



**Uganda**

Infrastructure Transparency Initiative



# CoST UGANDA CHAPTER

## COUNTRY SCOPING STUDY ON INFRASTRUCTURE DATA STANDARD

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BY CoST UGANDA MULTI-STAKEHOLDER GROUP

JULY 2017



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# Executive Summary

Uganda is one of the countries that embraced CoST – an Infrastructure Transparency Initiative and has since 2014 been implementing activities to promote the same. In order to better understand the context in which CoST can advance transparency and accountability mechanisms in Uganda, the MSG commissioned a national scoping study.

This scoping study aimed at providing a baseline measure of transparency by assessing various aspects of current levels of disclosure of data on publicly funded infrastructure projects in Uganda. The information contained in this report is based on analysis, desk review of documents, and interviews with key informants, selected from key stakeholders including government, civil society, and private sector. It found out that Uganda promotes information disclosure as reflected in the legal and policy environment, infrastructure, and human resource initiatives.

The study reveals that Uganda has an enabling environment for implementation of CoST approaches, provided that issues regarding existing policy, data capacity, and civic engagement are addressed. The study also investigated the average number of data items that individual 8 sampled PEs declare to be disclosing as a percentage of the total number of items required by the Infrastructure Data Standard (IDS). According to the study, of the 40 data items, findings indicated that KCCA disclosed 47% of the total items, followed by PPDA, (45%) and only 18% was disclosed by Ministry of education and 26% by ministry of health. Of the 12 data items legally required to be disclosed, findings indicated that PPDA disclosed 67%, KCCA (58%) and UNRA (50%). The least legal disclosure came from ministry of education (33%), ministry of local government (33%) and ministry of health (42%). The study also found out that, barriers to disclosure of infrastructure data relate to lack of administrative appeal mechanisms, and the gaps in the system of judicial review, negative attitudes of public officials towards information requesters, ignorance about the law, poor information storage and retrieval systems, as well as inadequate financing which undermines the full implementation of the law.

The study also proposes a number of recommendations. These include; - need for government, particularly at top executive level to fully commit to disclosure of construction and infrastructure data at all stages, tasking a government body like the Ministry of works and Transport or PPDA to champion CoST's Infrastructure Data Standard, and creating awareness among public officers, citizens, and private sector as well as the media on the benefits of harmonized approach for disclosure of infrastructure information. On the whole, it was noted that although a number of initiatives are being implemented to promote disclosure of project information, there is lack of effective coordination and direction. Therefore, it is important to establish leadership to champion not only CoST but also pilot harmonization and access to infrastructure data/information.



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# Abbreviations & Acronyms

ACCU	Anti-Corruption Coalition Uganda
AFIC	Africa Freedom of Information Centre
CISCOT	Civil Society Coalition on Transport Sector
CoST	Construction sector Transparency
CSBAG	Civil Society Budget Advocacy Group
CSOs	Civil Society Organizations
DEI	Directorate of Ethics and Integrity
DGF	Democratic Governance Facility
DLG	District Local Government
GAPR	Government Annual Performance Report
GI	Global Integrity
GIZ	German International Cooperation
GoU	Government of Uganda
HURINET	Human Rights Network Uganda
IAF	Inter Agency Forum
ICT	Information Communication Technology
IDS	Infrastructure Data Standard
IPPU	Institute of Procurement Professionals of Uganda
JTSR	Joint Transport Sector Review
KCCA	Kampala Capital City Authority
LGPPDA	Local Government Public procurement and disposal of public assets





MEMD	Ministry of Energy and Mineral Development
MoES	Ministry of Education and Sports
MoFPED	Ministry of Finance, Planning, and Economic Development
MoH	Ministry of Health
MoICT	Ministry of Information and Communications Technology
MoING	Ministry of Information and National Guidance
MoW	Ministry of Works and Transport
MoWE	Ministry of Water and Environment
MSG	Multi-Stakeholder Group
NBRB	National Building Review Board
NCIP	National Construction Industry Policy
NDP 11	National Development Plan 11
NGO	Non-governmental Organizations
NITA	National Information Technology Authority
OPM	Office of the Prime Minister
OSIEA	Open Society Initiative for East Africa
PBE	Parallel Bid Evaluation
PDU	Procurement and Disposal Unit
PEs	Public enterprises
PPDA	Public Procurement and Disposal of Assets Authority
PROBICOU	Pro-biodiversity Conservationists in Uganda
SGR	Standard Gauge Railway



