>
- UK Data Archive directory to sources on the management of valuable datasets <a href="http://data-archive.ac.uk/create-manage/document/resources">http://data-archive.ac.uk/create-manage/document/resources</a>

#### Country Examples

Archives New Zealand has developed a guide, "Managing Datasets", which provides some guidance for the management of datasets in public sector organisations

Archives New Zealand has published a factsheet, 'Managing Datasets', which provides some guidance for the management of datasets in public sector organisations. It explains why managing datasets is important, and offers guidance on how to plan for effective datasets management.

• http://archives.govt.nz/advice/continuum-resource-kit/continuum-publications-html/f20-managing-datasets

## Right to information



Lead author: Access Info and Centre for Law and Democracy

#### Introduction

Right to information legislation (RTI), also referred to as freedom of information or access to information laws, establishes a general presumption that all information held by government should be accessible and set out the mechanisms by which is can be accessed.

The case for ensuring access to information is that it supports good governance, effective and efficient public administration, compliance with laws and regulations, efforts to combat corruption and better investment climates. There is emerging evidence to support this, however there remains a lack of systematic assessments of RTI policies and whether and how they are translating into greater government transparency and participation in decision-making (Calland, 2010).

Open, participatory and accountable government is contingent on members of the public having access to information held by public bodies. The right to information is protected through the guarantees of freedom of expression found in the main international human rights treaties. This has been recognised by international human rights tribunals (Inter-American Court of Human Rights and the European Court of Human Rights) and leading international authorities (including all four special mandates on freedom of expression at the UN, OAS, OSCE and African Commission on Human and People's Rights, and the Inter-American Juridical Committee) as well as the UN Human Rights Committee (Mendel, 2008).

A key principle of Right to Information is that of 'maximum disclosure". Information should only be withheld from the public where absolutely necessary to prevent harm to a legitimate interest and where there is no overriding public interest in knowing the information.

As of June 2013, 95 countries have adopted RTI laws, a massive increase from the 13 countries which had these laws in 1990. However, experience has shown that while the passage of the law is often a high-profile effort by its political champions, the key challenge is to maintain the political momentum needed for effective implementation (Dokenia, 2013).

#### References

Calland, R., (2010) Review of Impact and Effectiveness of Transparency and Accountability Initiatives: Freedom of Information, Institute of Development Studies, Brighton. http://www.ids.ac.uk/files/dmfile/IETAAnnex3FreedomofInfoCallandFinal28Oct2010.pdf

 $\label{lem:membed_loss} \begin{tabular}{ll} Mendel, T. (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris. \\ http://portal.unesco.org/ci/en/ev.php-URL_ID=26159\&URL_DO=DO_TOPIC\&URL_SECTION=201.html \\ \begin{tabular}{ll} Portal (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris. \\ \begin{tabular}{ll} Portal (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris. \\ \begin{tabular}{ll} Portal (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris. \\ \begin{tabular}{ll} Portal (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris. \\ \begin{tabular}{ll} Portal (2008), Paris (200$ 

Dokenia, A. (2013) Right to Information; Lessons from experience, World Bank, Washington D.C. http://www.right2info.org/resources/publications/publications/wb\_implementing-rti\_lessons-from-experience\_2013

#### **Expert Organisations**

Access Info http://www.access-info.org/

Article 19 http://www.article19.org/

The Freedom of Information Advocates Network <a href="http://www.foiadvocates.net">http://www.foiadvocates.net</a>

Right2INFO.org <a href="http://right2info.org/">http://right2info.org/</a>

freedominfo.org <a href="http://www.freedominfo.org/">http://www.freedominfo.org/</a>

Centre for Law and Democracy  $\underline{\text{http://www.law-democracy.org/live/}}$ 

Alianza Regional por la Libre Expresión e Información, (Alianza Regional) <a href="http://www.alianzaregional.net/">http://www.alianzaregional.net/</a>

Africa Freedom of Information Centre <a href="http://www.africafoicentre.org">http://www.africafoicentre.org</a>

## Summary of illustrative commitments

#### Initial

- Adopt a law which recognises the right to information, in line with international standards
- Establish institutional structures for implementing RTI
- Provide training to officials on record management and RTI implementation
- Publish core information about government on a proactive basis

#### Intermediate

- Ensure that each public authority puts in place core implementation systems on RTI
- Expand the scope of proactive publication
- Promote public awareness of the right to information

#### Advanced

- Align RTI law and practice with highest international standards on RTI
- Establish best practice monitoring and evaluation systems on RTI
- Review and amend secrecy laws

#### Innovative

• Use IT to enhance access to information

#### **Detailed Recommendations**

**Initial Step:** Adopt a law which recognises the right to information, in line with international standards

#### Justification

The basic building block for ensuring the right to information is the adoption of a law, which recognises the right to information as a fundamental right. The special international mandates for freedom of expression at the UN, OSCE, OAS and African Commission on Human and Peoples' Rights, among others, have called on States to adopt such laws. If neither the Constitution, jurisprudence nor the statutory law recognise a fundamental right, efforts should be made to do so: the strongest foundation for a RTI law is where right to information is recognised as a fundamental right in the Constitution.

For a law to be effective it must provide a robust framework that ensures that persons can access the information held by public bodies, which includes all branches of the State (executive, legislative and judicial) and other public or governmental authorities, at whatever level – national, regional or local, as well as all bodies exercising public power, performing public functions or operating primarily with public funds. International standards provide key minimum benchmarks for such laws.

#### Recommendations

Where no right to information law is in place, one which conforms to international standards should be adopted. Where a law is already in place, it should be reviewed and amended, as necessary, to bring it into line with international standards. The key criteria are that the law should establish:

- 1. Recognition of a human right to information, along with a broad presumption in favour of openness which applies to everyone, including non-citizens, and to all information, regardless of format, held by all public bodies, including Stateowned enterprises and bodies, and private bodies undertaking public functions or operating with public funding;
- 2. An obligation to publish a wide range of information on a proactive basis;
- 3. Robust procedures for making and processing requests which are simple, free (to make requests and limited, centrally set fees for reproduction of information) and quick (maximum 20 day response time), and which involve the provision of assistance to requesters as needed (including in formats accessible to people with disabilities);
- 4. A limited regime of exceptions based on preventing harm to protected interests, a public interest override and severability where part of a record is exempt;
- 5. The principle that the right to information law prevails over other laws which place limits on the right, such as secrecy laws, in case of conflict;
- 6. A broad right of appeal for all failures to implement the law, including proactive publication failures, to an independent oversight body and the courts;
- 7. Protection for good faith disclosures and sanctions for wilful obstruction of access; and
- 8. A package of promotional measures, including obligations on all public bodies to report on requests received and how they were processed, backed up by sanctions for refusal to disclose information without reasonable cause.

#### Standards & Guidance

- ARTICLE 19 Principles <a href="http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf">http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf</a>
- OGP Eligibility Criteria: Access to Information <a href="http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria</a>

- RTI Rating <a href="http://www.rti-rating.org/">http://www.rti-rating.org/</a>
- Special Mandates 2004 Declaration <a href="http://www.osce.org/fom/38632">http://www.osce.org/fom/38632</a>
- Tshwane Principles on National Security and the Right to Information http://www.right2info.org/exceptions-toaccess/national-security

#### Country Examples



23 countries have recently adopted RTI laws which reflect the progress made in international standard setting

23 countries obtained scores of 100 points or more out of a possible 150 points on the RTI Rating. The average age of the laws in the top 20 countries is just 5 years. Features of the stronger laws include that they establish clear procedures for requesters and have strong oversight bodies.

• <a href="http://rti-rating.org/country">http://rti-rating.org/country</a> data.php

## Initial Step: Establish institutional structures for implementing RTI

#### Justification

For an RTI law to be effective it needs to be supported by active implementation measures and supported by an institutional framework to undertake this task.

There are three key institutional mechanisms for implementing RTI laws. First, each public authority needs to appoint a dedicated official to receive and process requests. Often this official is also responsible for leading on the putting in place other systems as required by the law. Second, it is very useful to establish a focal point in the government to provide guidance and to monitor implementation. Finally, the law should provide for the establishment of an independent oversight body, such as an information commission or commissioner, which has the power to review complaints relating to requests and often also has a role in promoting awareness of the right (Neuman, 2011).

#### Recommendations

- 1. Each public authority which falls within the ambit of the RTI law should nominate one or more officials as information officer(s) to receive and process requests for information and to lead the authority in implementing the law.
- 2. The executive should designate a central focal point (a high-level unit or committee) with responsibility for supporting and monitoring implementation across the public body.
- 3. An independent oversight body, or information commission, should be established; it should have a dual function covering complaints and promotional measures, along with the necessary mandate, resources and powers to carry out its functions effectively, including to review documents, inspect premises, to make binding orders for the release of information and to impose structural measure on public bodies as necessary to ensure compliance with RTI rules.

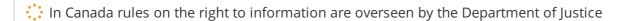
#### Standards & Guidance

Carter Center: The Access to Information legislation Implementation Assessment Tool

http://www.cartercenter.org/peace/americas/access to information/IAT/index.html

World Bank's Public Accountability Mechanisms website
 <a href="http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0">http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0</a>, contentMDK:23352107~
 <a href="pagePK:148956~piPK:216618~theSitePK:286305,00.html">pagePK:148956~piPK:216618~theSitePK:286305,00.html</a>

#### **Country Examples**



This function for managing right to information, in Canada, served by the Department of Justice

India has central and state level information commissions

India has a system of a central and state-level <u>information commissions</u>, and the <u>Department of Personnel and Training</u> (DoPT) serves as the central focal point for right to information.

Mexico has set up a federal institute for access to information (IFAI)

The institution supporting right to information legislation is, in the case of Mexico, the <u>Instituto Federal de Acceso a la Información y Protección de Datos</u> (Federal Institute for Access to Information and Data Protection or IFAI).

# **Initial Step:** Provide training to officials on record management and RTI implementation

Justification

For officials to implement RTI laws properly, they must be aware of their responsibilities under the law.

It is important for public officials to have training in how to ensure that records are captured and held in reliable record-keeping systems, that they are properly controlled and scheduled for retention and disposition. It is also important to make sure that officials are trained on how to meet their obligations under an RTI law. This requires not only training in legal and technical dimensions, but often a process of culture change, to shift from a defensive, 'secrecy' mindset to one in which officials accept that public scrutiny of their actions is the norm.

For practical reasons, it may make sense to focus initial training activities on information officers and other key personnel. Over time, however, it is important to provide training to all officials. This is important to ensure that they understand their obligations under the law, and also to promote better cooperation with and support to information officers.

Over time, all officials should receive at least some training on RTI. This can be provided in different ways, depending on the

way the civil service is run in the country, including through incorporating modules on RTI in ongoing training courses provided to officials, by having information officers provide training to other staff at the public authority and through incorporating RTI training into entry level courses for officials.

#### Recommendations

- 1. Identify the training and guidance needed to enable public servants to assess records, datasets and other information assets for disclosure and to undertake their obligations under the RTI law.
- 2. Review any existing records management and RTI training and identify components that need to be updated.
- 3. Establish an adequate budget allocation to enable training to be undertaken.
- 4. Provide basic but specialised training to all information officers, members of the central focal point and staff at the independent oversight body. Over time, expand this so that some training on RTI is provided to all officials (i.e. staff of public bodies).
- 5. Provide specialised training for judges, and ensure that the right of access to information is included in curriculum for future judges.
- 6. Training should draw on civil society inputs which provide a view from the perspective of information seekers.
- 7. Conduct reviews of the training and guidance to ensure their continued relevance and effectiveness.

#### Standards & Guidance

ARTICLE 19 Training course for public officials <a href="http://https://www.ip-rs.si/fileadmin/user\_upload/Pdf/Publikacije\_ostalih\_pooblascencev/Article\_19\_foitrainersmanual.pdf">http://https://www.ip-rs.si/fileadmin/user\_upload/Pdf/Publikacije\_ostalih\_pooblascencev/Article\_19\_foitrainersmanual.pdf</a>

#### Country Examples

The UK Information Commissioner's Office has developed a set of training materials for use in the public sector

The website of the UK Information Commissioner's Office includes a wide set of training materials, including short films on how to manage personal information, and how to comply with the UK Data Protection Act, Freedom of Information Act, and the Environmental Information Regulations.

• <a href="http://ico.org.uk/for\_organisations/training">http://ico.org.uk/for\_organisations/training</a>

## Initial Step: Publish core information about government on a proactive basis

#### Justification

For most people, the most important practical means of accessing information held by public bodies, government, and by organisations acting on behalf of government, is through accessing information which is made available on a proactive basis, rather than through making requests for information (Darbishire, 2011). Many of the other sections of this guide address the proactive publication of information relating to different sectors, such as the <u>budget</u>, <u>aid</u>, <u>extractive industries</u> and <u>assets of public officials</u>. In addition to these sectoral commitments, it is very important for all public bodies to make available a minimum platform of information about what they do, how they function, how they spend public funds, and the

service and benefits they provide.

Every effort should be made to ensure that this proactively disclosed information is presented in a way which makes it easy to find and readily comprehensible to the average person.

#### Recommendations

Public bodies should publish on a proactive basis the following core categories of information:

- Institutional: Core legal documents, internal regulations, functions and powers.
- Organisational: Information on personnel, names and contacts of public officials.
- **Operational**: Strategy and plans, policies, activities, procedures, reports, and evaluations and reports from supervisory mechanisms and oversight bodies.
- Decisions and Formal Acts: Including the background documents.
- **Public Services**: Descriptions of services offered, guidance, booklets and leaflets, forms, information on fees and deadlines.
- Budget: Projected budget, actual income and expenditure, audit reports.
- Open Meetings: Including about which meetings are open and how to attend them.
- **Decision-making and Participation**: Decision-making procedures, and mechanisms for consultations and public participation in decision-making.
- Subsidies: Beneficiaries of subsidies, the objectives, amounts, and implementation.
- **Public Procurement**: Detailed information on public procurement processes, criteria, outcomes of tenders; copies of contracts, and reports on completion of contracts.
- **Lists, Registers, Databases**: Lists, registers and databases held and whether these are available online and/or for onsite access.
- **Publications**: Publications, including whether they are free of charge or the price.
- **Dispute Resolution:** Mechanisms available to the public for raising concerns, complaints and making appeals regarding the decisions or actions of the institution.
- Information about RTI: How to make requests, complaints and appeals, contact information for information officer.

In addition, the legislative branch should ensure that all records of parliamentary proceedings are published proactively and the courts should make decisions from courts of all levels available proactively.

Regular consultations should be held with members of the public about the information which they find to be most useful and how to ensure that this is published proactively as a priority. Information which is requested frequently should be made public proactively.

#### Country Examples

Chile's transparency portal brings together open datasets and information requests

Adopted in 2009, Chile's Public Information Access Law or Transparency Law, dictates that on a monthly basis, the government and all related bodies such as the Senate, Chambers of Congress, the Central Bank, the Judicial Powers, the armed forces and the municipalities, must publish key information including lists of staff, salaries and benefits, organisational structure, budget, expenses, revenue, details about trips, and about the businesses contracted by the government. Government bodies also have to respond to all citizen requests for information within a 20-day period.

In 2013 the Transparency Portal of the State of Chile was launched, through a joint effort between the General Secretariat of the Presidency and the Council for Transparency. Citizens are able to find proactively disclosed open datasets and make and track requests for information under the transparency law.

The portal makes it easier for citizens to ask for public information, encouraging people to use the transparency law in an active way. By bringing all the information requests together it enables statistical information to be collected, and provides a help desk to advance in the promotion of the right of access to public information in Chile.

• <a href="http://www.portaltransparencia.cl/PortalPdT/">http://www.portaltransparencia.cl/PortalPdT/</a>

Georgia issued a decree requiring proactive publication of government information

Civil society organisations in Georgia have long been concerned that the country's Freedom of Information act was not strongly implemented. Information requests had to mailed in, and sometimes were ignored or responded to with incomplete information.

However, on 1 September, 2013, the government issued a decree on Electronic Request and Proactive Publication of Public Information. This Decree, which is based on the recommendations from a group of civil society organizations obliges all agencies under the supervision of the Executive to release information on their activities electronically, free of charge and in easy-to-use, open format. The decree sets out seven categories of information for proactive disclosure:

- General information on the public agency its structure, functions, founding documents, annual reports, strategies, action plans, as well as biographies and contact details of the leadership and the staff;
- Names and contact details of FOI officers, relevant regulations, procedures and forms of appeal, FOI reports and statistics;
- Employment vacancy announcements, rules of competition, results of the competition and procedures for appealing these results, number and categories of the employed staff
- Procurement plans and tenders
- Budgets and details of staff remuneration, expenditures, grants and public assets
- Laws and official documents pertaining to the activities of the public agency
- Information on the services, taxes, fees and other revenues of the public agency

The list of information requirements was developed as a result of a series of consultations between civil society organizations and the government. An electronic request system is being developed for additional information.

