

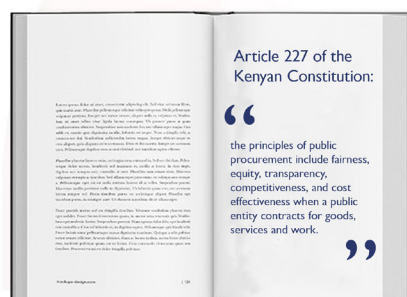
Open contracting: Connection with Access to Information

The government spends millions of Kenyan shillings on getting goods and services for the public interest. The goods and services are acquired through public procurement. That means the government signs contracts with different companies (public contracting).

Interesting fact: Worldwide, governments spend about US\$9.5 trillion—or 15% of global GDP—on contracts with companies to procure goods and services.

1. What is Open Contracting?

Open contracting is about publishing and using open, accessible and timely information on public contracting to engage citizens and businesses to fix problems and deliver results. *Source: Definition by www.opencontracting.org*



Open Contracting involves:

1. Disclosure of available data and documents about the planning, procurement, and management of public contracts;
2. Engagement with various users of information, leading to improved accountability; and
3. Redress by government agencies or contractors by acting on the feedback.

2. What are the benefits of Open Contracting?

- ✓ Value for money
- ✓ Fair competition and business practices
- ✓ Preventing fraud, collusion and corruption
- ✓ Citizen engagement with information for accountability
(A tool that enhances transparency)

3. What do we need to see?

- a. The government should proactively disclose all public contract information regarding the formation, award, execution, performance and completion.
- b. The government should publish all the relevant information at all procurement stages.
- c. More public participation and citizen engagement in public projects and contracting.
- d. Publishing all public contracts related to country projects.
(make public contracts available and accessible to everyone).



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SIMPLIFIED GUIDE ON ACCESS TO INFORMATION AND OPEN CONTRACTING.



1. What is Access to Information?

- ✓ It means being allowed to see or hear information or provided with a copy of a record.
- ✓ It is a right guaranteed under Article 35 of the Constitution of Kenya 2010 and realised through implementing the Access to Information Act 2016.

"Every person has a right to access information held by the State"

"Every person has a right to access information held by another person"

- ✓ You also have a right to the correction or deletion of untrue or misleading information that affects you.
- ✓ The government **MUST** publish and publicise any important information affecting the nation.

2. Why is the right important?

- ✓ If you access the information, you will have the knowledge required to participate effectively in the democratic process. You will make decisions based on the correct information.
- ✓ You are more likely to contribute to the country's economic, social and political development if well informed.
- ✓ Access to information is your tool to enhance transparency and accountability. It may also guard against corruption-related practices within the public service delivery sectors.

3. What public entities **MUST** disclose.

- ✓ All important facts while formulating important policies or announcing the decisions which affect the public,
- ✓ communicate or publish all the facts before initiating any project, or formulating any policy, scheme, programme or law, to the public in general or to the persons likely to be affected.

- ✓ Publish the contracts they sign on their website or through other suitable platforms and the particulars in respect of the contract, such as;

1. The public works, goods acquired, the service, and the terms and conditions;
2. The contract sum;
3. The name of the service provider, contractor or individual awarded the contract; and
4. The duration of the contract

The government **MUST** disseminate the information and consider the need to reach persons with disabilities, the cost, local language, and the most effective method of communication in that local area.

You must easily access the information, which should be available free or at a reasonable cost depending on the channel used.

4. What information can you not request? (Limitations of access to information)

The government doesn't have an obligation to disclose the information if it:

1. Undermines national security

2. Endangers the safety, health or life of any person

3. Involves the unwarranted invasion of the privacy of an individual.

4. Infringes professional confidentiality as recognized in law, etc.

A public entity is not obliged to supply information to you if that information is reasonably accessible by other means.

Information Request Process

Chief Executive Officer is the default information access officer



5. What do we need to see?

The best Practices for access to information;

- a. Maximum disclosure of information by the government;
- b. Proactive disclosure of information. The government should make all relevant information available and easily accessible.