TIU	Transparency International Uganda
UCICO	Uganda Construction Industry Control
UCMC	Uganda Contracts Monitoring Coalition
UIA	Uganda Investment Authority
UIPE	Uganda Institution of Professional Engineers
UNRA	Uganda National Roads Authority
URSSI	Uganda Road Sector Support Initiative

# INTRODUCTION

1.0

## 1.1 Background

CoST Uganda is a national chapter of CoST International, a global initiative with its Secretariat in the United Kingdom–London. CoST is a Multi–Stakeholder Working Infrastructure Transparency Initiative aimed at improving citizen’s lives through enhancing disclosure, validation and interpretation of infrastructure data to enhance transparency and accountability. CoST is the leading global initiative aimed at improving transparency and accountability of investment of public infrastructure, with fifteen countries currently committed to its implementation and a growing track record of achievement. CoST is the only International Initiative that has been recognized twice by the Open Government Partnership (OGP) Awards 2016 for enhancing transparency, accountability and citizen participation in infrastructure projects in Honduras and Malawi.

Transparency and accountability are central issues in public procurement and thus should be cherished by all. Transparency is the relationship between three rights; the right to access to information, the right to participate in decision making and the right to challenge such decisions. Accountability on the other hand calls for enhanced value for money of publicly contracted projects for the benefit of the government and citizens. Information on publicly contracted projects, and a space to engage should be available to all members of the society for them to understand the consequences and benefits of infrastructure projects operations and get involved in decision making.

This is in line with existing policy and legal framework in Uganda, the International Conventions related to information disclosure, and World Bank Operational Policies and Procedures. The Access To Information Act, 2005 and the Access To Information regulations, 2011 are explicit on public information access. The World Bank Procedures (BP 17.5) is also strict on information disclosure. The procedures support the public access to information on environmental and social aspects of projects including construction sector. It further calls for a two-way process in which beneficiaries provide advice and input on the design of proposed projects that affect their lives and environment. It promotes dialogue between governments, communities, NGOs and implementing agencies to discuss all aspects of the proposed public infrastructure projects.

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CoST an Infrastructure Transparency Initiative works with governments, the private sector, local communities through Civil Society Organizations around the world to get better value for money in public investments. By increasing transparency and accountability, CoST is a catalyst for reform. The initiative improves efficiency and reduces mismanagement, corruption, and risks posed to the public from poorly implemented public infrastructure projects. CoST increases transparency by Disclosing, validating and interpreting infrastructure data to empower stakeholders to hold decision-makers to account. This is realized by disclosing to the public, ‘Project Information’ at all stages of the construction project cycle, from the initial identification of the project to the final completion.

The disclosure of project data can be categorized in two forms i.e. (i) Proactive disclosure in which project information, is disseminated to the public through a public medium that is open and accessible to a wide range of stakeholders in a clear and usable format normally without any demand from the stakeholders (ii) Reactive disclosure which relates to additional information that project and procuring entities are required to make available to any eligible person or entity upon request. Reactive disclosure involves making the additional information available to the requesting party in a usable form, in an accessible place under a specified set of conditions. CoST has been piloted in seven countries<sup>1</sup> before Uganda joined the program on 18 September 2013 and became the fifth African country to do so. This scoping study also provides a baseline measure of transparency and assesses various aspects of current levels of disclosure of data on publicly funded infrastructure projects in Uganda.

## 1.2 Objectives of the CoST Scoping Study

1. To identify a baseline measure of ‘transparency’ in publicly funded infrastructure projects, including the current situation and challenges facing selected Procurement Entities at national and local level.
2. To identify how transparency and accountability in public infrastructure within central and local governments can be improved.
3. To identify how CoST can be adapted to contribute to those improvements.

<sup>1</sup> Ethiopia, Malawi, Philippines, Tanzania, UK, Vietnam, Zambia.