The decree only applies to central government and its agencies. Parliament, the judiciary, elected local bodies – and the independent regulators do not have to comply but can choose to do so voluntarily.

• <a href="http://blog.opengovpartnership.org/2013/09/proactive-publication-of-information-as-a-common-standard-in-georgia/">http://blog.opengovpartnership.org/2013/09/proactive-publication-of-information-as-a-common-standard-in-georgia/</a>

Mexico's access to information law provides for proactive disclosure of information

Mexico's Federal Law on Transparency and Access to Public Information (2002) establishes that frequent requests should result in proactive disclosure of information. It requires public bodies to publish "relevant and useful information," and specifies that one way to determine this category is that it "corresponds to the most frequent questions made by the public." The sophisticated electronic request-tracking system developed in Mexico helps to capture data on frequent requests.

http://freedominfo.org/documents/mexico\_ley.pdf

The Indian Right to Information Act lists the types of information that must be published on a proactive

Section 4 of the Indian Right to Information Act from 2005 provides a long list of types of information that must be published on a proactive basis, as well as mechanisms to ensure that this is accessible to those who need to access it.

http://www.rti-rating.org/pdf/India.pdf

The Peruvian Law of Transparency and Access to Public Information contains extensive proactive publication obligations

Title IV of the Peruvian Law of Transparency and Access to Public Information contains extremely detailed and extensive proactive publication obligations, particularly in the area of public finances, upon which it focuses.

http://www.ccrinepal.org/files/documents/legislations/11.pdf

Intermediate Step: Ensure that each public authority puts in place core implementation systems on RTI

Justification

For public bodies to be able to meet their various obligations under the RTI law consistently over time, systems need to be put in place. Such systems should ensure that requests can consistently be processed within the time limit set out in the law, and should make clear what role officials other than specifically nominated information officers play in this process (including that they must cooperate with the information officer). Where the law provides for an internal appeal, a system for managing this also needs to be put in place; the same holds for appeals before the oversight body.

Many countries that have enacted ambitious right to information laws have put in place annual reporting processes to track their progress and report back to parliament and to the public. For these to function effectively, systems need to be put in place for collecting and collating information about implementation.

#### Recommendations

- 1. Develop guidelines or model policies for public bodies to assist them to establish formal policies or systems for meeting their obligations under the RTI Law, including in relation to:
  - Ensuring requests for information are received and processed in accordance with the rules, including the timelines for responding to requests.
  - Ensuring that internal appeals are processed in accordance with the rules.
- 2. Establish a system collect and collate information to produce an annual report on implementation.
- 3. Use the annual report process to improve both implementation and to feed into law reform to bring the law more closely into line with international standards.
- 4. Incorporate provisions on compliance with the provisions of an RTI law as part of the general performance management systems for public sector organisations and managers.

#### Standards & Guidance

- Carter Center: The Access to Information legislation Implementation Assessment Tool <a href="http://www.cartercenter.org/peace/americas/access">http://www.cartercenter.org/peace/americas/access</a> to information/IAT/index.html
- World Bank's Public Accountability Mechanisms website
   <a href="http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0">http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0</a>, contentMDK:23352107~
   <a href="pagePK:148956~piPK:216618~theSitePK:286305,00.html">pagePK:148956~piPK:216618~theSitePK:286305,00.html</a>

### Intermediate Step: Expand the scope of proactive publication

#### Justification

Proactive publication of information is an effective RTI system from the perspective of both users and officials, since it is far more efficient for both parties than the piecemeal release of information pursuant to requests (while recognising that these will always be important to supplement proactive publication systems) (Darbishire, 2011).

Over time, as much information as possible should be made available proactively, as this both facilitates access for the public and reduces the cost of providing access for officials. Proactive publication is closely related to the 'Open Government Data' approach in which governments make datasets available in machine readable and reusable formats to allow users and intermediaries analyse, visualise and use it in new ways.

Releasing new records and datasets proactively requires quality control, to ensure a high degree of quality and integrity and that information is kept up-to-date. Effort also needs to be put into ensuring that information is available in an accessible form to those who are likely to be interested in it. Paper based records may need to be digitised, and converted into machine-readable formats, and information covered by exceptions may need to be redacted.

Engaging the public actively in determining priorities for proactive publication can both help to prioritise the timetable for publication, and ensure that the information is made available in a form that is useful, which may also include making use of non-digital means of publishing and disseminating information.

#### Recommendations

1. Require government organisations to develop, produce, and disseminate indexes of the information they hold, and its

accessibility, and provide guidelines to assist go in providing user-friendly descriptions of records and datasets using a common format.

- 2. Hold consultations with public interest groups, representative organisations and the general public to enable them to recommend which categories and datasets should be priorities for release and to test and refine the relevance and format of proactively published information.
- 3. Publish all information released pursuant to RTI requests in a searchable database.
- 4. In addition to the initial set of information released, further categories include national companies' registers, laws, and documents on the full cycle of <u>public contracts</u>, and comprehensive and searchable records of parliamentary proceedings and court jurisprudence.
- 5. Make data available in open, machine-readable formats ensuring that it is openly licenced and free of any restrictions on reuse, present it clearly in the major languages of user communities and ensure that it is regularly updated.
- 6. For countries where internet penetration is still low, this more substantial step should include making more extensive use of alternative means of proactive publication and ensuring that it reaches larger sectors of the public.

#### Country Examples

A Canadian government website provides the public with information about the government's access to information and privacy programmes

In Canada, the Info Source website provides the public with information about the government's access to information and privacy programmes. The primary purpose of Info Source is to assist individuals exercise their rights under the Access to Information Act and the Privacy Act. Info Source also supports the federal government's commitment to facilitating access to information regarding its activities.

• http://www.infosource.gc.ca/index-eng.asp

in Bulgaria all units of the Ministry of Interior must publish data on FOI requests

Under a special bylaw of the Minister of the Interior in implementation of the Freedom of Information Act, all units of the Ministry of Interior were obliged in March 21,2011 to publish annually aggregate numbers about the requests they receive under the FOI act and to how many of them they actually grant information. (Art.46 of Internal Rules and Procedures for the Activity of the Ministry of the Interior in Implementation of the FOI Act, Adopted with an Order of the Minister of the Interior No I-z-771 of March 21,2011.

The US Federal Register website provides information on citizen rights and obligations and actions of federal agencies, and provides a forum for public participation in the democratic process

The website is administered jointly by the Office of the Federal Register of the National Archives and Records Administration and the U.S. Government Printing Office.

• <a href="https://www.federalregister.gov">https://www.federalregister.gov</a>

### Intermediate Step: Promote public awareness of the right to information

#### Justification

If citizens, civil society organisations, journalists and others are not aware of the RTI Law, their rights under it or how to use it, demand for information through the Law will be poor and the openness objectives it seeks to promote will be undermined. There is no standard approach towards promoting public awareness of RTI and in most countries this involves a range of different actors, including senior politicians, public bodies, the oversight body, civil society, the media and the education authorities. To ensure a locus of responsibility for these efforts, it is useful to allocate overall responsibility for publicity to a central body.

Public educational efforts are critical to ensure that all citizens are aware of this right. This should include incorporation of RTI as a subject in school curriculums (for example on civic education or citizenship), as well as in various university courses and programmes (for example in human rights courses, and journalism and law programmes), as well as particular efforts to reach disadvantaged segments of the population.

This effort should also include assessments of the effectiveness and appropriateness of public information systems, such as surveys on awareness of RTI and on the utility of the information which is disclosed publicly.

#### Recommendations

- 1. Give overall responsibility for training and promotion to a central body such as the central focal point or the oversight body.
- 2. A range of official actors should be involved in promoting public awareness, including senior politicians and officials, public bodies, the oversight body and educational authorities; as well as regional and local bodies particularly in larger, federal and more decentralised countries.
- 3. Over time, public outreach efforts should be substantially enhanced and RTI should be incorporated into school curriculums and relevant university courses and programmes, as well as programmes aimed at CSOs, and public education campaigns to build people's skills to seek and use information under the RTI law.
- 4. Develop promotion strategy. Depending on the needs of the country, include high level events and statements by leading individuals, prominent highlighting of RTI, along with guidance materials, on public bodies' websites and in public spaces such as receptions, notice boards, waiting rooms, meeting rooms. Also include active outreach by public bodies through their regular communication with the public as well as through public service announcement and news stories disseminated via the media, including through media which reach large sectors of the population such as television and community radios.
- 5. RTI should be incorporated into educational programmes, such as a session on this in a civil education or citizenship course for schoolchildren, and inclusion in university courses on human rights issues, law and journalism.
- 6. RTI should be incorporated as a theme in professional training for officials, both at entry level and through ongoing professional development.

#### **Country Examples**

in Nicaragua right to information is incorporated into school curricula by law

The Nicaraguan RTI law – Law of Access to Public Information from 2007 – provides for the incorporation of the right to information into school curricula at all levels and for the establishment of a national centre for research and teaching on the right to information.

• http://www.rti-rating.org/pdf/Nicaragua Engl.pdf

# **Advanced Step:** Align RTI law and practice with highest international standards on RTI

#### Justification

Stronger RTI laws can help promote greater access to information in many ways, such as by expanding the scope of the law, by reducing the scope of exceptions, by streamlining procedures for processing requests and/or by increasing the strength of promotional measures. Countries adopting an RTI Law for the first time are encouraged to build in these features right from the outset, and many of the strongest RTI laws are indeed recent ones. Countries which already have laws should assess and amend them to bring them into line with best international practice.

#### Recommendations

Governments should review the RTI Law and propose amendments to it with a view to bringing it into line with highest international standards.

#### Key Criteria

The highest international standards are evolving as better practices constantly emerge. Some key criteria are:

- 1. Proactive publication obligations include commitments to publish all information which may be of interest to the public, including information released in response to a request;
- 2. Extensive assistance is available; public bodies are required to undertake electronic redesign of information to provide it in requested formats;
- 3. Information that was traditionally sold, such as geo-spatial maps, meteorological data and company registers, is provided for free without limitations on or charges for reuse of information;
- 4. Most information is provided immediately or very rapidly and maximum timelines are reduced (for example to ten days);
- 5. Exceptions are progressively reduced in scope and applied rigorously and in a limited fashion;
- 6. In addition to the general public interest override, there is an explicit override for information relating to violations of human rights, crimes against humanity, corruption or abuse of power, or threats to public health or the natural environment;
- 7. The burden of proof rests on a public authority seeking to deny access to information; timelines for processing appeals are reduced, ideally to 30 days or less;
- 8. Protection for disclosing wrongdoing (whistleblowers);
- 9. The right is extended to cover private bodies when the information requested is necessary for the protection of a fundamental right; and
- 10. Promotional measures include strong training requirements, public awareness raising obligations, record management systems and reporting rules.

#### Standards & Guidance

- African Commission on Human and Peoples' Rights: The Model Law on Access to Information for Africa http://www.achpr.org/files/news/2013/04/d84/model\_law.pdf
- ARTICLE 19 Principles <a href="http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf">http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf</a>
- RTI Rating <a href="http://www.rti-rating.org/">http://www.rti-rating.org/</a>
- Special Mandates 2004 Declaration http://www.osce.org/fom/38632
- Tshwane Principles on National Security and the Right to Information <a href="http://www.right2info.org/exceptions-to-access/national-security">http://www.right2info.org/exceptions-to-access/national-security</a>

## **Country Examples**



The top three scoring countries on the RTI Rating were <u>Serbia</u> (135 out of a possible total of 150 points), <u>India</u> and <u>Slovenia</u> (both with 130 points).

- <a href="http://rti-rating.org/country\_data.php">http://rti-rating.org/country\_data.php</a>
- South Africa's right to information law covers both public and private bodies

The South African right to information law, the <u>Promotion of Access to Information Act</u> from 2000, applies to both information held by public bodies and information held by private bodies in so far as the information is necessary for the exercise or protection of other rights.

• http://www.dfa.gov.za/department/accessinfo\_act.pdf

# Advanced Step: Establish best practice monitoring and evaluation systems on RTI

## Justification

RTI systems, like all systems, may fail to deliver their intended benefits if they are not subject to robust monitoring and evaluation systems, leading to adjustments in either the law or the practice to address problems. This should include the regular and systematic collection, by all public bodies, of data on the number of requests, rates of response, exceptions relied upon and classes of information published proactively, as well as the central collation of this information. There should be a feedback loop, so that systems are in place for ensuring that remedial measures are taken to address problems. Civil society should be encouraged to input into how to improve implementation, and the government should consider setting up consultation processes with civil society and members of the public.

It is not possible to design an RTI system that is responsive to people's needs and interests without consulting them on the design and implementation of that system. Issues which are particularly sensitive to public input are what sorts of information are important to people (and which should then be disclosed proactively and, where necessary, presented in

more easily understandable formats), when search functions are not use-friendly (i.e. when people cannot find the information they are seeking even though it is available online) and problem areas and issues in the requesting process. To address this, mechanisms need to be put in place to foster public feedback and also participation in design of RTI systems.

#### Recommendations

- 1. Robust monitoring and evaluation systems should be put in place, which include extensive information collection components and mechanisms for ensuring that remedial measures are taken to address problems.
- 2. The promotion of public feedback and participation should be fostered through regular public awareness surveys and public consultations/focus groups to permit the public to participate directly in debates about how to improve government openness.
- 3. Civil society should be encouraged to play a major role in providing this feedback not only to governments but also to Information Commissions/Commissioners. This can be done by setting up civil society advisory committees.

#### **Country Examples**

Mexico has a system to systematically track statistics on requests and responsiveness from federal agencies

In Mexico, the <u>Federal Institute for Access to Information and Data Protection</u> (IFAI) has set up a system to systematically track statistics on requests and responsiveness from federal agencies.

Federal agencies have incentives to comply with access to information legislation because their response to information requests is permanently monitored by the IFAI. Also, heads of agencies have an incentive to be well evaluated as the IFAI's evaluations are public. No agency wants to be listed as a poor performer.

The IFAI has developed monitoring indicators to access the extent to which federal agencies fulfil the procedures established in the <a href="mailto:transparency law">transparency law</a> and provide responses to information requests. Different methodologies – quantitative, qualitative and the 'mystery shopper' methodology – are used to assess compliance and analyse the state of access to information in Mexico. Official figures on the extent to which public agencies provide information in response to individuals' requests show an overall positive response rate.

• http://go.worldbank.org/FWFM9U5M90

The UK publishes quarterly and annual reports on the number of FOI requests, response and appeals

The UK government publishes quarterly and annual statistics covering approximately 40 departments of state and other monitored bodies with significant policy-making, regulatory or information- handling functions. Recent data suggest that between three-quarters and nine-tenths of all requests receive a response within the required time frame and that performance has improved in recent years.

• <a href="http://go.worldbank.org/NBINTFKT90">http://go.worldbank.org/NBINTFKT90</a>

Advanced Step: Review and amend secrecy laws

### Justification

In many countries, there are numerous secrecy provisions in different pieces of legislation, and sometimes even dedicated secrecy laws. In most cases, these laws were adopted prior to the RTI law, and their secrecy requirements do not conform to the standards of the RTI law. As an initial step, the RTI law should prevail over secrecy laws in case of conflict. However, this will not fully resolve the potential for conflict of laws situations, and civil servants faced with apparently conflicting rules cannot be expected to navigate complex legal issues. It is important to create a fully consistent and coherent legal framework for exceptions to give officials clear guidance as to their duties, to prevent legal uncertainty from being used to keep information secret and to reduce the number of administrative and legal appeals.

#### Recommendations

Governments should review secrecy provisions in other laws and propose amendments to them with a view to creating a coherent and consistent regime of exceptions based on the three-part test under international law, namely that exceptions should: only protect recognised interests; be based on harm; and be subject to a public interest override.

#### Standards & Guidance

- African Commission on Human and Peoples' Rights: Declaration of Principles on Freedom of Expression in Africa http://www1.umn.edu/humanrts/achpr/expressionfreedomdec.html
- Special Mandates 2004 Declaration <a href="http://www.osce.org/fom/38632">http://www.osce.org/fom/38632</a>
- Tshwane Principles on National Security and the Right to Information <a href="http://www.right2info.org/exceptions-to-access/national-security">http://www.right2info.org/exceptions-to-access/national-security</a>

#### **Country Examples**

In Slovenia, all secrecy provisions are laid out in the Classified Information Act

The <u>Slovenian Classified Information Act</u> from 2006 covers all secrecy provisions in Slovenia. The Information Commissioner of Slovenia has also provided <u>extensive interpretation</u> of the exemption on 'secret information', namely that it can only be information that complies with the definition and standards in the secrecy law.

• <a href="https://www.ip-rs.si/index.php?id=505">https://www.ip-rs.si/index.php?id=505</a>

in Sweden, all secrecy provisions are concentrated in one law: the Secrecy Act

In Sweden, the updated Public Access to Information and Secrecy Act from 2009 replaced the old access to information act from 1980. All secrecy provisions are stated in this Act.

http://www.government.se/sb/d/11929/a/131397

Innovative Step: Use IT to enhance access to information

## Justification

IT can be used to enable both proactive and reactive disclosure of information, reducing burdens on public bodies and significantly enhancing access to information by individuals and others.

