

# Open Contracting in MALAWI

*At a glance*

Photo by Swathi Sridharan

**Open contracting** can transform public procurement through better data, analysis and engagement with businesses and civil society. It involves (1) disclosure of open data and documents about the planning, procurement, and management of public contracts; and (2) engagement with civic and business users of information, leading to improved accountability and redress by government agencies or contractors through acting on the feedback received.



## COUNTRY FACTS

Uses e-procurement system	NO
Implements Open Contracting Data Standard	NO
Active open contracting infomediaries	NO



## COUNTRY HIGHLIGHTS

Malawi joined the OGP in 2013

Public procurement accounts for around 80% of Malawi's annual budget

Malawi Confederation of Chamber of Commerce and Industry helps its member to lodge complaints against "unfair" tenders



## OPEN CONTRACTING OPPORTUNITIES IN MALAWI

Malawi can make a commitment to open contracting in its upcoming OGP national action plan, or in the Malawi Growth Development Goals, in line with the Open Contracting Global Principles.

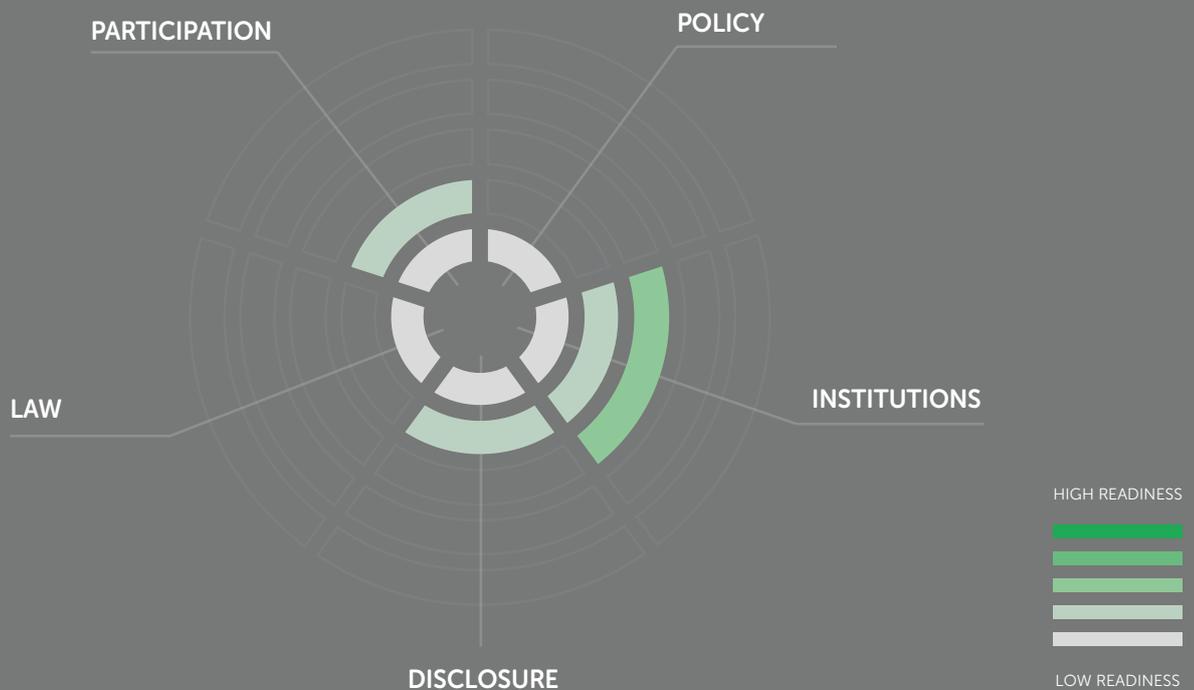
The ODPP should consider reviewing the Public Procurement Regulations and Desk Instructions and other legal documents that guide public procurement. This would enable procuring entities to develop and implement policies for disclosing information on the full contracting cycle, including planning and implementation.

The ODPP should consider working with procuring entities to set up mechanisms that would enable citizens, infomediaries, or businesses to access information on the planning, procurement, and implementation of all types of public contracts. Such a mechanism may include a central portal managed by the ODPP that links to all procuring entities' websites. A short-term solution would be to revamp the inactive ODPP website.

The ODPP and procuring entities should consider establishing clear guidelines or a program for engaging with citizens and the private sector in open contracting. These may include public forums on public contracts, and calls for feedback through radio, television, or newspapers.

There is room to support civil society organizations and other infomediaries in their efforts to empower citizens at the community and district level to hold public officers to account. This may include setting up financial support mechanisms in cooperation with international donors.

This report provides an overview of the country specific conditions for open contracting in the summer of 2016. Given this limited scope, the report is not intended for cross-country comparisons, measurement or scoring.



## EVALUATION OF OPEN CONTRACTING READINESS IN MALAWI

### LAW:

The constitution grants Malawi citizens the right of access to information held by the state. Exercising these rights is subject to acts of parliament, including the Public Procurement Act, and other related laws, such as the Access to Information Act, which is yet to be passed. The regulations require that procuring entities keep records of public procurement proceedings. Disclosure requirements are limited to a project description published in an invitation to tender or prequalify, comparison of bids, and a bid evaluation summary.

### POLICY:

There are no high-level policies that explicitly commit to implementing open contracting. However, the National Anti-Corruption Strategy seeks to reduce corrupt practices in all sectors including public procurement. Launched in 2009, the strategy is being implemented by a multi-stakeholder group, the National Integrity Committee (NIC).

### INSTITUTIONS:

The Office of the Director of Public Procurement (ODPP) is responsible for the regulation and monitoring of public procurement, and administration of the procurement law. As a regulatory body, the ODPP does not conduct procurement activities nor approve procurement decisions. Rather, it shapes procurement policies, monitors implementation of these policies, and builds capacity.

### DISCLOSURE:

Some procuring entities publish tender notices (more often in newspapers than online). Information on the planning and implementation of public contracts is not published.

### PARTICIPATION:

There is no program or any type of guidance from the ODPP, Ministry of Finance or procuring entities to engage with citizens and the private sector in public contracting matters. Some procuring entities organize ad-hoc meetings with contractor associations, CSOs and others. The Malawi Confederation of Commerce and Industry (MCCCI) uses tender information to monitor procurement, although there is no other evidence of public contracting information being used by stakeholders.