## 1.3 Methodology

This study employed a two pronged approach, starting with desk research and there after carrying out in depth interviews with Key Informants. The study was largely qualitative. Given that the subject of Infrastructure Data Standard is fairly new in Uganda, Key informant interviews were deemed an appropriate method making it easy to purposively select and involve only those members with prior knowledge on the subject. The response from the interviews was then used to compare and validate the findings from the desk research. The study was also informed by stakeholder meetings with the CSOs, Private Sector and selected Procurement Entities. The preliminary findings were validated with stakeholders to enable retrieval of reliable and accurate findings. The time available for conducting the scoping study was short term for a period of six months, this also made desk research and key informant interviews the most appropriate methods for generating information, the same informed the selection of a smaller pilot PEs but rich in information and projects under implementation.

The desk research involved a review of literature in both print and electronic form, covering websites, procurement portals, and web based tools for display of procurement information among others. The desk research also considered literature on Public Construction data, transparency and disclosure, country policy context, Infrastructure Data Standard (IDS), with a particular interest on initiatives in Uganda. The key informants were drawn from Government agencies, international agencies, NGOs, the private sector, and academia.

### 1.3.1 Sample size/Selection of Procuring Entities

The study purposively selected a total of 8 Entities, which majorly represent the public procurement environment in Uganda's public infrastructure. These Agencies include; - Ministry of Works & Transport, Uganda National Roads Authority, Ministry of Energy and Mineral Development, Ministry of Health, Ministry of Education, Ministry of Science, Technology and Sports (MoES), Ministry of Local government, Kampala City Authority (KCCA).

In order to implement CoST in Uganda, it is key to begin by identifying, studying and understanding a wide range of key background information, which is a prerequisite for designing and focusing a strong CoST country program. The key components include:-

- i. Policies, laws and regulations (Legal Framework) affecting the procurement and delivery of infrastructure projects;
- ii. The relevant institutions and Initiatives relating to the governance of the process
- iii. The Stakeholders involved and;
- iv. Current performance issues in delivering public infrastructure.

## 2.1 Existing Policy Framework on the procurement and delivery of Infrastructure projects

In order to strengthen the public infrastructure, Uganda has put in place an enabling policy framework. The relevant policies can be categorised into two; - (i) Specific policies aimed at strengthening the construction industry (ii) General policies aimed at promoting transparency and accountability in the use of public resources. The key policies guiding the National Construction Industry include:- Uganda Vision 2040; National Development Plan (NDP 11); National Ports safety Policy, National Transport Policy and Strategy, and the Maritime safety Policy and Strategy, and the National Transport Master Plan / Greater Kampala Metropolitan Area 2009 <sup>2</sup>.

Government also adopted a Policy for Development and Strengthening the National Construction Industry (2010)<sup>3</sup>. The main objective of the NCI Policy is to improve regulation and development of the National Construction Industry by addressing performance constraints. The Policy notes that the National Construction Industry (NCI), comprising both the building and civil engineering sub sectors, performs an indispensable role in building the economy. The NCI delivers physical infrastructure that is central to the country's economic development and its activities create business to suppliers, manufacturers and

<sup>2</sup> Comprehensive 15-year sector investment plan, covering roads, railways, air, water, pipeline including urban transport in GKMA and non-motorized transport (NMT), 2010;

<sup>3</sup> To improve coordination, regulation and development of the construction industry and establish a Uganda construction Industry Commission (UCICO);

offers employment to professionals, skilled and unskilled labour. It also transforms private and public plans for capital formation. Uganda also has a Public Sector Monitoring and Evaluation Policy, which promotes CoST principles by advocating for accountability and value for money.