#### Recommendations

The scope of action here will continue to evolve with new technologies. Some key areas of potential include:

Substantive improvements to information accessibility:

- Enabling real time updates of documents and data, including financial data.
- Requiring government agencies to keep a register of metadata, including about requests and how they are being processed, and to publish it daily to the online access portal.
- Improving the granularity of data.
- Tagging to enable relevant searches.
- Customised and powerful search facilities.
- Adopting interoperable formats and systems for government websites and information.

Procedural improvements to information accessibility:

- Developing a citizen access portal to provide a central access point for government information that enables users to search for information across all public bodies, to make requests for information easily and rapidly, with processes for routing requests to the agency that holds the information and handling appeals.
- Ensuring that information is published in a format that is accessible for users with disabilities.
- Making information and datasets produced, collected or owned by public bodies available for free in accordance with open licences (thereby ensuring elimination of all fees and copyright/reuse restrictions).
- Requiring RTI to be designed into IT systems and the production of records, for example by building in systems for the segregation of exempt information (for example, private data).
- Fully enabling the electronic processing of appeals.

#### **Country Examples**

Chile's transparency portal brings together open datasets and information requests

Adopted in 2009, Chile's Public Information Access Law or Transparency Law, dictates that on a monthly basis, the government and all related bodies such as the Senate, Chambers of Congress, the Central Bank, the Judicial Powers, the armed forces and the municipalities, must publish key information including lists of staff, salaries and benefits, organisational structure, budget, expenses, revenue, details about trips, and about the businesses contracted by the government. Government bodies also have to respond to all citizen requests for information within a 20-day period.

In 2013 the Transparency Portal of the State of Chile was launched, through a joint effort between the General Secretariat of the Presidency and the Council for Transparency. Citizens are able to find proactively disclosed open datasets and make and track requests for information under the transparency law.

The portal makes it easier for citizens to ask for public information, encouraging people to use the transparency law in an active way. By bringing all the information requests together it enables statistical information to be collected, and

provides a help desk to advance in the promotion of the right of access to public information in Chile.

• <a href="http://www.portaltransparencia.cl/PortalPdT/">http://www.portaltransparencia.cl/PortalPdT/</a>

Mexico has put in place electronic systems to facilitate RTI

Mexico has put in place three key electronic systems to facilitate RTI:

- <u>Infomex</u>: an electronic platform for making information requests and submitting complaints and appeals. When requests are presented in writing and in person, they are transferred into the e-platform by a staff member so that they can be registered by the system. According to IFAI, 97 percent of all requests were received electronically.
- <u>ZOOM</u>: a tool for searching the database of requests that have been made and answers provided. Each government agency is required to set a link to the ZOOM on their websites.
- <u>POT</u>: a standardised system for accessing the information which is published proactively by public bodies. Users can search through this data by keyword or by type of transparency obligation, thereby providing easy comparison of the data across different public bodies.
- https://www.infomex.org.mx/gobiernofederal/home.action; http://buscador.ifai.org.mx/buscador/bienvenido.do
- <a href="http://portaltransparencia.gob.mx/buscador/search/search.do?method=begin">http://portaltransparencia.gob.mx/buscador/search/search.do?method=begin</a>

Norway has developed an electronic public records tool, which is used by central government agencies to publicise their public records online, and which is open for everyone to use

Norway's Electronic Public Records (Offentlig Elektronisk Postjournal or OEP) was developed in the late 1990s by the agency that later evolved into the Agency for Public Management and eGovernment. Originally a password-protected database, the OEP was developed to enable journalists to access public information. Its creation was made possible by the launch of the Noark 3 standard in 1994, which established a standard method of generating and uploading metadata through Electronic Document and Records Management Systems (EDRMS).

The OEP was updated in May 2010 as part of the Norwegian government's commitment to transparency and democracy under the Freedom of Information Act. While the previous OEP enabled public information to be sought by journalists and scientists, the new OEP can be used by any person with internet access.

The OEP is a collaborative tool which central government agencies, approximately 100 of them, use to publicise their public records online. Public records data is stored in a searchable database from which the public can locate case documents and send requests to the agency responsible for that particular case. The agencies themselves then process the requests sent to them via OEP, and reply to users directly.

The OEP only contains documents from the period after May 2010 and the old, password protected, version is still running parallel to the new OEP. By the end of 2012, the new OEP contained over five million registry entries published by 105 government agencies, processing about 20,000 information requests a month. The greatest number of requests comes from journalists (50%). Citizens and businesses make 22% of requests, public employees 21% and researchers 3%.

- <a href="http://www.oep.no/nettsted/fad/OM-OEP.html">http://www.oep.no/nettsted/fad/OM-OEP.html</a>
- http://www.conferpapers.co.nz/wcioi\_papers/Arne\_Flifet\_Paper.pdf

# Whistleblower protection



Lead author: Whistleblowing International Network

#### Introduction

Those working in or with an organisation are often the first to see misconduct, dishonest or illegal activity or a serious risk to the public interest in areas ranging from consumer safety and environmental damage, professional misconduct and child abuse, to financial embezzlement and corruption. However they can be discouraged from reporting their concerns by fear of reprisals and by the perceived lack of follow-up to address such warnings.

Responsible organisations should encourage those working for them to communicate actual or potential problems. Yet too many individuals face retaliation if they report their concern, this can include threats to their physical well-being as well as detriments in the workplace such as harassment, lack of promotion, demotion or dismissal. When lines of communication within organisations are blocked or not trusted, or the organisation itself is involved in the wrongdoing or its cover-up, it is vital that individuals can safely report such concerns to a competent external authority or more widely, where necessary.

Alerting organisations, external competent authorities or the public about risk, misconduct, dishonest or illegal activity, or matters of important public interest is termed whistleblowing. Whistleblowing covers the spectrum of such communications. It is a democratic right closely linked to freedom of speech and the right to petition; a public interest safety net which supports openness in government and democratic accountability.

Whistleblower protection is relatively new to the open government agenda, and while laws are becoming increasingly popular, it is crucial that they can be enforced. If the rights they offer are only symbolic this puts workers and others at greater risk; as they invite individuals to make disclosures while offering no genuine protection or any commitment to any appropriate follow-up of the issue raised.

Governments have a responsibility to facilitate whistleblowing and in so doing protect public interest whistleblowers. Laws which recognise the right of those who act in the public interest not to suffer harm or threats of harm and which build on the democratic principles of free speech and freedom of information are critical. They provide individuals a safe alternative to the silence that allows negligence and wrongdoing to take root. Whistleblower protection also offers an important alternative to anonymous leaks - a form of self-preservation which can compromise both the public interest and the whistleblower.

International instruments on whistleblower protection have, for the most part, recognised the importance of having whistleblower protection laws in place as part of an effective anti-corruption framework. (See for example the whistleblower protection requirements in the United Nations Convention against Corruption (2003), the 2009 OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Recommendation), the 1998 OECD Recommendation on Improving Ethical Conduct in Public Service , the Council of Europe Civil and Criminal Law Conventions on Corruption (1999), the 1996 Inter-American Convention against Corruption and the African Union Convention on Preventing and Combating Corruption (2003))

These provide a good foundation on which to develop legal and institutional frameworks to facilitate whistleblowing and protect whistleblowers for a wider category of public interest information. Governments also need to protect whistleblowing at the international level, to enhance support and protection where it falls short particularly across multinational production chains or regulatory and legal frameworks.

While it is incumbent on governments to facilitate safe and effective channels for whistleblowing and to protect whistleblowers, civil society has a complementary role in advocating for the protection of those who come forward to safeguard the public interest, particularly when it challenges government authority. An engaged civil society can ensure

that the legal and practical responses to whistleblowing are effective and appropriately applied over the long term.

NB: This topic is focused primarily on whistleblowing that arises out of a working relationship. However, there are important overlaps with the protections needed for those understood to be 'human rights defenders', and for the protection of journalists and their sources and for witness protection for those physically at risk.

#### **Expert Organisations**

Whistleblowing International Network (WIN) http://whistleblowingnetwork.org

OECD <a href="http://www.oecd.org/governance">http://www.oecd.org/governance</a>

 $\textbf{Council of Europe: Group of States Against Corruption} \ \underline{\text{http://www.coe.int/t/dghl/monitoring/greco/default\_en.asp}}$ 

Federal Accountability Initiative for Reform (FAIR) http://fairwhistleblower.ca/

Government Accountability Project (GAP) http://www.whistleblower.org/

Open Democracy and Advice Centre (ODAC) <a href="http://www.opendemocracy.org.za/">http://www.opendemocracy.org.za/</a>

Public Concern at Work (PCaW) <a href="http://www.pcaw.org.uk">http://www.pcaw.org.uk</a>

Whistleblowers Network (Germany) http://www.whistleblower-net.de

Transparency International <a href="http://www.transparency.org/topic/detail/whistleblowing">http://www.transparency.org/topic/detail/whistleblowing</a>

Transparency International (Ireland) <a href="http://www.transparency.ie/">http://www.transparency.ie/</a>

Open Society Justice Initiative (OSJI) http://www.justiceinitiative.org

# Summary of illustrative commitments

#### Initial

• Review and strengthen laws and policies on whistleblowing

#### Intermediate

- Establish a public awareness campaign on the value of whistleblowing
- Set up or support independent confidential advice services for whistleblowers

#### Advanced

- Ensure competent authorities have the mandate, powers and resources to facilitate whistleblowing and protect whistleblowers
- Extend whistleblower protection to those working with sensitive or classified information

#### Innovative

• Establish a public fund to support whistleblowers

## **Detailed Recommendations**

## Initial Step: Review and strengthen laws and policies on whistleblowing

## Justification

It is important that governments actively review their domestic laws and policies in order to ensure that a comprehensive framework to facilitate whistleblowing and protect whistleblowers not only builds on international best practices but is properly embedded in the national system. Such a review should identify existing protections, legal principles, good practice and custom (e.g., incident reporting in civil aviation, and common law principle that there is 'no confidence in iniquity') and any laws or policies which contradict or undermine whistleblower protection (e.g., restrictive confidentiality, data protection, libel or secrecy laws).

Enshrining whistleblower protection in law is important. It sends a strong message of the value and importance of whistleblowing in a democracy. Legislation clarifies what is expected of employers and competent authorities whether in the public or private sector, informs individuals of their right to report or disclose, and enforces the remedies available to those who suffer unfairly for blowing the whistle.

Whistleblowing regulations seek to protect the interests of society by helping to ensure that information about wrongdoing or serious risk gets to the right people at the right time. In so doing, it must effectively balance three main sets of rights: the public's right to information and to know when their interests are at risk; the right of whistleblowers to freedom of expression and fair treatment; and the right of organisations to manage their operation and their reputation. In particular, the legal and institutional frameworks protecting whistleblowers must be comprehensive and strong enough to address the power imbalance between whistleblowers and organisations - particularly if the organisation itself is involved in wrongdoing or its cover-up - and to protect those who might be wrongly accused of committing wrongdoing.

It should be understood that such laws should not oblige individuals to report on wrongdoing except in the very limited specific cases where there may be a professional duty to do so (e.g., doctors and police officers). Instead, whistleblower protection laws build on the democratic principles of free speech and freedom of information and ensure that where a disclosure is made in the public domain, any interference with the right to impart that information is only that which is necessary in a democratic society.

### Recommendations

- 1. Map existing laws and policies to facilitate whistleblowing and protect whistleblowers, this can include dedicated laws on protection of whistleblowers, information and criminal laws (e.g., right to information, privacy and data protection, laws on confidence and libel laws, official secrets) sectoral laws such as health and safety and competition laws, and laws regulating public servants.
- 2. Consult with stakeholders including trade unions, civil society groups (e.g., human rights and whistleblower advocacy or campaigning groups), the legal profession and the judiciary, ombudspersons and other independent regulators, private sector representatives, etc., on how to facilitate whistleblowing and protect whistleblowers in the public good.
- 3. Assess the adequacy of existing laws in protecting whistleblowers and reinforcing openness and democratic accountability. Key best practices[1] include ensuring:
- whistleblowers protection rights are enforceable
- protection extends to all who carry out activities relevant to an employer's mission
- a reverse burden of proof on the employer to show that any employment detriment was fair and not in retaliation for having blown the whistle
- full relief is available to whistleblowers: e.g., workplace remedies, compensation for losses, physical protection

- all staff and working partners are informed of their whistleblowing rights and how to seek confidential advice
- safe internal arrangements for staff and working partners to report or disclose information and an obligation on organisations to publicly report on the effectiveness of such arrangements

[1] See in particular GAP's International Best Practices under Relevant Standards and Guidance for this Step.

#### Standards & Guidance

- Council of Europe: (Draft) Recommendation and Explanatory Memorandum on the Protection of Whistleblowers
   <a href="http://www.coe.int/t/dghl/standardsetting/cdcj/whistleblowers/Whistleblowers%20meeting%20-%20Explanatory%20notes%20.pdf">http://www.coe.int/t/dghl/standardsetting/cdcj/whistleblowers/Whistleblowers%20meeting%20-%20Explanatory%20notes%20.pdf</a>
- Council of Europe's Parliamentary Assembly (PACE): Resolution 1729 <a href="http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17851">http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17851</a>=en
- Council of Europe's Parliamentary Assembly (PACE): Recommendation 1916 <a href="http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17852">http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17852</a>
- Government Accountability Project: International Best Practices for Whistleblower Policies http://www.whistleblower.org/storage/documents/Best Practices Document for website March 13 2013.pdf
- OECD: G20, Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation <a href="http://www.oecd.org/general/48972967.pdf">http://www.oecd.org/general/48972967.pdf</a>
- Organisation of American States: Draft Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses <a href="http://www.oas.org/juridico/english/draft\_model\_reporting.pdf">http://www.oas.org/juridico/english/draft\_model\_reporting.pdf</a>

### **Country Examples**

Ireland is developing a new law to provide comprehensive whistleblowing protection

The Irish government announced in early 2012 that it would consult on a new draft law which will provide a comprehensive whistleblower protection across all sectors. The Protected Disclosures in the Public Interest Bill is due to become law by the end of 2013. The Bill lists the existing sector-based whistleblower laws and provisions in Schedule 1. Schedule 2 deals with the repeals necessary to achieve the legal aims of the Bill and Schedule 3 lists the amendments that will be made to 15 separate laws to ensure that they are fully compatible with the new law.

http://per.gov.ie/wp-content/uploads/Protected-Disclosures-Bill-2013-Regulatory-Impact-Assessment.pdf

# **Intermediate Step:** Establish a public awareness campaign on the value of whistleblowing

#### Justification

In order to ensure that whistleblower protection is properly embedded as a democratic accountability mechanism, it needs to be promoted and understood.

Whistleblower protection legislation should be supported by effective awareness-raising, communication, training and evaluation efforts. Communicating to public or private sector employees their rights when exposing wrongdoing or serious risk to the public interest is essential. They need to know what arrangements are in place internally, their right to report directly to a competent authority, how to get confidential advice and what protection will be available to them.

A public awareness campaign is also important to tackle the cultural perceptions of whistleblowers as traitors or informers rather than as people acting for the public good, and out of loyalty to their organisation, profession and the interests of the society. It must be recalled that informers are individuals paid or compelled to help the state control its citizens. Such perceptions are understandably even more difficult to shift in countries where such control was imposed under dictatorship or foreign domination. This is why it is critical that whistleblower protection builds on democratic values of openness and freedom of expression rights and that the power to disclose information in the public domain is protected. Whistleblowers are those who voluntarily put themselves at risk to try to protect the public from harm from actual or potential wrongdoing or risk, or its cover-up.

#### Recommendations

- 1. Establish a public awareness campaign that extends to schools and professional training on the value of whistleblowing in protecting the public good, the health and safety of people, their environment and their human rights. Distinguish whistleblowing from informing by ensuring laws to protect whistleblowers emphasise open or confidential reporting and build on freedom of expression rights.
- 2. Provide clear statements and advice on whistleblowing procedures and protections.
- 3. Establish requirements for public sector employers and encourage private sectors employers to put in place internal arrangements to facilitate whistleblowing and to report on these regularly and publicly.
- 4. Provide training within organisations to ensure managers are adequately trained to receive reports, and to recognise and prevent occurrences of discriminatory and disciplinary action taken against whistleblowers.

#### Standards & Guidance

- British Standards Institute: Whistleblowing Arrangements Code of Practice <a href="http://www.pcaw.org.uk/bsi">http://www.pcaw.org.uk/bsi</a>
- Brown, A.J., P. Roberts and J. Olsen (2011) Whistling While They Work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations <a href="http://epress.anu.edu.au?p=144611">http://epress.anu.edu.au?p=144611</a>
- Stiching Van De Arbeid (Labour Foundation): Statement on Dealing with Suspected Malpractices in Companies <a href="http://www.stvda.nl/en/~/media/Files/Stvda/Talen/Engels/2012/20120829">http://www.stvda.nl/en/~/media/Files/Stvda/Talen/Engels/2012/20120829</a> EN.ashx

#### **Country Examples**

in the US, OSHA requires federal agencies to post information about whistleblower protection

In the United States, the Occupational Safety and Health Administration Act (OSHA) is responsible for enforcing whistleblower provisions of 21 statutes. Most recently, the US Congress designated OSHA as the agency responsible for enforcing the whistleblower provisions of the <a href="Dodd-Frank Wall Street Reform and Consumer Protection">Dodd-Frank Wall Street Reform and Consumer Protection</a> Act.