It should however be noted that, disclosure as per the Infrastructure Data Standard, works better when every Procurement Entity follows the same general policies and laws which can ensure that agencies follow consistent policies on the release of Infrastructure Data, procedure for use, and policies that promote compliance with technical standards for both reactive and proactive disclosure. However, there is no specific Policy on Infrastructure Data Standard in Uganda, but there exists political will and support for CoST to successfully promote Infrastructure Data Standard. Politicians such as the Prime Minister have quite often made public statements in support of disclosure of infrastructure data. The Ugandan Government formulated the Information Management Services Policy which aims at facilitating flow of information. Interviews with Government Ministries, Departments and Agencies (MDAs) revealed that there are varying efforts to embrace Information Technology to support Information Management for effective service delivery and acknowledged that policies are not specific on IDS. Even if the policy framework is not specific and less favorable to the IDS implementation, IDS can be adopted at the institutional level by relying on the Access To Information Act 2005, and the currently available political will. The political will can also be formalized and transformed into a Formal Disclosure Requirement (FDR) to implement CoST, and Government needs to consciously put in place legal provisions to implement CoST. Laws and Regulations affecting the procurement and delivery of Infrastructure projects.

The success and sustainability of CoST core features “Disclosure, Assurance and Multi-Stakeholder working and later on disclosure of Infrastructure Data in any country depends on how strong the legal framework is. The legal framework should promote infrastructure transparency and address a wide range of issues from data disclosure, use and protection, freedom of and access to information, defined institutional mandate, as well as provisions for stakeholder participation and engagement in contract implementation. It is important to identify existing laws, and regulations early, with respect to a core set of issues and actual or perceived obstacles to initiate policy or legal changes if required. The National Procurement Policy is under review and this provides an opportunity to incorporate provisions for implementation of CoST and also promoting information disclosure on procurement information.

Uganda has a legal framework that can promote CoST, although there are laws such as the official secrets Act that limit information disclosure, CoST IDS only requires disclosure of basic project information. The key laws guiding the improvement of the National Construction Industry include:- Traffic and Road Safety Act, 1998<sup>4</sup>, the Uganda National

4 Provides for establishment of the National Road Safety Council and the Transport Licensing Board. The Act also prescribes revised penalties in relation to road traffic offences and for other purposes connected with road traffic and road safety;

Roads Authority Act, 2006<sup>5</sup>, Building Control Act 2013<sup>6</sup>, Ferries Act 2000, Roads bill 2017, Anti-corruption Act 2009, the Leadership Code Act 2002, the Code of Conduct and Ethics of the Ugandan Public Service 2005, Public Service Standing orders 2010, the Whistle blowers Protection Act 2010, Public Procurement and Disposal of Public Assets Act 2003, Engineers Registration Act 2000, Surveyors Registration Act 2000, Architects Registration Act 2000; Traffic and Road Safety Act, 1998<sup>7</sup>, the Uganda National Roads Authority Act, 2006<sup>8</sup>, Access to Roads Act 1964, and Anti-corruption Act, among others.

Other supportive legislation, standards and guidelines include;- Uganda Bureau of Statistics Act 1998; the National Information Technology Authority Act of 2009<sup>9</sup>; Uganda Construction Industry Commission Bill 2017, Access to Information Act in 2005; and its related Access to Information Regulation in 2011, **General specifications for Roads and Bridge works (2005)**<sup>10</sup> **draft building Regulations 2017**, **Draft Principles for a Lead Agency on Road Safety 2017**; **Cabinet Memo for ratification of International Conventions on Traffic and Road Signage**; The Petroleum (Exploration and Production) Act 2013<sup>11</sup>, and The Petroleum (Refining conversion, transmission, Mid-stream Storage) Act 2013<sup>12</sup>, **Appraisal guidelines for transport projects**; **Plan for improving connectivity of Islands on Lake Victoria to all stakeholders**; and Ministry of Local Government Strategic Plan for Statistics 2015.

The laws/regulations recognize the right of the public to access information and also oblige data owning agencies to disclose information. For example, the Constitution of Uganda<sup>13</sup> and the Access to Information Act 2005<sup>14</sup>, recognize the right of the public to access information in possession of public officers or authorities which provides an opportunity for CoST. The Public Procurement and Disposal of Public Assets Act 2003<sup>15</sup>, and the Procurement Regulations (for both Local and Central government), also provide for access to procurement and contract information for public projects. The PPDA Act 2003 and accompanying regulations, provide the main source of information on what items of project information are required to be disclosed at all stages of the project execution. The PPDA and regulations provide for CoST and Infrastructure Data Standard (*planning, procurement, and implementation of all types of public contracts*), including contracts managed at Local Government. For example, the Local Government Public procurement

- 5 Provides for establishment and operation of the Uganda National Roads Authority (UNRA) and managing the provision and maintenance of the national roads network;
- 6 Not yet in force (Proposes the National Building Review Board - a national apex body for regulating buildings at National Level (building committees at each district to approve construction work).
- 7 Provides for establishment of the National Road Safety Council and the Transport Licensing Board. The Act also prescribes revised penalties in relation to road traffic offences and for other
- 8 Provides for establishment and operation of the Uganda National Roads Authority (UNRA) and managing the provision and maintenance of the national roads network;
- 9 Provides for establishment and operation of National Information Technology Authority (NITA)
- 10 Due for review and upgrading
- 11 S.4(2), S.47(5), S.47(6)
- 12 S.8, s.12, s.14, s.74, s.75 and S.76
- 13 Art.29 (1), 38 (1o), 41(1), 237(2b),
- 14 S.2 (1), S.2(3a) s.5, s.37, s.44 and s.45
- 15 S.5, s.6, s.41(2) , s.45, s.53, s.50(2b), s.87,



and disposal of public assets (LGPPDA) Regulations guide the public procurement and disposal of public assets at local government level.

## **2.2 Upcoming relevant laws and regulations where CoST can be provided for;**

### **2.2.1 Local Content Bill 2017**

The Local Content Bill, 2017 seeks to provide for the establishment of a national Local Content Committee, the maximization of value-addition and job creation through the use of local expertise; goods and services; businesses and financing in all undertakings where public funds are used; or where the undertaking is a licensable activity; the development of local content plans and the supervision, coordination, monitoring and implementation of local content. Most of the major projects involving large chunks of money in Uganda are awarded to foreign companies. The total value of money committed for just 38 contracts above Ushs 50 billion is around Ushs 15.9 trillion. Of the contracts, 91 percent of contracts were given to Chinese companies –equivalent to Ushs 11.2 trillion. Israeli companies get about Ushs 444 billion (about four per cent); Portuguese companies get two per cent, Japanese and South Korean companies get four per cent and no Ugandan company is given a contract under grants and loans. When this bill is enacted into law it will go a long way to enhance local participation in undertaking construction projects in Uganda.

### **2.2.2 UCICO Bill 2016.**

The UCICO bill 2016 is already before Parliament. The bill will create opportunities to support local contractors and create public confidence in government and the process. It is only Uganda that has no Construction Industry Commission and thus Uganda needs a body that will regulate the construction industry in the country.

## **2.3 Relevant institutions and Initiatives relating to the governance of CoST**

### **2.3.1 Relevant Institutions**

The institutional set up can be categorized into three i.e. (i) Institutions that are key players in the construction sector and, (ii) institutions responsible for promoting transparency and accountability in Uganda and (iii) Non-state Actors.

#### **a. Institutions that are key players in the construction sector<sup>16</sup>**

The setup is comprised of Government Ministries, Authorities, Government units, and Academic Institutions. Key institutions include;-Ministry of Finance, Planning, and Economic Development, Ministry of Education and Sports, Ministry of Health, Ministry of Information

<sup>16</sup> These are the lead government ministries/public agencies that guide the implementation of construction projects

and Communications Technology, and National Guidance, Ministry of Local Government, Ministry of Works and Transport, Ministry of Water and Environment, Ministry of energy and Mineral Development, UNRA, KCCA, PPDA<sup>17</sup>, Office of the Prime Minister.

## **b. Institutions responsible for promoting transparency and accountability in Uganda.**

In addition to specific institutions responsible for the Construction Sector, there are other supporting agencies such as Office of the Inspectorate General of Government (IGG), Office of the Auditor General<sup>18</sup>, Relevant committees of parliament such as PAC, Parliamentary committee on Physical Infrastructure, Directorate of Ethics and Integrity, The Directorate of Public Prosecutions (DPP)<sup>19</sup>, The Directorate of Ethics and Integrity (DEI)<sup>20</sup> within the Office of the Presidency<sup>21</sup>. The Directorate is also the chair of the Inter Agency Forum (IAF), tasked with ensuring effective coordination among all institutions involved in fighting corruption in the country. Lastly, a specialized anti-corruption court was established with the aim of judging corruption-related cases in a swifter and more efficient way.