• <a href="http://www.whistleblowers.gov/">http://www.whistleblowers.gov/</a>

# **Intermediate Step:** Set up or support independent confidential advice services for whistleblowers

### Justification

While whistleblower protection laws will go a long way towards reassuring those who come across wrongdoing or malpractice that it is safe and acceptable for them to report it, questions about how such rules apply in individual circumstances will remain. At times people will be unsure about whether, how or to whom to raise their concern. They may be unsure as to the nature of what they have witnessed or how such information will be received by managers, or they may be aware of how others were treated when they raised similar concerns and be worried about their own position. Such doubts can easily lead to silence and an opportunity missed to protect the public interest before any serious damage or harm is caused.

Further, early advice and information helps ensure that whistleblowers do not suffer unnecessarily, that they are able to report or disclose information clearly and responsibly and that, should they nonetheless be treated unfairly, they are fully protected under law and are in a strong position to seek an appropriate remedy.

Access to independent confidential advice is important to help ensure information is reported or disclosed in a way that will best allow the information to be assessed and addressed, and to make the legal rules a practical reality for those involved whether it is the whistleblower, the organisation, regulators or the public.

Currently advice, where available, is often limited and provided by voluntary sector organisations, for example Public Concern at Work in the United Kingdom, the Government Accountability Project in the United States of America, and Transparency International Ireland.

#### Recommendations

1. Set up or support services to provide independent, legally protected, confidential advice and information for whistleblowers.

#### Standards & Guidance

 The Hague Institute for the Internationalisation of Law: Towards basic justice care for everyone: Challenges and promising approaches
 <a href="http://www.hiil.org/data/sitemanagement/media/TrendReport\_Part1\_020412\_DEF%20%282%29.pdf">http://www.hiil.org/data/sitemanagement/media/TrendReport\_Part1\_020412\_DEF%20%282%29.pdf</a>

#### **Country Examples**

The Dutch government has set up an independent, confidential advice service for whistleblowers

While there is no comprehensive national law in the Netherlands protecting whistleblowers in all sectors, there are regulations in local and central government, the police and defence. In order to assist and facilitate potential whistleblowers in making reports of malpractice or wrongdoing, the Dutch Government and social partners (including employer and employee representative organisations) decided that advice and support free of charge was needed for potential whistleblowers – along the lines of the independent non-governmental body and charity Public Concern at Work in the United Kingdom. In October 2012, the 'Adviespunt Klokkenluiders' (Advice Centre for Whistleblowers) opened with a view to reviewing its effectiveness by the end of 2014.

The Advice Centre is incorporated and funded by the Ministry of Interior Relations and the Ministry for Social Affairs and Employment but is independent of them. It consists of a three-member committee – representing the private sector, the public sector and the trade unions – and a small staff team including four senior legal counsels, a

communication consultant and an office manager.

The Advice Centre is a confidential advice service available free of charge to anyone in work in the Netherlands and aims to advise and support individual whistleblowers in specific cases; provide general information to whistleblowers and employers on whistleblowing and procedures; and report regularly on patterns and developments in the field of whistleblowing and integrity.

• <a href="http://www.adviespuntklokkenluiders.nl/international">http://www.adviespuntklokkenluiders.nl/international</a>

# **Advanced Step:** Ensure competent authorities have the mandate, powers and resources to facilitate whistleblowing and protect whistleblowers

#### Justification

The role of ombudspersons, independent regulators and enforcement bodies is vital as they have an oversight remit that rises above the working relations within and between organisations and are experts in their field. Their capacity to ensure that the organisations they regulate are accountable for their conduct depends on the information they receive from many sources, including the organisations themselves. However, information received from inside sources - whistleblowers - can often allow regulators to effectively and efficiently focus their energies and resources on the problem. At the same time regulators and enforcement bodies will not want to undermine good local governance and accountability arrangements. Thus having the power to receive information from a whistleblower as well as take enforcement action against an organisation that fails to facilitate internal whistleblowing, tries to block, or retaliates against a whistleblower is part of maintaining oversight and reinforcing local accountability.

Experience of protecting whistleblowers around the world has demonstrated time and again that whistleblowers report or disclose information in order for a problem to be addressed and in so doing they need to be able to enforce their rights in a meaningful way. These include, among other things, being able to seek advice, to petition their employer, ombudspersons, independent authorities, and the courts.

Whistleblower legislation should ensure that regulators, ombudspersons and independent enforcement bodies are empowered to receive and investigate complaints of retaliatory, discriminatory or disciplinary action taken against whistleblowers. The right to appeal to court in the event that these bodies do not act properly or fairly should also be safeguarded.

## Recommendations

- 1. The whistleblowing mandate of competent authorities should include:
  - o promoting the law and receiving disclosures;
  - o investigating or overseeing investigations of the issues;
  - o action or requiring action to suspend or stop the conduct alleged to be wrong or causing harm;
  - measures or requiring measures to protect a whistleblower and any other individual affected by the report (e.g., protecting confidentiality of third parties, or the rights of an accused);
  - sanctions against an employer or organisation for failing to reasonably investigate or remedy the issue, or for failing to protect a whistleblower.

- 2. Competent authorities in this regard are existing regulators, ombudsmen or enforcement bodies or a new independent body charged with overseeing whistleblowing and whistleblower protection.
- 3. Such bodies must have the remit, powers and resources to carry out their role effectively.
- 4. Such bodies should be mandated to regularly publish reports on their activities.
- 5. Appeals from the decisions of such bodies to a court of law should be allowed.

#### Standards & Guidance

• Asia Pacific Forum: A Guide for National Human Rights Institutions: Undertaking Effective Investigations <a href="http://www.asiapacificforum.net/support/files/investigations-manual-for-nhris">http://www.asiapacificforum.net/support/files/investigations-manual-for-nhris</a>

#### **Country Examples**

In the US the Office of the Special Counsel oversees whistleblower protection for federal employees

The US Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA).

The OSC receives, investigates, and prosecutes allegations of prohibited personnel practices, with an emphasis on protecting federal government whistleblowers. It seeks corrective action remedies (such as back pay and reinstatement) for injuries suffered by whistleblowers and other complainants and is authorised to file complaints at the Merit Systems Protection Board (MSPB) to seek disciplinary action against individuals who commit prohibited personnel practices.

OSC also provides a secure channel through its Disclosure Unit for federal workers to disclose information about various workplace improprieties, including a violation of law, rule or regulation, gross mismanagement and waste of funds, abuse of authority, or a substantial danger to public health or safety.

• <a href="http://www.osc.gov/">http://www.osc.gov/</a>

The Slovenian independent Anti-Corruption Commission has enhanced power to protect whistleblowers

Established in 2004, Slovenian Commission on the Prevention of Corruption (CPC) is an independent anti-corruption agency with a broad mandate in the field of preventing and investigating corruption, breaches of ethics and integrity of public office. While the CPC is not part of the law enforcement or prosecution system of Slovenia, it gained new powers in 2010 to enhance its ability to regulate anti-corruption efforts including new powers in relation to the protection of whistleblowers.

The CPC now has broad legal powers to access and subpoena financial and other documents (notwithstanding the confidentiality level), question public servants and officials, conduct administrative investigations and proceedings and instruct different law enforcement bodies (e.g. Anti-Money Laundering Office, Tax Administration, etc.) to gather additional information and evidence within the limits of their authority. The CPC can also issue fines for different violations (sanctions can be appealed to the Court).

https://www.kpk-rs.si/en

# **Advanced Step:** Extend whistleblower protection to those working with sensitive or classified information

#### Justification

As a rule all government information should be accessible and open to the public for scrutiny as this enables democratic participation and the development of sound public policies even in sensitive areas such as national security. However, history has shown that governments or parts of government can use overly broad exceptions to open information which prevents effective public scrutiny and debate about government decision-making and activities, and thus there must be safeguards to ensure against such practices.

Whistleblower protection is one such important safeguard and should therefore be extended to all those working with sensitive or classified information whether in public administration, the armed services, national security, defence or intelligence services, or the private sector. Clearly whistleblower protection in such circumstances needs to allow for the proper consideration and protection, where necessary, of other important interests such as national security, international relations, personal privacy, provision of free and open advice, commercial confidentiality, etc.

The Global Principles on National Security and Right to Information (Tshwane Principles), based on international and national law, standards and good practices, provide guidance to legislators and relevant officials throughout the world - they set out a proportionate approach to facilitating internal whistleblowing for those working with sensitive information, and the protection that should be available to those who publicly disclose wrongdoing or other information of public interest. Importantly, the Tshwane Principles include a public interest defence for public servants, whether or not they meet the conditions for whistleblower protection as laid out in the Principles, if the public interest in the disclosure outweighs the public interest in keeping it secret.

#### Recommendations

- 1. Adopt the principle that all those who work with sensitive information should be protected from retaliation for whistleblowing on public interest matters including wrongdoing, risk or government abuse.
- 2. Consult with stakeholders including trade unions, civil society groups (e.g., human rights and whistleblower advocacy or campaigning), legal profession and the judiciary, ombudsperson and other independent regulators on how to facilitate whistleblowing and protect whistleblowers in relation to sensitive information.
- 3. Review existing laws and policies to facilitate whistleblowing and protect whistleblowers against the Tshwane Principles.

## Standards & Guidance

- Council of Europe's Parliamentary Assembly (PACE): Recommendation 2024, Provisional Version <a href="http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=201940">http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=201940</a>=en
- Tshwane Principles on National Security and the Right to Information <a href="http://www.right2info.org/exceptions-to-access/national-security">http://www.right2info.org/exceptions-to-access/national-security</a>

## **Country Examples**

Canada provides a public interest defence for those who would otherwise be bound by secrecy laws

Canada's Security of Information Act provides that no person is guilty of an offence under sections 13 or 14 (which make it an offence for anyone "permanently bound to secrecy" to intentionally and without authority communicate or confirm "special operational information" ) if they can establish that they "acted in the public interest". This means that they must show they acted in order to disclose an offence and that the "the public interest in the disclosure outweighed the public interest in non-disclosure".

• <a href="http://laws-lois.justice.gc.ca/eng/acts/0-5/page-7.html#docCont">http://laws-lois.justice.gc.ca/eng/acts/0-5/page-7.html#docCont</a>

Danish criminal law provides a public interest defence for publication of state secrets

The Danish Criminal Code from 2008 provides a public defence for publication of state secrets, stating that "where the person ... is acting in the legitimate exercise of obvious public interest or for his own or others' best interests".

• <a href="https://www.retsinformation.dk/Forms/R0710.aspx?id=142912#Kap13">https://www.retsinformation.dk/Forms/R0710.aspx?id=142912#Kap13</a>

Ghana's Whistleblower Act applies to the security sector

Ghana's Whistleblower Act from 2006 applies to the security sector (police and intelligence agencies). The Act also protects whistleblowing with regard to other public bodies, including elders and religious leaders, where the information concerns economic or other crimes; miscarriage of justice; waste, misappropriation or mismanagement of public resources; environmental degradation; or a danger to health or safety.

http://www.parliament.gh/assets/file/Acts/Whitsleblwer%20Act%20720.pdf

South African law covers all whistleblowers from the public and private sectors

South Africa's Protected Disclosures Act, 2000 covers all whistleblowers from the public and private sectors including all those working in the police, the armed forces and in security, intelligence and communications.

<a href="http://www.nacf.org.za/guide\_to\_the\_whistle\_blowing\_act/section\_two.html">http://www.nacf.org.za/guide\_to\_the\_whistle\_blowing\_act/section\_two.html</a>

# Innovative Step: Establish a public fund to support whistleblowers

## Justification

While much attention is given to the protections in law for public interest whistleblowers, less attention is given to how these protections are implemented in practice. Whistleblowers often need advice and support in raising their concern, preserving their position at work, and seeking redress for unfair or detrimental treatment. In extreme circumstances, the detrimental treatment extends beyond the workplace, affecting their families as well as their physical and mental well-being. A fund to support whistleblowers to seek advice, to get advocacy support and where necessary take a legal claim is

lacking in all jurisdictions. Such a fund would help ensure that whistleblower protection becomes a reality and could also include relief for those for whom other forms of protection fail (e.g., insolvency of their employer) and emergency relief for those who find themselves with no means to support themselves.

The vast majority of people report wrongdoing, risk or illegality in order for it to be stopped, often at great personal cost, and very few are ever thanked for their efforts. While whistleblowing is most often associated with disclosures made in the public domain, this guidance demonstrates that it can cover a range of communications that will help governments and organisations in the public and private sectors to address problems early enough to avoid damage and harm. National governments around the world confer honours to individuals whose actions have contributed significantly to the common good of the country; some courts and law enforcement bodies also honour or reward individuals who put themselves at risk to protect or serve the interests of others. Whistleblowers should be considered amongst those deserving public honour.

A public fund could also honour those who reported or disclosed wrongdoing or risk that contributed to protecting the public interest and would help normalise whistleblowing as an act of good citizenship.

NB. Honouring and acknowledging a whistleblower who has reported or disclosed information either to an employer, a competent authority, or to the public is not the same as offering a reward. A distinct regulatory model such as that employed by the Securities Exchange Commissions under the Dodd-Frank Act in the USA -which offers monetary compensation in exchange for information on violations of securities law in order to encourage whistleblowers to come forward - has caused some controversy on the basis that it shifts the motivation away from the public interest to the personal gain of the whistleblower. In any event, this should only be seen as a complementary measure to full whistleblower protection in law.

#### Recommendations

1. Establish a public fund or separate public funds to help whistleblowers a) cover legal costs b) provide other relief as necessary and c) honour those who make important contributions to protecting the public interest.

#### **Country Examples**

Korea's Anticorruption Commission can provide relief for whistleblowers' losses

Korea's Anti-Corruption and Civil Rights Commission (ACRC) can provide relief if a whistleblowing report causes damage or for expenses related to medical treatment, residential relocation, litigation, wage loss or for other reasons. The ACRC has also recommended that the Korean Act on the Protection of Public Interest Whistleblowers be amended to allow for awards to whistleblowers if their reports protected the public interest.

• http://www.acrc.go.kr/eng/index.do

The US False Claims Act puts resources in the hands of the whistleblower

The US False Claims Act is one of the rare examples of a law that puts resources directly in the hands of the whistleblower who can then take the initiative to prosecute powerful wrongdoers, rather than waiting for a government agency to do so. It also levels the playing field to some degree by providing an incentive for skilled lawyers to take on whistleblower cases as these can be highly lucrative if successful. It should be noted that the False Claims Act focuses attention on cases that involve loss of money to the government rather than any other type of harm.

The basis of the 'US False Claims Act' is a branch of law called 'Qui tam' – a Latin phrase meaning 'private attorney general' rights which in common law refers to someone acting on behalf of the king and dates back to the Magna Carta

(1299). The False Claims Act was first introduced in the US in 1863 during the Civil War as a means of curbing profiteering. Unscrupulous contractors were selling the government lame mules, defective weapons, and rancid provisions – at inflated prices. The law empowers any citizen to sue a contractor on behalf of the government in return for a portion of the penalties to be repaid to the government if the suit is successful. 'Qui tam' legislation represents a distinct and separate branch of whistleblowing law, which has enabled policing of US government expenditures that involves the private sector. It should not be confused with other regulatory models or, so-called 'bounty' or reward systems, which offer monetary compensation for information but which leave the whistleblower a passive observer in the process.

*Text extracted from*: Hutton, David (2011) *Shooting the Messenger*. Canada: Parkland Institute. <a href="http://parklandinstitute.ca/research/summary/shooting\_the\_messenger">http://parklandinstitute.ca/research/summary/shooting\_the\_messenger</a>

• <a href="http://www.whistleblowers.org/index.php?ltemid=64&id=3">http://www.whistleblowers.org/index.php?ltemid=64&id=3</a>

# **Annex: Standards and Guidance**

#### Assets disclosure and conflicts of interest



Guidelines for Managing Conflicts of Interest in the Public Service

INTER-GOVERNMENT DETAILED GUIDANCE

The OECD Guidelines for Managing Conflict of Interest in the Public Service from 2003 provide a comprehensive international benchmark to help governments and public organisations review existing conflict of interest policy and practice for public officials working in national public administrations. The Guidelines set four core principles for public officials to follow in dealing with conflict of interest situations in order to maintain trust in public institutions: serving the public interest; supporting transparency; promoting individual responsibility; and creating an organisational culture that does not tolerate conflict of interest.

http://www.oecd.org/gov/ethics/48994419.pdf



Income and assets declarations: Issues to consider in developing a disclosure regime

EXPERT / OTHER GENERAL REFERENCE

This Issue paper by the U4 Anti-Corruption Resource Centre from 2009 describes the issues policy-makers should consider when deciding whether to adopt a financial disclosure law, and what provisions it should contain.

http://www.cmi.no/publications/file/3396-income-and-assets-declarations.pdf



OGP Eligibility Criteria: Assets disclosure

OGP ELIGIBILITY CRITERIA RATING

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts. Any government that achieves a score of at least 75% of the total possible points available to them can join OGP at any time once they have demonstrated that they meet these minimum criteria.