## **c. Non State actors**

There are also a number other non-state players that do work related to CoST. These include; - Construction Companies, professional Bodies, Civil Society Organizations and consortiums, Media and Academic Institutions.

## **2.3.2 Initiatives relating to the governance of CoST**

The disclosure of Construction Sector project data and adoption of the Infrastructure Data Standard can be improved by taking an opportunity of the current existing initiatives in different Public Entities in Uganda. There is already some reasonable effort to disclose information to the Ugandan Public also this is not specific to construction data and also not aligned to the IDS. None the less, this can provide a starting point for CoST Uganda program.

<sup>17</sup> Responsible procurement and disposal of Public Assets including the construction Sector. The Public Procurement and Disposal of Public Assets Authority is mandated by the PPDA Act. PPDA has prioritized citizen participation,

<sup>18</sup> The Auditor General is responsible for overseeing government operations through financial and other management audits.

<sup>19</sup> Mandated to handle and prosecute all criminal cases in the country, including corruption-related cases, or to delegate such powers where necessary

<sup>20</sup> Responsible for coordinating the GoU's efforts in the fight against corruption and for establishing an integrity system that promotes good governance across the administration, and Coordination of the Inter-Agency Forum.

<sup>21</sup> The IAF provides for a platform where different government agencies can exchange information and lessons learned with regards to the design and implementation of anti-corruption strategies.

For example;-

#### **a. Investment in ICT and Information management systems**

The government of Uganda has put in place the ICT infrastructure which can be used to facilitate the disclosure of project data. The majority of respondents believed that government had in place the competence to adopt the Infrastructure Data Standard. The GoU is already making significant investments in information management systems in several key sectors such as health, education, Works and Transport, UNRA, and these systems can likely play a core role in supporting the IDS. The study also noted that most key data agencies such as; - Ministry of Works and Transport, Ministry of Education, Ministry of Finance Planning and Economic Development, Uganda National Roads Authority, and Kampala City Authority have already demonstrated some willingness to use ICT to disclose data. Government through the Ministry of ICT as well as the National Information Technology Authority has rolled out fibre optic cable across the country, elaborated ICT policies and regulations, and trained government officers in ICT capabilities. Most key government institutions in the construction sector, have already embraced online media for dissemination of information. These include; strengthening procuring entity websites, user engagement platforms, portals, and use of social media platforms such as Twitter, and Face book.

#### **b. Generation and Dissemination of Statistics in Ministry of Local Government**

In July 2015, the Ministry of Local Government, with support from Uganda Bureau of Statistics, adopted a strategic approach towards managing data and statistics of the ministry. This necessitated development and implementation of a five year Strategic Plan for Statistics (SPS) covering the period 2015/16–2019/20. The plan is aimed at improving the quality and comprehensiveness of statistics produced by the ministry. The 2015/16 – 2019/20 MoLG Strategic Plan for Statistics focuses on consolidating and improving routine and ongoing statistical development efforts of the Ministry and further strengthen the capacities for statistical production and dissemination. This strategy is aligned to the Plan for National Statistical Development and provides an opportunity for disclosure of infrastructure projects data at District Local Government. The CoST Uganda Program can therefore engage with Ministry of Local Government to streamline the IDS in the disclosure of information and implementation of this strategic plan. The District Integrity Platforms under the CAOs are one avenue for implementation of IDS for monitoring infrastructure projects.

#### **c. Citizen Assemblies (Barazas) by Office of the Prime Minister**

The Office of the Prime Minister has been organizing citizen assemblies (Barazas)<sup>22</sup> where technical officers answer questions from the public on all sectors including infrastructure data. Responsible government agencies in each sector are supposed to generate a client charter which is a document explaining products and outputs. The Barazas have stimulated

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22 Regular community/civic engagement meetings to discuss public matters including management of public projects

debate, and facilitated proactive disclosure of infrastructure information especially in the District Local Governments. For example, a Baraza held in Namungalwe Sub county Iganga District, tasked the District Local Government leaders to disclose information and explain delays in infrastructure projects in health and education<sup>23</sup>. Barazas are therefore a key proactive disclosure initiative. The study also noted that, after participation in Barazas, citizens are more likely to proceed and request for more information from the public agencies. During the study, the office of the Prime Minister expressed the need to partner with CoST in monitoring externally funded projects. There are good lessons from other countries on how CoST helps governments to achieve value for money in externally funded projects which the OPM can learn from, but the desired action starts by translating this will or commitment into the policy framework.

#### d. Inter-agency co-ordinating mechanisms

There is already strong evidence of inter-agency working groups and processes, which could be used to support activities for CoST and project data disclosure. For Example the Ministry of Works and Transport is the lead agency and coordinates all the government agencies in the construction sector in Uganda. PPDA is also a lead agency for public procurement in Uganda and is also a member of the Government Interagency Coordination Forum that brings together all agencies that deal with matters of corruption. The study also noted an already existing anti-corruption framework which provides an opportunity for institutional coordination as provided for under the National Anti-corruption strategy<sup>24</sup>. This strategic framework is implemented by a range of agencies under the anti-corruption Inter Agency Forum (IAF), led by the Inspectorate of Government (IG), and coordinated by the Directorate for Ethics and Integrity (DEI). The GoU therefore has the essential institutional elements necessary for supporting CoST including Infrastructure Data Standard.

#### e. Construction Sector Reforms

The Ministry of Works and Transport is at various stages in development of sectoral policies and implementing planned institutional reforms. The Policies, Laws and institutional reforms in the pipeline are;- Development of the Uganda Construction Industry Control (UCICO) Bill<sup>25</sup> takes into account the provisions of the Public Finance Management Act, Act No 3 of 2015, amendment of the Traffic and Road Safety Act 1998 to provide for tighter Axle Load Control, establishment of a National Road Safety Authority to strengthen institutional capacity in achieving national road safety objectives, and establishment of the Metropolitan Area Transport Authority (MATA). The Ministry of Works and Transport also intends to amend the Civil Aviation Authority Act, 1999, Uganda Railways Corporation Act, 1992, the Engineers Registration Act, 2000, The Roads Act 2000 and Access to roads

<sup>23</sup> The Daily Monitor 27 September 2013

<sup>24</sup> The National Strategy is an action plan designed to make a significant impact on building the quality of accountability and reducing the levels of corruption in Uganda including the construction sector.

<sup>25</sup> Main objective of establishing a Construction Industry Commission to regulate the construction industry to ensure compliance with standards and guidelines thereby reducing the burden of shoddy work.

Act 2000.<sup>26</sup> It is a great opportunity for Cost Uganda Platform to follow up on these legal reform processes and take part in consultations.

#### **f. Transport and works sector working group**

The Transport Sector Working Group deliberates on issues affecting the sector and also avails essential information to Parliament and the general public to help counter corruption and abuse in the road construction industry. In addition to other roles, the working group provides technical advice on construction standards to Public Agencies. The Transport sector working group is composed of key line agencies responsible for construction and works and transport sector. There is also the Joint Construction Sector Review Framework where CoST can play a role to strengthen its implementation. CoST Uganda can exploit this opportunity to present reports and findings to this working group. CoST can also consider becoming a member of the Working group. This would be a key entry point for sharing information and providing input to the Annual Joint Sector Review reports.

#### **g. The Emerging phone and telecommunication industry**

The telecom industry, technologies and mobile devices are becoming prime information access devices. These innovations present an opportunity to promote access and dissemination of construction data. All the respondents concurred that the industry can play a great role if the other enabling factors (requisite legal environment, Human resources, among others) are in place. Phones can be used to transmit SMS, and to gather and share pictorial information and evidence from construction sites. In most cases citizens can also report to regulating authorities using phones and hand held devices. For example the Ministry of Health in Uganda has adopted the electronic platform for collecting and managing health data through the District Health Information Software (DHIS2). The Anticorruption coalition in Uganda has also piloted the use of telephones to carry out whistle blowing and reporting of cases of fraud and corruption.