Rules that require public disclosure of income and assets for elected and senior public officials are one of the four eligability criteria. Four points are awarded to countries with a law requiring disclosures for politicians and senior public officials to the public, three points awarded to countries with either a law requiring disclosures for politicians OR senior public officials to the public, and two points awarded for a law requiring non-public disclosures for elected or senior officials.

This assessment is based on studies by the world bank, and the World Bank's Public Officials Financial Disclosure database, which is updated on a rolling basis.

http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria

Post-Public Employment: Good Practices for Preventing Conflict of Interest

INTER-GOVERNMENT DETAILED GUIDANCE

This OECD report from 2010 provides, in line with identified good practice, guidance to policy makers and managers on how to review and modernise rules, policies and practices for preventing and managing conflict of interest in post-public employment.

http://www.keepeek.com/Digital-Asset-Management/oecd/governance/post-public-employment 9789264056701-en

Public Office, Private Interests: Accountability through Income and Asset Disclosure

INTER-GOVERNMENT DETAILED GUIDANCE GENERAL REFERENCE

This is a Stolen Asset Recovery Initiative publication from 2012. It focuses on income and asset disclosure requirements for the executive and legislative branches of government and is intended (together with its companion, Income and Asset Disclosure: Case Study Illustrations) to be a guide for practitioners and policy-makers and for others with an interest in anti-corruption tools and procedures. It sets out the basic elements of asset disclosure systems and key considerations that can influence the design, implementation, and enforcement of an asset disclosure framework in different contexts.

http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf

Revolving Doors, Accountability and Transparency – Emerging Regulatory Concerns and Policy Solutions in the Financial Crisis

INTER-GOVERNMENT GENERAL REFERENCE

This OECD report from 2009 examines the phenomenon of the 'revolving door' in the financial sector (e.g. banking, insurance, securities, etc.) following the 2008 financial crisis. It examines the 'revolving door' both at the individual level (in respect to the appointment of advisers and regulators) as well as at the institutional level (focusing on the bail outs and nationalisations of banks). The report aims to help policy makers and decision makers understand the extent of the problem caused by 'revolving door' in regulators, in particular in the financial sector, and support informed policy debate on alternative options for solutions.

http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/ETH(2009)2&docLanguage=En

United Nations Convention against Corruption

INTER-GOVERNMENT PRINCIPLES

The United Nations Convention against Corruption, adopted by the UN General Assembly in 2003, includes provisions for asset disclosure and conflict of interest regulations as a way of combating corruption.

Article 8(5) of the Convention states that "Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make

declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials." And Article 52(5) states that "Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance."

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026 E.pdf



■ World Bank Financial Disclosure Law Library

#### INTER-GOVERNMENT GENERAL REFERENCE

The World Bank Financial Disclosure Law Library is a collection of laws and regulations on income and asset disclosure. It offers access to over 1,000 laws and regulations across 176 jurisdictions worldwide. The Library also provides information on closely-related topics such as restrictions on public officials' activities. The Library is intended as an unbiased legal source for practitioners, policy-makers, and researchers within national governments; international organizations; development agencies; the media; academia and the private sector engaged in the fields of asset disclosure.

http://publicofficialsfinancialdisclosure.worldbank.org

## **Budgets**



■ GIFT High Level Principles on Financial Transparency

#### MULTI-STAKEHOLDER PRINCIPLES

The GIFT High Level Principles on Financial Transparency is a set of principles and global norms on fiscal transparency formulated in 2012 by the multi-stakeholder action network. The Principles are intended to guide policy makers and all other stakeholders in fiscal policy in their efforts to improve fiscal transparency, participation and accountability, and to help promote improvements in the coverage, consistency and coherence of the existing standards and norms for fiscal transparency. An Expanded Version of the High-Level Principles explains each of the ten Principles in more detail, and provides additional information and sources of guidance for those applying the Principles in practice.

http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf



IBP guide to participatory budgeting

CIVIL SOCIETY GENERAL REFERENCE

The Guide to Participatory Budgeting from 2000 examines Brazilian participatory budgeting programmes designed to incorporate citizens into the policy making process, spur administrative reform, and distribute public resources to low income neighbourhoods. The paper explores the mechanisms of participatory budgeting, the results of this approach, and its potential applicability elsewhere.

http://internationalbudget.org/wp-content/uploads/A-Guide-to-Participatory-Budgeting.pdf



IBP guide to transparency in government budget reports

EXPERT / OTHER DETAILED GUIDANCE

The Guide to Transparency in Government Budget Reports was designed to support governments in their efforts to meet international good practice standards on budget transparency. It provides guidance on what reports and documents governments should be producing and making available throughout the budget process, what information should be in those reports, and links to model documents from other countries.

http://internationalbudget.org/wp-content/uploads/Government Transparency Guide1.pdf



IBP Looking beyond the budget

CIVIL SOCIETY GENERAL REFERENCE

Moving beyond the eight key budget documents on which budget transparency is measured, this document deals with five areas of public finance that are less well understood and especially vulnerable to efforts to shield them from public scrutiny. The five areas are: extra-budgetary funds, tax expenditures, quasi-fiscal activities, contingent liabilities, and future liabilities.

http://internationalbudget.org/wp-content/uploads/Looking-Beyond-the-Budget.pdf



IBP open budget survey

#### EXPERT / OTHER RATING

The Open Budget Survey measures the state of budget transparency, participation, and oversight in countries around the world and is completed by independent researchers in the countries assessed. The Open Budget Index assigns countries covered by the Survey a transparency score on a 100-point scale based on whether the government provides the public with timely access to comprehensive information contained in eight key budget documents.

http://internationalbudget.org/what-we-do/open-budget-survey/full-report/



IMF fiscal transparency code

#### INTER-GOVERNMENT PRINCIPLES

The IMF Code of Good Practices on Fiscal Transparency was developed in 1998 and updated in 2007. It identifies a set of principles and practices to help governments provide a clear picture of the structure and finances of government.

The IMF is updating its code in 2013 through a process of public consultation that will be finalized in 2014.

The structure and content of the revised Fiscal Transparency Code differ from the 2007 version in a number of important respects. In particular:

- Greater focus on the quality of fiscal reports.
- Updated fiscal transparency principles.
- Graduated practices: basic, good and advanced Quantitative fiscal transparency indicators
- Coverage and complementarity with Public Expenditure and Financial Accountability (PEFA) assessment framework.

In addition to providing an updated standard for fiscal disclosure, the revised Code, once finalized, also provides the basis for a new Fiscal Transparency Assessment (FTA). These assessments are being piloted in a number of lowincome, emerging and advanced countries.

http://www.imf.org/external/np/fad/trans/code.htm



INTOSAI Basic Principles in Government Auditing

EXPERT/OTHER PRINCIPLES

The International Organization of Supreme Audit Institutions (INTOSAI) Basic Principles in Government Auditing provide a framework for the establishment of procedures and practices to be followed in the conduct of an audit. The purpose of the Principles is to help developing auditing standards and serve the auditors in forming their opinion and reports, particularly in cases where no specific standards apply.

http://www.issai.org/media/12943/issai\_100\_e.pdf



INTOSAl's Lima and Mexico Declarations on Supreme Audit Institutions independence

#### EXPERT/OTHER PRINCIPLES

The <u>Lima Declaration</u> from 1977 points out the necessary aspects of audits and audit institutions for achieving independent and objective results. The chief aim of the declaration is to call for independent government auditing. A Supreme Audit Institution which cannot live up to this demand does not come up to standard. The Mexico Declaration from 2007 sets up eight core principles on Supreme Audit Institution Independence, which flow from the Lima Declaration.

http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independenceeger.html



OECD best practice guidelines on budget transparency

#### INTER-GOVERNMENT DETAILED GUIDANCE

The OECD Best Practices for Budget Transparency from 2002 are designed as a reference tool for governments to use in order to increase the degree of budget transparency in their respective countries. The Best Practices are based on

different OECD Member countries' experiences and are not meant to constitute a formal standard for budget transparency.

http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm



OECD Guidelines on Corporate Governance of State-owned Enterprises

INTER-GOVERNMENT PRINCIPLES

Non-binding guidelines and best practices developed by the OECD Working Group on Privatisation and Corporate Governance of State-Owned Assets. The Guidelines are intended to provide general advice that will assist governments in improving the performance of State-owned enterprises. The Guidelines are also supported by more detailed guidance; OECD: Accountability and transparency - A Guide for State Ownership.

http://www.oecd.org/daf/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf



OGP Eligibility Criteria: Fiscal Transparency

MULTI-STAKEHOLDER RATING

In order to participate in the Open Government Partnership (OGP), governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts.

Countries can earn a total of 16 points. In order to participate in OGP, countries must score at least 75% of the total possible points available to them.

The fiscal transparency indicator is based on the 2012 Open Budget Index, conducted by the International Budget Partnership, which covers 100 countries (countries that are not included in the Index are not assessed on this measure)

Two points are awarded for publication of each of two essential documents:

- Executive's Budget Proposal
- Audit Report

http://www.opengovpartnership.org/eligibility



OGP Eligibility Criteria: Fiscal Transparency

OGP ELIGIBILITY CRITERIA RATING

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts. Any government that achieves a score of at least 75% of the total possible points available to them can join OGP at any time once they have demonstrated that they meet these minimum criteria.

Fiscal transparency is one of the four eligibility criteria. Two points are awarded for publication of each of two essential

documents the Executive's Budget Proposal and Audit Report.

This is assessed using a sub-set indicators from the 2012 Open Budget Index, conducted by the International Budget Partnership, which covers 100 countries. As the Open Budget Index covers only 100 countries, some countries are not assessed on this criteria.

http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria



Open Data Index

#### CIVIL SOCIETY RATING

The Open Data Index was developed in 2013 to provide a global reference for the state of open data release by national governments. It provides an independent peer-reviewed assessment of openness in a range of key areas, reflecting the realities of public information release and practice in over 60 countries. 80 datasets are assessed, covering ten areas including transport, government budgets and spending, election results, company registers, national maps and statistics, legislation, postcodes and pollutant emissions.

https://index.okfn.org/



Public Expenditure and Financial Accountability Field Guide

EXPERT / OTHER DETAILED GUIDANCE COMMUNITY OF PRACTICE

The PEFA 'Fieldguide' from 2012 is the result of the compilation of all existing and updated guidance and technical notes produced by the PEFA Secretariat. The field guide aims to support the technical work of the assessors in the field.

http://siteresources.worldbank.org/PEFA/Resources/PEFAFieldguide.pdf



The Power Of Making It Simple: A Government Guide To Developing Citizens Budgets

CIVIL SOCIETY DETAILED GUIDANCE

The International Budget Partnership's (IBP) report "The Power of Making It Simple' draws on the experiences of governments that have produced Citizens Budgets, as well as on the IBP's experience of mentoring governments. It provides step-by-step guidance to governments on producing a Citizens Budget and includes suggestions on how to meet challenges that often arise in the process.

http://internationalbudget.org/publications/the-power-of-making-it-simple-a-government-guide-to-developing-citizensbudgets/



World Bank participatory budgeting book

#### INTER-GOVERNMENT GENERAL REFERENCE

Participatory Budgeting is a book published in the World Bank's Public Sector Governance and Accountability Series in 2007. It provides an overview of the principles underlying participatory budgeting and analyses the merits and demerits of participatory budgeting practices around the world with a view to guiding policy makers and practitioners on improving such practices in the interest of inclusive governance.

http://siteresources.worldbank.org/PSGLP/Resources/ParticipatoryBudgeting.pdf

World Bank: Financial Management Information Systems and Open Budget Data

INTER-GOVERNMENT PRINCIPLES GENERAL REFERENCE

A study of presenting open budget data from public Financial Management Information Systems. This study summarises around 100 cases from various government web sites in 53 countries and draws out good practices and lessons learned. The study outlines seven guiding principles to publish open budget data through FMIS platforms:

- 1. Availability of timely and comprehensive budget information
- 2. Disclosure of details about underlying information systems
- 3. Availability of user defined (dynamic) query and reporting capabilities
- 4. Publishing reliable and interlinked open budget data
- 5. Authentication of the sources of public finance data
- 6. Improving the quality of presentation
- 7. Promoting the effective use of open budget data

http://www.worldbank.org/publicfinance/FMIS

₩orld Bank: Fiscal Transparency Tools and Resources

INTER-GOVERNMENT GENERAL REFERENCE

The World Bank's **Open Budgets Portal** is the first effort to create a one-stop shop for budget data worldwide with the hope of bringing visibility to countries' efforts in this field, facilitating access and promoting use of spending data, and motivating other countries into action. The Tools and Resources section presents a wide range of materials and information on budget analysis and open budgets.

http://wbi.worldbank.org/boost/about

## Citizen engagement

Assessing the Quality of Democracy: A Practical Guide

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE

This Practical Guide presents International IDEA's State of Democracy (SoD) assessment Framework. Developed for public use around the world, the SoD Framework has been applied in some 20 countries worldwide since its first launch

in 2000.

The Framework provides for comprehensive assessment led and owned by local actors. It combines a commitment to the principles of democracy with dialogue, and looks beyond the formal existence of democratic institutions and focuses on their performance.

An overview of this Practical Guide is also available (in English, Spanish and French)

http://www.idea.int/publications/agd/

Center for Technology in Government – Designing Social Media Policy for Government: Eight essential elements

#### EXPERT / OTHER GENERAL REFERENCE

Review of government social media policies in the US. Analysis identifies eight essential elements for a social media policy:

- 1. employee access
- 2. account management
- 3. acceptable use,
- 4. employee conduct
- 5. content
- 6. security
- 7. legal issues
- 8. citizen conduct.

http://www.ctg.albany.edu/publications/guides/social\_media\_policy/social\_media\_policy.pdf

Civicus – Participatory Policy Making

CIVIL SOCIETY GENERAL REFERENCE COMMUNITY OF PRACTICE

PG Exchange is an initiative of CIVICUS: World Alliance for Citizen Participation. The website is a part of CIVICUS' work on increasing the influence of citizens and civil society organisations in governance processes. The Participatory Governance Project of CIVICUS works to enhance the capacity of targeted southern-based civil society and government actors to promote participatory and accountable governance of public institutions at local and national levels.

http://www.pgexchange.org/index.php?option=com\_content&view=article&id=140&Itemid=132

Civicus Enabling Environment Index

CIVIL SOCIETY RATING

The Enabling Environment Index (EEI) developed by the global civil society network, CIVICUS, is the first rigorous

attempt to measure and compare the conditions that affect the potential of citizens to participate in civil society and ranks the governance, socio-cultural and socio-economic environments for civil society in 109 countries.

The index looks at long-term factors that create the conditions for healthy citizen engagement. It is a global composite index developed using secondary data that seeks to understand the propensity of citizens to participate in civil society.

http://civicus.org/what-we-do-126/2013-05-06-10-38-39/1886-download-the-2013-enabling-environment-index-eeireport



■ Delib: How and When to Use Social Media Channels to Strategically Support Government Goals

#### EXPERT / OTHER DETAILED GUIDANCE

This guide provides a basic introductory overview of a number of social media channels available to government and how they may be best used to support government and agency goals.

http://www.delib.net/delib\_shared\_assets/shared\_documents/Delib\_Social\_Media\_for\_Government\_2012.pdf

■ ECNL: Improving Cooperation Between Public Institutions and Civil Society in the Western Balkans and Turkey

EXPERT / OTHER GENERAL REFERENCE

Report on the state of cooperation between civil society organisations (CSOs) and public authorities in the countries of the Western Balkans and Turkey, developed for the Technical Assistance for Civil Society in Europe (TACSO) project in 2012 and researched and written by the European Centre for Not-for-Profit Law (ECNL). The report covers the following countries: Albania, Bosnia and Herzegovina, Croatia, Kosovo\*, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey, and focuses on national policies and mechanisms for cooperation between the two sectors.

http://www.gamn.org/files/Report%20-%20Keeping%20up%20the%20Momentum.pdf

IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation

EXPERT / OTHER DETAILED GUIDANCE

A practical guide for program managers who want to assess whether their efforts to increase citizen participation in their programs are making a difference. Lays out evaluation steps for both the implementation and management of citizen participation initiatives, as well as how to assess the impact of a particular citizen participation initiative.

http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation

IBM Centre for The Business of Government: Using Online Tools to Engage – and be Engaged by – The **Public** 

EXPERT / OTHER DETAILED GUIDANCE

This report describes common scenarios where public managers may find themselves needing, or using, public input. It describes a mix of ten different tactics managers may find useful for engaging the public online and highlights over 40 different technologies in use today to support those kinds of engagements.

http://www.businessofgovernment.org/report/using-online-tools-engage-public

ICNL: Guidelines on the Preparation of Compacts

EXPERT / OTHER DETAILED GUIDANCE

Featured in The International Journal of Not-for-Profit Law, Volume 3, Issue 4, March 2001. Provides guideance on organizational aspects and content of the agreement

http://www.icnl.org/research/journal/vol3iss4/special 5.htm

International Principles Protecting Civil Society

CIVIL SOCIETY PRINCIPLES DETAILED GUIDANCE COMMUNITY OF PRACTICE

The International Principles Protecting Civil Society articulates international principles protecting civil society and underscoring proper government-civil society relations, embedded in international law:

- 1. The Right to Entry (Freedom of Association)
- 2. The Right to Operate Free from Unwarranted State Interference
- 3. The Right to Free Expression
- 4. The Right to Communication and Cooperation
- 5. Right to Freedom of Peaceful Assembly
- 6. The Right to Seek and Secure Resources
- 7. State Duty to Protect

The Principles were jointly developed by the International Center for Not-for-Profit Law (ICNL) and World Movement for Democracy Secretariat at the National Endowment for Democracy, as part of the "Defending Civil Society" project. The project seeks to develop strategies and build solidarity among activists and groups pushing back against restrictive laws and regulations. The principles are backed up with detailed guidance and a toolkit.

Available in English, Spanish, French, Russian and Arabic

http://www.defendingcivilsociety.org

Involve: People and Participation – How to put citizens at the heart of decision-making

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE

This publication provides practical detail, drawing on the experiences of over a hundred practitioners who have used new methods to involve the public in issues ranging from local

planning to nanotechnology. Its starting point is that deepening and strengthening democracy depends on success in learning lessons about why some kinds of participation lead to better and more legitimate decisions, while others do not.

The guidance offers some basic parameters for describing participatory methods, and applies them to some wellknown methods. The aim is both to provide useful descriptions of the methods, and to enable others to use the frameworks to collect their own evidence about 'what works' for them in different circumstances.

http://www.involve.org.uk/wp-content/uploads/2011/03/People-and-Participation.pdf



IPU: Social Media Guidelines for Parliaments

#### INTER-GOVERNMENT DETAILED GUIDANCE

Developed by the Inter Parliamentary Union, the Guidelines draw on lessons learned by parliaments so far and on good practice in the social media sphere. The objective is to encourage more widespread, more efficient and more effective use of social media by parliaments. The Guidelines cover governance and oversight, compliance and legal issues and planning and strategies for engagement.

http://www.ipu.org/PDF/publications/SMG2013EN.pdf



NCDD: Legal Frameworks for Citizen Participation

EXPERT / OTHER GENERAL REFERENCE

Conducted in 2003 this was a comprehensive, comparative survey of legal and policy frameworks for citizen participation in local governance in four regions (East Africa, Latin America, South Asia, South-East Asia). It aimed to synthesize existing knowledge about how these frameworks work in practice and to draw lessons about the effectiveness of particular kinds of legal and policy framework for promoting citizen participation.

http://http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-LegalFrameworks2003.pdf



NCDD: Resource Guide on Public Engagement

#### EXPERT / OTHER GENERAL REFERENCE

The US National Coalition for Dialogue & Deliberation (NCDD) is an active network and community of practice centered around conflict resolution and public engagement practices. In 2010 NCDD compiled this Guidebook on Public Engagement to showcase some of the best resources developed collaboratively by the NCDD community and others.

http://www.ncdd.org/files/NCDD2010 Resource Guide.pdf



OECD: Focus on Citizens – Public Engagement for Better Policy and services

INTER-GOVERNMENT PRINCIPLES GENERAL REFERENCE

This book published in 2009 is based on a survey of governments in 25 countries, 14 in-depth country case studies and

18 opinion pieces from leading civil society and government practitioners. It looks at how OECD governments putting the principles of open and inclusive policy making into practice and how they can they ensure broader, more inclusive, participation. It includes includes 10 guiding principles to support open and inclusive policy making and service delivery in practice.

The OECD report presents ten Guiding Principles that were designed to help governments strengthen open and inclusive policy making as a means to improving their policy performance and service delivery:

- 1. Commitment
- 2. Rights
- 3. Clarity
- 4. Time
- 5. Inclusion
- 6. Resources
- 7. Co-ordination
- 8. Accountability
- 9. Evaluation
- 10. Active citizenship

http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm



OGP Eligibility Criteria: Citizen Engagement

OGP ELIGIBILITY CRITERIA RATING

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts. Any government that achieves a score of at least 75% of the total possible points available to them can join OGP at any time once they have demonstrated that they meet these minimum criteria.

Openness to citizen participation, including basic protections for civil liberties is one of the four criteria for eligibility. This is measured using the 2012 EIU Democracy Index's Civil Liberties sub-indicator where 10 is the highest and 0 is the lowest score, 4 points for countries scoring above 7.5, 3 points for countries scoring above 5, 2 points for countries scoring above 2.5, and 0 points otherwise. The 2012 Economist Intelligence Unit Democracy Index covers 167 countries.

http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria



Participation compass

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE COMMUNITY OF PRACTICE

Participationcompass.org helps people in the public, private and not-for-profit sectors who need to involve a wider group of people in their work. The site and app provides information, advice, case studies and opportunities to share experiences with others. The site is mainly aimed at people who are directly involved in planning, running or commissioning participation activities. The Participation Compass contains information on methods of participation, case studies of participation in action, written resources and guides about participation, organisations that provide expertise around participation and news about participation.

http://participationcompass.org/



Participedia

EXPERT / OTHER GENERAL REFERENCE COMMUNITY OF PRACTICE

Participedia is an open global knowledge community for researchers and practitioners in the field of democratic innovation and public engagement. It provides a searchable database of cases, methods, and organizations,

http://participedia.net



Public Deliberation: A manager's guide to citizen engagement

EXPERT / OTHER GENERAL REFERENCE

Developed by the IBM Center for Business and Government in 2006, this report documents a spectrum of tools largely developed in the non-profit world to increase citizens' involvement with their governments. It highlights for example, the use of online surveys and peer-to-peer communication tools such as blogs and wikis.

It also highlights ways in which public managers can develop an active approach to increasing citizens' involvement in government at all levels.

http://www.businessofgovernment.org/report/public-deliberation-managers-guide-citizen-engagement



I UN Human Rights Council Resolution on Protecting Human Rights Defenders

INTER-GOVERNMENT PRINCIPLES

The UN Human Rights Council Resolution on Protecting Human Rights Defenders (A/HRC/22/L.13)was adopted in March 2013. It calls on all states to support the work of human rights defenders(HRDs) and to protect them from harassment, threats and attacks.

The resolution:

- Strongly calls upon States to end impunity for acts of intimidation or reprisals against HRDs, and to avoid criminalisation and other impediments to their work
- Recognises the importance of new forms of communication, online and offline, for the work of HRDs in promoting and striving for the protection of human rights
- Calls upon States to not impose discriminatory restrictions on potential sources of funding aimed at supporting the work of HRDs
- Recognises access to information as a human right, and calls upon public authorities to proactively disclose information on human rights abuses

The resolution supports the obligation upon States to:

• Create a safe and enabling environment in which HRDs can operate free from hindrance and insecurity, including

the duty to end impunity;

- Ensure laws do not prevent public officials from being held accountable and that penalties for defamation are proportionate;
- Ensure laws to protect national security are not misused to target HRDs and that counter-terrorism measures comply with international human rights standards;
- Ensure HRDs can perform their important role in the context of peaceful protests;
- Ensure that reporting requirements for civil society do not inhibit functional autonomy, and that no law criminalises or places discriminatory restrictions on funding sources;
- Ensure access to information as a human right, and requires public authorities to proactively disclose information, including on grave violations of human rights;
- Protect the expression of dissenting views;
- Protect the right of all people to access and use the Internet.

http://ap.ohchr.org/documents/alldocs.aspx?doc\_id=21380



UNICEF: Child and youth participation resource guide

INTER-GOVERNMENT DETAILED GUIDANCE

This guide presents resources on child and youth participation from Asia, Europe, North America, Latin America, Africa, Australia and the Pacific. The main audiences for this resource guide are practitioners and managers involved in promoting child and youth participation in government, community-based organizations, child-led organizations, NGOs and UN and donor agencies.

http:// http://www.unicef.org/adolescence/cypguide/index\_intro.html

Youth participation in development guide

EXPERT/OTHER DETAILED GUIDANCE GENERAL REFERENCE

Developed by the DFID / CSO Youth Working Group, this guide has been developed to assist donor agencies (multilateral and bilateral) and policy advisors in a range of organisations working with and for youth, as well as for government and civil society partners. This guide aims to increase understanding of the growing importance of, and greater potential for, youth participation in development practice and to explore key issues and approaches.

http://ygproject.org/

## Open government data



6 Degrees of Corporations

CIVIL SOCIETY DETAILED GUIDANCE GENERAL REFERENCE

6 Degrees of Corporation is an initiative under the Sunlight Foundation that looks exclusively at improving corporate accountability through Unique Corporate Identifiers. The Website provides a visualisation of the problem of not having unique corporate identifiers using one of the most common corporate identifiers (DUNS numbers), as well as an overview of the major U.S. federal systems, and a case study of one country that has successfully overcome this problem.

http://sunlightfoundation.com/sixdegrees/resources/



Open Data Definition

EXPERT/OTHER PRINCIPLES

The Open Definition gives full details on the requirements for 'open' data and content. Key features are: availability and access, reuse and redistribution, and universal participation.

http://opendefinition.org/



Open Data Guidelines for Procurement

EXPERT / OTHER DETAILED GUIDANCE

The Sunlight Foundation has created a set of guidelines to help shape how governments release data on their procurement process. The guidelines focus on how to make the procurement process more transparent, and what is required to allow for distributed oversight, fair competition, and an accessible market in government procurement.

http://sunlightfoundation.com/procurement/opendataguidelines



Open Knowledge Foundation Open Data Handbook

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE

The Open Data Handbook by the Open Knowledge Foundation provides an introduction to the legal, social and technical aspects of open data and is especially useful for those working with government data. It explains the basic concepts of open data, especially in relation to government, and covers how open data creates value and can have a positive impact in many different areas. In addition to exploring the background, the handbook also provides concrete information on how to produce open data.

http://opendatahandbook.org/pdf/OpenDataHandbook.pdf



OpenGovData.io

### EXPERT / OTHER GENERAL REFERENCE

In his book 'Open Government Data' from 2012, author Joshua Tauberer discusses the principles behind the open government data movement in the United States, including uses for transparency and civic engagement, a brief legal history, data quality, civic hacking, and paradoxes in transparency.

http://opengovdata.io/



Sunlight Foundation: Open Data Policy Guidelines

EXPERT / OTHER DETAILED GUIDANCE

The Open Data Policy Guidelines attempt to answer the specific question: What can or should an open data policy do? The guidelines are organised to help define (i) what data should be public; (ii) how to make data public, and (iii) how to implement policy - three key elements of any legislation, executive order, or other policy seeking to include language about open data.

http://sunlightfoundation.com/opendataguidelines/



Ten Principles for Opening Up Government Information

## EXPERT / OTHER PRINCIPLES

The Sunlight Foundation's Ten Principles for Opening Up Government Information provide a lens to evaluate the extent to which government data is open and accessible to the public. The principles are completeness, primacy, timeliness, ease of physical and electronic access, machine readability, non-discrimination, use of commonly owned standards, licensing, permanence and usage costs.

http://sunlightfoundation.com/policy/documents/ten-open-data-principles/



The 10 Principles for Open Data

## EXPERT / OTHER PRINCIPLES

The Sunlight Foundation's 10 Principles for Opening Up Government Information provide a lens to evaluate the extent to which government data is open and accessible to the public. The principles are completeness, primacy, timeliness, ease of physical and electronic access, machine readability, non-discrimination, use of commonly owned standards, licensing, permanence and usage costs.

http://sunlightfoundation.com/policy/documents/ten-open-data-principles/



World Bank Open Data Toolkit

## INTER-GOVERNMENT DETAILED GUIDANCE

The Open Data Toolkit contains information divided onto five different sections: 1) open data essentials; 2) technology options for open data systems; 3) how to build demand and engagement; 4) how to manage supply and quality of data, and 5) a readiness assessment tool.

http://data.worldbank.org/open-government-data-toolkit



World Wide Web Consortium: Linked Data

## EXPERT / OTHER DETAILED GUIDANCE

The Linked Data article, published by the World Wide Web Consortium (W3C), discusses solutions to problems resulting in unlinked data. It provides details concerning implementation, and discusses factors affecting choices about how to publish linked data.

http://www.w3.org/designissues/linkeddata



World Wide Web Consortium: Publishing Open Government Data

EXPERT / OTHER DETAILED GUIDANCE

The document 'Publishing Open Government Data' from 2009 contains a set of guidelines developed by the World Wide Web Consortium eGov Interest Group. The guidelines set out standards and methodologies to encourage publication of government data.

http://www.w3.org/TR/gov-data/

## Privacy and Data Protection

Council of Europe: Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

### INTER-GOVERNMENT PRINCIPLES

The Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data from 1981 extended the safeguards for everyone's rights and fundamental freedoms, and in particular the right to the respect for privacy, taking account of the increasing flow across frontiers of personal data undergoing automatic processing.

http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm

European Commission – Article 29 Working Party: Opinion 05/2014 on Anonymisation Techniques

## INTER-GOVERNMENT GENERAL REFERENCE

Article 29 Working Party – an independent European advisory body on data protection and privacy – adopted an Opinion on Anonymisation Techniques in 2014. The Opinion provides an analysis of the effectiveness and limits of existing anonymisation techniques against the EU legal background of data protection and provides recommendations to handle these techniques by taking account of the residual risk of identification inherent in each of them.

http://www.cnpd.public.lu/fr/publications/groupe-art29/wp216\_en.pdf

European Union: European Data Protection Directive 1995

## INTER-GOVERNMENT PRINCIPLES

The Data Protection Directive from 1995 (officially Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data) is a European Union directive which regulates the processing of personal data within the European Union. It is an important component of EU privacy and human rights law. The principle of the Directive is that personal data should not be processed at all, except when certain conditions are met, and these conditions fall into three categories: transparency, legitimate purpose, and proportionality. In 2012, the European Commission unveiled a draft European General Data Protection Regulation that will supersede the Data Protection Directive. This proposed new European Union Data Protection Regulation extends the scope of the EU data protection law to all foreign companies processing data of European Union residents.

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31995L0046&from=en

Global Network Initiative: Principles on Freedom of Expression and Privacy

### MULTI-STAKEHOLDER PRINCIPLES

The Global Network Initiative's Principles on Freedom of Expression and Privacy are based on internationally recognized laws and standards for human rights and were developed collaboratively by companies, investors, civil society organisations and academics. The Principles and their accompanying Implementation Guidelines aim to provide direction and guidance to the ICT industry and its stakeholders in protecting and advancing the enjoyment of human rights globally.

https://globalnetworkinitiative.org/sites/default/files/GNI - Principles 1 .pdf

GSMA: Privacy Design Guidelines for Mobile Application Development

## EXPERT / OTHER DETAILED GUIDANCE

The Privacy Design Guidelines for Mobile Application Development, published by GSMA in 2012, are intended to help ensure that mobile applications are developed in ways that respect and protect the privacy of users and their personal information. The guidelines encourage the development, delivery and operation of mobile applications that put users first and help them understand (at a minimum) what personal information a mobile application may access, collect and use; what the information will be used for, and why; and how users may exercise choice and control over this use. The publication provides examples and illustrative cases concerning the practical use of the Guidelines in a separate Annex.

http://www.gsma.com/publicpolicy/privacy-design-guidelines-for-mobile-application-development



GSMA: The Mandatory Registration of Prepaid SIM Card Users – A White Paper

EXPERT / OTHER GENERAL REFERENCE

Noting that, as of 2013, at least 80 countries globally have mandated, or are actively considering mandating, the registration of prepaid SIM users, the objectives of this GSMA White Paper are to provide insights and recommendations to support public deliberation on the merits or otherwise of mandating prepaid SIM registration. The White Paper highlights the potential unintended consequences of mandating prepaid SIM user registration; outlines the benefits that SIM user registration can deliver; recommends factors that policy-makers should consider before any decision to mandate the registration of prepaid SIM users; and demonstrates best practices from a range of countries that policy-makers should take into account if the decision to mandate prepaid SIM user registration has already been made.

http://www.gsma.com/publicpolicy/wp-content/uploads/2013/11/GSMA\_White-Paper\_Mandatory-Registration-of-Prepaid-SIM-Users 32pgWEBv3.pdf



International Principles on the Application of Human Rights to Communications Surveillance

## MULTI-STAKEHOLDER PRINCIPLES

The International Principles on the Application of Human Rights to Communications Surveillance were published in May 2014. The 13 Principles are the outcome of a global consultation with civil society groups, industry, and international experts in communications surveillance law, policy, and technology led by Privacy International, Access, and the <u>Electronic Frontier Foundation</u>. They assert that mass surveillance is a violation of international human rights law. The objective for developing these Principles was to provide civil society groups, industry, governments, and others with a framework to evaluate whether current or proposed surveillance laws and practices are consistent with human rights.

https://en.necessaryandproportionate.org/text



OECD: Guidelines on the Protection of Privacy and Transborder Data Flows of Personal Data

## INTER-GOVERNMENT PRINCIPLES DETAILED GUIDANCE

The Guidelines on the Protection of Privacy and Transborder Data Flows of Personal Data were developed by OECD Member countries and adopted in 1980. The Guidelines apply to all personal data. While they are not legally binding, they have long been recognised as a statement of norms that should govern personal data privacy and guide OECD members and private organisations in crafting their policies. The Guidelines stipulate that the following principles should be adhered to when collecting and processing personal information and data:

- Collection limitation: there should be limits to the collection of personal data, and data, which should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the individual.
- Data quality: personal data should be relevant to the purposes for which they are used, and should be accurate, complete and kept up-to-date.
- Purpose specification: the purposes for which personal data are collected should be specified and any subsequent use must be limited to that specification.
- Use limitation: data should not be disclosed, made available or otherwise used for purposes other than those

specified except a) with the consent of the individual or b) by the authority of law.

- Security safeguards: data should be protected by reasonable security safeguards to protect against lost, destruction, use, modification or disclosure.
- Openness: there should be a general policy about openness with respect to personal data.
- Individual participation: an individual should have the right to find out information about their data and to have incorrect data erased or rectified.
- Accountability: a data controller is accountable for complying with these measures.

http://www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata. htm



Open Data Institute: Open Data Certificates

## CIVIL SOCIETY DATA STANDARD

The Open Data Certificates have been created by the Open Data Institute in response to business, government, and citizen needs to bring rigour to the publication, dissemination and usage of open data. An open data certificate tells data users what the data is about and how to get hold of it. It shares information like availability, privacy, and licensing so they can decide how much to rely on it. The certificate is made up of two components, a visual mark that shows the quality level of the data, and a human and machine-readable description of the data being released.

https://certificates.theodi.org/about



Privacy by Design: 7 Foundational Principles

## EXPERT/OTHER PRINCIPLES

The 7 Foundational Principles, developed by Privacy by Design, aim to ensure privacy and personal control over one's information. The Principles advocate for 1) being proactive not reactive; 2) having privacy as the default setting; 3) having privacy embedded into design; 4) avoiding the pretence of false dichotomies, such as privacy vs. security; 5) providing full life-cycle management of data; 6) ensuring visibility and transparency of data; and 7) being user-centric. These Principles have been translated into 37 different languages.

http://www.privacybydesign.ca/index.php/about-pbd/7-foundational-principles/



II UN High Commissioner for Human Rights: The Right to Privacy in the Digital Age

## INTER-GOVERNMENT GENERAL REFERENCE

This report was submitted by the United Nations High Commissioner for Human Rights to the UN General Assembly in 2014 following concerns of Member States and other stakeholders about negative impact of surveillance practices on human rights. This report deals with the protection and promotion of the right to privacy in the context of domestic and extraterritorial surveillance, the interception of digital communications and the collection of personal data.

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A.HRC.27.37 en.pdf



United Nations: Guidelines for the regulation of computerized personal data files

INTER-GOVERNMENT PRINCIPLES DETAILED GUIDANCE

The Guidelines for the regulation of computerized personal data files were adopted by the United Nations General Assembly in 1990. The Guidelines contain a number of principles concerning the minimum guarantees that should be provided in national legislation such as, the principle of lawfulness and fairness, and the principle of accuracy.

http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=3ddcafaac

II United Nations: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

INTER-GOVERNMENT GENERAL REFERENCE

This Report of the Special Rapporteur, Frank La Rue, from 2013 analyses the implications of States' surveillance of communications on the exercise of the human rights to privacy and to freedom of opinion and expression. While considering the impact of significant technological advances in communications, the report underlines the urgent need to further study new modalities of surveillance and to revise national laws regulating these practices in line with human rights standards.

http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/03/PDF/G1313303.pdf?OpenElement

## **Public contracting**



Developing Data Standards for Open Contracting

MULTI-STAKEHOLDER DATA STANDARD

The Open Contracting Partnership has conducted a scoping exercise to identify the different data fields related to contracts in different sectors and countries, as the starting to develop a coherent base that can be used widely. In the future, the Partnership seeks to develop a universal standard for contracting data and accompanying reference guides. Additionally the Partnership will pilot the standards with selected countries.

http://www.open-contracting.org/developing data standards for open contracting



Global Partnership for Social Accountability

MULTI-STAKEHOLDER COMMUNITY OF PRACTICE

The Global Partnership for Social Accountability (GPSA) is a coalition of donors, governments and civil society organisations (CSOs) that aims to improve development results by supporting capacity building for enhanced citizen feedback and participation. The GPSA provides strategic and sustained support to CSOs' social accountability initiatives, and provides grants for CSOs for capacity building, research and knowledge dissemination, networking and

programmatic activities related to social accountability in their country. It also supports a global platform for knowledge exchange and research.

http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:23017716~pagePK:220503~piPK:220476~theSi tePK:228717,00.html



OECD Methodology for Assessing Procurement Systems (MAPS)

INTER-GOVERNMENT DETAILED GUIDANCE

The OECD Methodology for Assessing Procurement Systems from 2009 provides a common tool which developing countries and donors can use to assess the quality and effectiveness of procurement systems.

http://www.oecd.org/dac/effectiveness/45454394.pdf



OECD Principles for Integrity in Public Procurement

INTER-GOVERNMENT PRINCIPLES DETAILED GUIDANCE

The OECD Principles for Integrity in Public Procurement from 2009 reflect a global view of policies and practices that have proved effective for enhancing integrity in procurement. The document provides guidance for the implementation of various international legal instruments. It also includes a Checklist for implementing the integrity framework throughout the public procurement cycle, and a map of risks that can help auditors prevent, as well as detect, fraud and corruption.

http://www.oecd.org/gov/ethics/48994520.pdf



OECD Public Engagement for Better Policy and Services

INTER-GOVERNMENT PRINCIPLES

Based on a survey of governments in 25 countries, 14 in-depth country case studies and 18 opinion pieces from leading civil society and government practitioners; this book from 2009 proposes 10 guiding principles to support open and inclusive policy making and service delivery in practice.

http://www.iadb.org/intal/intalcdi/pe/2009/03785.pdf



Open Contracting Data Standard

MULTI-STAKEHOLDER DATA STANDARD

The "Open Contracting Data Standard" will be a common standard for the disclosure of contracting data. It is being developed by the Open Contracting Partnership (OCP) and the World Wide Web Foundation (Web Foundation). v1.0 will be delivered by the end of 2014.

http://http://www.open-contracting.org/significant\_step\_forward\_for\_global\_transparency



Open Contracting Principles

MULTI-STAKEHOLDER PRINCIPLES

The Contracting Principles reflect norms and best practices from around the world related to disclosure and participation in public contracting. The 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.

http://www.open-contracting.org/global\_principles



Open Contracting: A New Frontier for Transparency and Accountability

EXPERT / OTHER GENERAL REFERENCE

This report produced by the World Bank Institute, on behalf of the Open Contracting Partnership provides an overview of emerging practices and methodologies of disclosure and participation in public contracting. It outlines the practical actions that are already being taken by governments, civil society, private sector, and donors to support open contracting with reference to concrete examples from around the world as well as the rationales behind them.

http://pro-act.org/profiles/blogs/research-highlights-open-contracting-practices-from-around-the-wo



Open Data Guidelines for Procurement

EXPERT / OTHER DETAILED GUIDANCE

The Sunlight Foundation has created a set of guidelines to help shape how governments release data on their procurement process. The guidelines focus on how to make the procurement process more transparent, and what is required to allow for distributed oversight, fair competition, and an accessible market in government procurement.

http://sunlightfoundation.com/procurement/opendataguidelines



The Open Contracting Community of Practice

MULTI-STAKEHOLDER COMMUNITY OF PRACTICE

The Open Contracting Partnership maintains a community of practice focused on improving the access to open contracting resources and tools. This online platform seeks to provide a space where interested stakeholders from civil society, government, private sector, media, academia and others to share, learn, connect and collaborate around

experiences in open contracting.

http://pro-act.org/

## **Public services**



Civicus – Monitoring and Evaluating Public Services



CIVIL SOCIETY DETAILED GUIDANCE COMMUNITY OF PRACTICE

PG Exchange is an initiative of CIVICUS: World Alliance for Citizen Participation. The website is a part of CIVICUS' work on increasing the influence of citizens and civil society organisations in governance processes. The Participatory Governance Project of CIVICUS works to enhance the capacity of targeted southern-based civil society and government actors to promote participatory and accountable governance of public institutions at local and national levels.

The section on monitoring and evaluation public services includes details of stakeholder surveys, citizen report cards, community score cards, community monitoring and evaluation and social audits.

http://www.pgexchange.org/index.php?option=com\_content&view=category&id=59&ltemid=135



OECD: Focus on Citizens – Public Engagement for Better Policy and services

## INTER-GOVERNMENT PRINCIPLES GENERAL REFERENCE

This book published in 2009 is based on a survey of governments in 25 countries, 14 in-depth country case studies and 18 opinion pieces from leading civil society and government practitioners. It looks at how OECD governments putting the principles of open and inclusive policy making into practice and how they can they ensure broader, more inclusive, participation. It includes includes 10 guiding principles to support open and inclusive policy making and service delivery in practice.

The OECD report presents ten Guiding Principles that were designed to help governments strengthen open and inclusive policy making as a means to improving their policy performance and service delivery:

- 1. Commitment
- 2. Rights
- 3. Clarity
- 4. Time
- 5. Inclusion
- 6. Resources
- 7. Co-ordination
- 8. Accountability
- 9. Evaluation
- 10. Active citizenship

http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm

OECD: Together for Better Public Services – Partnering with citizens and civil society:

EXPERT / OTHER GENERAL REFERENCE

This report analyses the partnerships that governments form with citizens, users and CSOs in order to innovate and deliver improved public service outcomes. It identifies the risks of citizen and user involvement in service delivery, and the barriers that must be overcome to make these models work. It highlights top-level political commitment, adequate public sector capacity, and aligned financial incentives as the key factors for success.

http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf

The World Bank: Citizens and service delivery

INTER-GOVERNMENT GENERAL REFERENCE

This World Bank Book reviews how citizens can influence service delivery through access to information and opportunities to use it to hold providers accountable. It focuses on social accountability measures that support the use of information to increase transparency and service delivery and grievance redress mechanisms to help citizens use information to improve accountability. The report takes stock of what from experience to date and highlights that the relationships between citizens, policy-makers, program managers, and service providers are complicated, not always direct or easily altered through a single intervention, such as an information campaign or scorecard exercise.

http://elibrary.worldbank.org/content/book/9780821389805

## Records management

ARTICLE 19 Training course for public officials

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE

ARTICLE 19's Freedom of Information Training Manual for Public Officials was designed as a resource for officials who want to adopt administrative practices that conform to the best standards of freedom of information.

https://www.ip-rs.si/fileadmin/user\_upload/Pdf/Publikacije\_ostalih\_pooblascencev/Article\_19\_foitrainersmanual.pdf

CLD Training course for public officials

EXPERT / OTHER GENERAL REFERENCE COMMUNITY OF PRACTICE

**CLD Training course for public officials** 

http://www.law-democracy.org/live/wp-content/uploads/2012/08/Manual-Final.docx



Digital Repository Audit Method Based On Risk Assessment (DRAMBORA)

EXPERT / OTHER DETAILED GUIDANCE

The Digital Curation Centre and Digital Preservation Europe have developed the Digital Repository Audit Method Based On Risk Assessment (DRAMBORA) toolkit. This toolkit is intended to facilitate internal audit by providing repository administrators with a means to assess their capabilities, identify their weaknesses, and recognise their strengths.

http://www.repositoryaudit.eu/



Integrating Records Management in ICT Systems

### EXPERT / OTHER DETAILED GUIDANCE

This tool, produced by the International Records Management Trust, is designed to help governments determine whether or not records management requirements have been integrated in ICT systems. It identifies good practices and measures if good practices have been achieved, from the planning and design stage through to implementation.

http://www.irmt.org/documents/educ\_training/term resources/IRMT\_Good\_Practice\_Indicators.pdf



ISO 15489:2001 Information and Documentation – Records Management

EXPERT / OTHER DETAILED GUIDANCE GENERAL REFERENCE

This record management standard from 2001 is made up of 2 parts. Part 1 outlines a framework for best practice, and is intended as a general briefing document, on the basic principles of managing records, for all staff and management of an organisation. Part 2 builds on the best practice framework to give more detailed recommendations for managing records.

http://www.iso.org/iso/catalogue\_detail?csnumber=31908

ISO 23081-2:2009 Information and Documentation – Records Management Processes – Metadata for Records

EXPERT / OTHER PRINCIPLES DETAILED GUIDANCE DATA STANDARD

The strategies for managing metadata for digital objects and associated control systems should be in line with international standards such as ISO 23081-2:2009 Information and Documentation - Records Management Processes -Metadata for Records. This standard is in 3 parts: Part 1 – Principles; Part 2 – Conceptual and Implementation Issues; and, Part 3 - Self Assessment Methods.

http://www.iso.org/iso/iso catalogue/catalogue tc/catalogue detail.htm?csnumber=50863



EXPERT / OTHER PRINCIPLES DETAILED GUIDANCE GENERAL REFERENCE

This publication by the International Organization for Standardization defines terms and definitions applicable to the standards on management systems for record (MSR), establishes the objectives for using a MSR, provides principles for a MSR, describes a process approach, and specifies roles for top management.

http://www.iso.org/iso/catalogue\_detail?csnumber=53732



INTER-GOVERNMENT DETAILED GUIDANCE DATA STANDARD

The European Commission developed MoReq2010, a requirements standard that is widely used by other governments. Two web sites provide information on MoReq2010. The DLM Forum, which manages MoReq2010, maintains its own web site at: http://www.moreq.info/. Inforesight Ltd., an independent consulting firm, supports a web site (http://www.moreq2.eu/home) that contains a wide range of resources related to MoReq2010.

http://www.moreq2.eu/home

Nestor- Catalogue of Criteria for Trusted Digital Repository

EXPERT / OTHER DETAILED GUIDANCE

This report from 2006 focuses on trustworthiness in records management. It particularly identifies criteria aiming to facilitate the evaluation of digital repository trustworthiness, both at organisational and technical levels.

http://files.d-nb.de/nestor/materialien/nestor mat 08-eng.pdf

Open Archival Information System (OAIS) (ISO 14721)

EXPERT / OTHER PRINCIPLES DATA STANDARD

ISO 14721:2012, published by the International Organization of Standardization, defines the reference model for an open archival information system (OAIS).

http://www.iso.org/iso/home/store/catalogue\_tc/catalogue\_detail.htm?csnumber=57284

Principles and functional requirements for records in electronic office environments (ISO 16175)

EXPERT / OTHER DETAILED GUIDANCE DATA STANDARD

This document, published in 2011 by the International Organization for Standardization, articulates a set of functional requirement for digital records management systems.

http://www.iso.org/iso/catalogue\_detail.htm?csnumber=55791



EXPERT / OTHER DETAILED GUIDANCE

ISO 16363:2012 defines a recommended practice for assessing the trustworthiness of digital repositories. It is applicable to the entire range of digital repositories and can be used as a basis for certification.

http://www.iso.org/iso/catalogue\_detail.htm?csnumber=56510

The Digital Curation Centre

EXPERT / OTHER GENERAL REFERENCE

The Digital Curation Centre (http://www.dcc.ac.uk) is a good source of information on the management and preservation of datasets.

http://www.dcc.ac.uk/

Trusted Digital Repository: Attributes and Responsibilities (2002)

### EXPERT / OTHER

This report from 2002 provides a framework of attributes and responsibilities for trusted, reliable, sustainable digital repositories capable of handling the range of materials held by large and small research institutions.

http://www.oclc.org/content/dam/research/activities/trustedrep/repositories.pdf?urlm=161690

Trustworthy Repository Audit & Certification: Criteria and Checklist

## EXPERT / OTHER DETAILED GUIDANCE

The "Trustworthy Repository Audit & Certification: Criteria and Checklist", published in 2007 by the Center for Research Libraries and the Online Computer Library Center, provides a set of criteria and a checklist to facilitate the certification of digital repositories.

http://www.crl.edu/sites/default/files/attachments/pages/trac\_0.pdf

UK Data Archive directory to sources on the management of valuable datasets

EXPERT / OTHER DATA STANDARD GENERAL REFERENCE

The United Kingdom Data Archive has produced a directory with links to sources on the management of valuable datasets

http://data-archive.ac.uk/create-manage/document/resources

## Right to information

1 African Commission on Human and Peoples' Rights: Declaration of Principles on Freedom of Expression in Africa

INTER-GOVERNMENT PRINCIPLES

The Declaration of Principles on Freedom of Expression in Africa was signed in Banjul, the Gambia, in October 2002. The Declaration states that freedom of expression and information is a fundamental and inalienable human right. With regard to secrecy laws, it further states that secrecy laws shall be amended as necessary to comply with freedom of information principles.

http://www1.umn.edu/humanrts/achpr/expressionfreedomdec.html

1 African Commission on Human and Peoples' Rights: The Model Law on Access to Information for Africa

INTER-GOVERNMENT PRINCIPLES DETAILED GUIDANCE

This Model Law on access to information for Africa from 2012 is a non-binding document crafted specifically as a tool to guide law makers in African countries in translating obligations found in international treaties into detailed national legislation.

The Model Law aims to guide the development of new access to information legislation and the review of existing legislation. Its purpose is also to be an advocacy tool to encourage the adoption of access to information laws, to provide a compilation of best practices, and to help reinforce a common approach and harmonisation of access to information laws.

http://www.achpr.org/files/news/2013/04/d84/model\_law.pdf

ARTICLE 19 Principles

MULTI-STAKEHOLDER PRINCIPLES

ARTICLE 19 has published a set of international principles on freedom of information legislation: 'The Public's Right to Know - Principles on Freedom of Information Legislation'. These principles set out ways in which governments can achieve maximum openness, in line with the best international standards and practice. They are designed primarily for national legislation on freedom of information or access to official information but are equally applicable to information held by inter-governmental bodies such as the United Nations and the European Union.

http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf

ARTICLE 19 Training course for public officials

MULTI-STAKEHOLDER DETAILED GUIDANCE

ARTICLE 19 has published a Training Manual for Public Officials. The Manual is designed as a resource for officials who want to adopt administrative practices that conform to the best standards of freedom of information.

https://www.ip-rs.si/fileadmin/user\_upload/Pdf/Publikacije\_ostalih\_pooblascencev/Article\_19\_foitrainersmanual.pdf

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EXPERT / OTHER DETAILED GUIDANCE

The access to information legislation Implementation Assessment Tool, developed by the Carter Center, serves the dual purpose of diagnosing the extent to which the public administration has the capacity to respond to requests and to provide information, as well as providing an implementation roadmap for the government. The Assessment Tool is constructed to serve as an input for each public agency in which it is applied, and not as a comparative index across countries. The objectives of the Assessment Tool are to:

Establish a comprehensive set of access to information implementation benchmarks;

Carter Center: The Access to Information legislation Implementation Assessment Tool

- Identify the extent to which a ministry/agency has implemented its law;
- Provide a roadmap for improvements; and
- Contribute to scholarship on implementation and to the understanding of implementation successes and challenges.

http://www.cartercenter.org/peace/americas/access\_to\_information/IAT/index.html

OGP Eligibility Criteria: Access to Information

OGP ELIGIBILITY CRITERIA RATING

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts. Any government that achieves a score of at least 75% of the total possible points available to them can join OGP at any time once they have demonstrated that they meet these minimum criteria.

Having an access to information law is one of the four eligablity criteria. This is assesseded based nformation taken from an ongoing survey by Right2Info.org that covers 197 countries. Four points are awarded to countries with access to information laws in place, three points if a country has a constitutional provision guaranteeing access to information, and one point if a country has a draft access to information law under consideration. Countries with both a constitutional provision and a draft law under consideration will only be awarded the 3 points for the constitutional provision.

http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria

RTI Rating

CIVIL SOCIETY RATING

The RTI Rating, published by Access Info and the Centre for Law and Democracy, analyses the quality of the world's right to information laws. It covers 89 countries with RTI laws. The RTI Rating assesses the overall strength of countries' legal

framework concerning RTI, and indicates the strengths and weaknesses of the legal framework in seven different categories, namely: Right of Access, Scope, Requesting Procedures, Exceptions and Refusals, Appeals, Sanctions and Protections, and Promotional Measures.

http://www.rti-rating.org/



Special Mandates 2004 Declaration

## INTER-GOVERNMENT PRINCIPLES

A joint declaration concerning access to information and secrecy legislation was adopted in 2004 by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression.

http://www.osce.org/fom/38632



Tshwane Principles on National Security and the Right to Information

## CIVIL SOCIETY PRINCIPLES

The Tshwane Principles on National Security and the Right to Information were issued in June 2013 by 22 organisations and academic centres from around the world. The Principles were developed in order to provide guidance to those engaged in drafting, revising or implementing laws or provisions relating to the state's authority to withhold information on national security grounds or to punish the disclosure of such information. They are based on international and regional law and standards, evolving state practice, the general principles of law recognized by the community of nations, and the writings of experts.

http://www.right2info.org/exceptions-to-access/national-security



World Bank's Public Accountability Mechanisms website

## INTER-GOVERNMENT GENERAL REFERENCE

The World Bank's Public Accountability Mechanisms website provides extensive information about various aspects of the right to information, including implementation measures.

http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0,,contentMDK:23352107~p agePK:148956~piPK:216618~theSitePK:286305,00.html

## Whistleblower protection



INTER-GOVERNMENT DETAILED GUIDANCE

This Manual from 2013 provides a comprehensive overview of the key skills that national human rights institution investigators require in order to conduct effective investigations. Chapter 17 of the manual focuses on whistleblowers, including how best to handle whistleblowers and how to assess whistleblower evidence.

http://www.asiapacificforum.net/support/files/investigations-manual-for-nhris

British Standards Institute: Whistleblowing Arrangements Code of Practice

## EXPERT / OTHER DETAILED GUIDANCE

This code of practice from 2008 explains how whistleblowing can be used as a key tool in tackling fraud and crime. It contains recommendations for organisations, including building fail-safe channels and providing confidential advice, and improving employee trust and providing for external disclosures. Other issues such as anonymity, public concerns and private complaints, whistleblowers with ulterior motives, and bullying and harassment are also included. On the subject of raising public awareness, the code of conduct recommends that organisations display striking posters or use engaging messages on an intranet to remind staff to raise a concern before it becomes a complaint.

http://www.pcaw.org.uk/bsi

🔰 Brown, A.J., P. Roberts and J. Olsen (2011) Whistling While They Work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations

## EXPERT / OTHER DETAILED GUIDANCE

This good-practice guide from 2011 is designed to assist with the special systems needed for managing 'public interest' whistleblowing - where the suspected wrongdoing affects more than the personal interests of the person making the disclosure. It sets out results from four years of research into how public sector organisations can better fulfil their missions, maintain their integrity and value their employees by adopting a current best-practice approach to the management of whistleblowing.

http://epress.anu.edu.au?p=144611

Council of Europe: (Draft) Recommendation and Explanatory Memorandum on the Protection of Whistleblowers

### INTER-GOVERNMENT PRINCIPLES

The Council of Europe is currently working on the preparation of a draft recommendation on protecting whistleblowers. The adoption of a recommendation is a collective expression of European intergovernmental opinion on a subject matter, which gives it a certain authority, even if it does not have the same obligatory force as would a convention. The draft recommendation calls Council of Europe member States to establish a normative, institutional and judicial framework for the protection of whistleblowers. The principles set out in the recommendation are intended to guide member States wishing to modernise their legal systems. The draft recommendation is due to be considered for approval by the Committee of Ministers in early 2014.

http://www.coe.int/t/dghl/standardsetting/cdcj/whistleblowers/Whistleblowers%20meeting%20-%20Explanatory%20notes%20.pdf

Council of Europe's Parliamentary Assembly (PACE): Recommendation 2024, Provisional Version

INTER-GOVERNMENT GENERAL REFERENCE

Resolution 2024 'national security and access to information' from 2013 urges member states to implement the Council of Europe's Convention on Access to Official Documents and to take into account the Global Principles on National Security and the Right to Information.

http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20194\(\sigma\) = en

Council of Europe's Parliamentary Assembly (PACE): Resolution 1729

INTER-GOVERNMENT GENERAL REFERENCE

Recommendation 1729 'Protection of Whistle-blowers' from 2010 recognises the importance of whistleblowers for strengthening accountability and bolster the fight against corruption and mismanagement, both in the public and private sectors. The Parliamentary Assembly invites all member states to review their legislation concerning the protection of whistleblowers, keeping in mind the following guiding principles:

- Whistle-blowing legislation should be comprehensive;
- It should focus on providing a safe alternative to silence;
- As regards the burden of proof, it shall be up to the employer to establish beyond reasonable doubt that any measures taken to the detriment of a whistle-blower were motivated by reasons other than the action of whistleblowing; and
- The implementation and impact whistleblower legislation should be monitored and evaluated at regular intervals by independent bodies.

http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17851 = en

Council of Europe's Parliamentary Assembly (PACE): Recommendation 1916

INTER-GOVERNMENT GENERAL REFERENCE

Recommendation 1916 'Protection of Whistle-blowers' from 2010 stresses the importance of whistleblowing as a tool to increase accountability and strengthen the fight against corruption and mismanagement, and recommends that the Committee of Ministers draw up a set of guidelines for the protection of whistleblowers.

http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=178520=en

Government Accountability Project: International Best Practices for Whistleblower Policies

CIVIL SOCIETY DETAILED GUIDANCE

This document by the Government Accountability Project from 2013 provides a checklist of 20 requirements to ensure that whistleblower laws are in line with international best practice. These 'best practices' standards are based on a

compilation of all national laws and Intergovernmental Organisation policies such as those at the United Nations and World Bank.

http://www.whistleblower.org/storage/documents/Best\_Practices\_Document\_for\_website\_March\_13\_2013.pdf

OECD: G20, Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation

## INTER-GOVERNMENT PRINCIPLES

This OECD study from 2011 focuses on the main features of whistleblower protection laws, and provides best practice examples from G20 countries in the scope and application of their laws. The report also includes a set of guiding principles, which provide reference for countries intending to establish, modify or complement whistleblower protection frameworks.

http://www.oecd.org/general/48972967.pdf

Organisation of American States: Draft Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses

## INTER-GOVERNMENT PRINCIPLES

This model law from 2011 provides detailed guidance on how to establish norms, procedures and mechanisms to facilitate and encourage the reporting of acts of corruption that are liable for administrative or criminal investigation and punishment and to protect public officials and any person who, in good faith, reports or witnesses these acts.

http://www.oas.org/juridico/english/draft\_model\_reporting.pdf

1 Stiching Van De Arbeid (Labour Foundation): Statement on Dealing with Suspected Malpractices in Companies

EXPERT / OTHER DETAILED GUIDANCE

As a response to a request made by the Dutch Government to the Dutch Labour Foundation to develop a whistleblowing code of conduct, this document from 2010 is intended as an initial step towards creating company- or industry-level guidelines for reporting suspected malpractice.

http://www.stvda.nl/en/~/media/Files/Stvda/Talen/Engels/2012/20120829 EN.ashx

The Hague Institute for the Internationalisation of Law: Towards basic justice care for everyone: Challenges and promising approaches

EXPERT / OTHER GENERAL REFERENCE

This trend report tackles the question of what can be done to reduce the unnecessary suffering, injustice, and poverty caused by a lack of legal protection. It provides an assessment of what is known about access to justice, focusing on civil justice, administrative justice and redress for victims of crime. As an approach, it uses the perspective of what people seeking access to justice need, bringing together evidence from many different disciplines about what works to meet these needs. It uses country examples to show why and how countries are beginning to close the access to justice gap.

http://www.hiil.org/data/sitemanagement/media/TrendReport\_Part1\_020412\_DEF%20%282%29.pdf



Tshwane Principles on National Security and the Right to Information

CIVIL SOCIETY PRINCIPLES

The Tshwane Principles on National Security and the Right to Information were issued in June 2013 by 22 organisations and academic centres from around the world. The Principles were developed in order to provide guidance to those engaged in drafting, revising or implementing laws or provisions relating to the state's authority to withhold information on national security grounds or to punish the disclosure of such information. They are based on international and regional law and standards, evolving state practice, the general principles of law recognized by the community of nations, and the writings of experts.

http://www.right2info.org/exceptions-to-access/national-security

# **Annex: Acknowledgements**

## **Topic Contributors**

Assets disclosure and conflicts of interest

This topic was developed by Abhinav Bahl of <u>Global Integrity</u>, with inputs from David Banisar of <u>Article 19</u>, Stephanie Trapnell and Francesca Cantini of the <u>World Bank</u>, and xxx of <u>Integrity Action</u>.

## **Budgets**

This topic has been developed by the <u>International Budget Partnership</u> with contributions from Vivek Ramkumar and Warren Krafchik (IBP), Jay Kruuse, <u>Public Service Accountability Monitor, South Africa</u>; Claire Schouten, <u>Integrity Action</u>; Rocio Moreno, Global Movement for Budget Transparency Accountability and Participation (<u>BTAP</u>); Katarina Ott, <u>Institute of Public Finance, Croatia</u>; Nicola Smithers and others, the World Bank;, and Jason Haris, the International Monetary Fund (IMF).

## Citizen engagement

This Topic was developed by Involve (Tim Hughes and Simon Burall) with inputs from Tim Davies - Practical Participation, Claire-Marie Foulquier-Gazagnes - Sciences Po Paris & HEC Paris, Rikki Dean - London School of Economics, Claudia Cappelli - UNIRIO - Federal University of State of Rio de Janeiro, Brazil, Informatic Department, Rakesh Rajani -- Twaweza, Rodrigo Davies - Center for Civic Media, MIT, Rebecca M. Townsend - Manchester Community College, Connecticut, Craig Thomler - Delib Australia, Lorna Ahlquist - Empowering Practice, Scotland, Benjamin Allen - Democracy and Good Governance Consulting, Adam Fletcher - CommonAction Consulting, Bill Badham - Co-Director, Practical Participation and Gilbert Sendugwa - Africa Freedom of Information Centre.

## Open government data

This topic has been developed by the <u>Sunlight Foundation</u>, with inputs from the <u>Open Knowledge Foundation</u> and the <u>Global Open Data Initiative</u>.

## Privacy and Data Protection

This topic was developed by Carly Nyst from <u>Privacy International</u> and Javier Ruiz from the <u>Open Rights Group</u> with input from Tim Davies, Fabrizio Scrollini, Sam Smith, Tom Glaisyer, Steve Song, and Toby Mendel.

## Public contracting

This topic has been developed by the <u>Open Contracting Partnership</u>, whose steering group is currently made up of the following organisations: <u>Colombia Compra Eficiente</u>, <u>Construction Sector Transparency Initiative</u> (CoST), <u>Deutsche Gesellschaft für Internationale Zusammenarbeit</u> (GIZ) on behalf of the <u>German Federal Ministry for Economic Cooperation and Development</u> (BMZ), <u>Integrity Action</u>, <u>Oxfam America</u>, the <u>Philippines Government Procurement Policy Board</u>, <u>Transparency International and World Bank Institute</u>.

## Public services

This topic was developed by Twaweza and Involve with inputs from Rakesh Rajani (Twaweza), Tim Hughes (Involve) and Maya Forstater (Transparency and Accountability Initiative)

## Records management

This topic has been developed by Anne Thurston, James Lowry, John McDonald, Andrew Griffin and Anthea Seles from the <u>International Records Management Trust</u> with contributions from members of the <u>International Council on Archives</u>, and members of the <u>Association of Commonwealth Archivists and Records Managers</u>.

## Right to information

This topic has been prepared by Prepared by Helen Darbishire of Access Info Europe and and Toby Mendel of the Centre for Law and Democracy with comments by Venkatesh Nayak of the Human Rights Initiative, Rachel Rank of Publish What You Fund, David Goldberg, Andres Meija, Allison Tilley of Open Democracy Advice Centre, Codru Vrabie, Javier Casas of Suma Ciudana, Carole Excell of the Access Initiative, Mark Weiler, Luis F. Esquivel and Marcos Mendiburu of the World Bank Institute and Tania Sánchez Andrade of IFAI, Mexico.

## Whistleblower protection

This Topic has been developed by the <u>Whistleblowers International Network</u> (Anna Myers) with valuable input from Bea Edwards and Alison Glick, <u>Government Accountability Project</u>; David Hutton, <u>Federal Accountability Initiative for Reform</u>; Guido Strack, <u>Whistleblowers Network Germany</u>; Alison Tilley, <u>Open Democracy Advice Centre</u>; and Cathy James and Francesca West, <u>Public Concern at Work</u>.

## Guide to Opening Government

The Open Government Guide has been developed and edited by Maya Forstater, (consultant) under the direction of Vanessa Herringshaw (Director, T/AI) with support from Linnea Mills. T/AI is grateful to all the authors who generously contributed their time and expertise to the project, and to those who have provided comments, case studies and resources.

An advisory group provided high level comments to the development of the guide. Thank-you to Linda Frey and Paul Maassen from the Open Government Partnership, Martin Tisne from Omidyar Network, Julie McCarthy from the Open Society Foundations, Katarina Ott from the Institute for Public Finance in Croatia and Joel Salas.

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