#### **h. Support for Construction Sector Transparency (CoST)**

The most critical success factor for CoST and Infrastructure Data Standard adoption is leadership. Indeed there is support for Construction Sector Transparency by senior political leadership, although much of the public statements have not yet translated into action due to challenges of enforcement. In Uganda, key political leaders (Prime Minister / Ministers / President) have expressed publicly visible support for transparency and accountability in the Construction sector. The media has on several occasions published statements made by these officials in public.

<sup>26</sup> The Engineers Registration Act 1969, the Roads Act 1964, and the Access to roads Act 1964 were references and given new year 2000, under the Uganda Law reform commission

### i Support from Development Partners

Development Partners including European Union, GIZ, JICA, World Bank, UK aid, ADB and others have over the last 20 years been instrumental in the financing of development projects and institutional reforms in the construction sector. An interview with Mr. Paul Mullard, the senior Economic Adviser DFID Uganda, and Ms. Bhavna Sharma, the Senior Governance advisor (Governance, security and Resilient Team) of DFID, noted that development partners have been supporting transparency.

*"We have been strengthening Uganda's Governance including strengthening Anticorruption institutions. It is also our prayer that government institutions implement infrastructure projects as planned, and deliver to satisfy public appetite"* **Mr. Bhavna Sharma**

### j Increased demand for information

In Uganda, citizens are informed and empowered through public meetings and rallies organized by politicians, technical persons and representatives of government departments. Information on projects being implemented is shared, and citizens are given an opportunity to interact and ask questions. These engagements not only create a platform for information sharing but also provide an opportunity for people to demand for accountability.

### k Recognition of the need for citizen engagement

The above notwithstanding, procuring entities and oversight authorities recognize the need for citizen engagement. A feedback redress mechanism for matters related to public contracting has also been put in place. More importantly, there is evidence of disclosed information being used by the government, private sector, and civil society for policy making, business development, and advocacy.

## 2.3.3 Barriers and Current performance issues to delivering public infrastructure

As already alluded to, data disclosed by most government procuring entities is not harmonized. Harmonization is one of the features of membership of the Open Contracting Partnership, of which CoST is the infrastructure extension. Every unit has its own set of data but this does not follow any uniform format. There is currently no central depository for construction data. In 2011, NITA-U commissioned the National Data Centre (NDC) but it is not yet operational. Operationalizing the NDC without the basic requirements like standards and formats could lead to no substantial value being attained. CoST Uganda would add value to the current process of developing standards and formats by engaging

the National Information Technology Authority, to integrate IDS especially for data related to construction projects.

### **Other barriers to delivering public infrastructure include:-**

- The participation in public contracting processes is largely limited to potential bidders and members of the business community and not the general public. This is partly because the laws specify long and bureaucratic procedures for accessing information, and project sites which PEs claim would affect project with significant delays.
- Most often, public construction contracts do not have special provisions explaining the role of citizens and interest groups in contract execution. The citizens are therefore denied participation on technical grounds that their roles are not provided for under the contract. In addition, bureaucracy, cumbersome security checks, and limited access to construction sites, tend to deter citizens' participation in monitoring the implementation of public construction contracts.
- Complex contractual structure, high degree of technical knowledge required, large sums of money involved, bureaucracy, the long and complex tendering and evaluation processes, complexity of institutional roles; non- enforcement of existing laws and regulations and complacency on the part of the citizens.
- Uniqueness and complex transaction chains. Construction projects are not the same making comparisons difficult and providing opportunities to inflate costs and conceal bribes..
- Official bureaucracy: Numerous approvals are required from government in the form of licenses and permits at various stages of the delivery cycle, each one providing an opportunity for bribery.
- The scale of infrastructure investments: Investments in economic infrastructure such as dams, airports and railways can cost tens of billions of dollars making it easier to conceal bribes and inflate claims.
- Limited procurement and contract management records kept, limited capacity of local providers, weak technical and management capacity, weak legal framework for classification and grading of contractors and consulting engineers.
- The delivery of public infrastructure is also affected by late payments resulting in contractors facing difficulties in repayment of loans used to invest in acquisition of machinery and equipment, under-pricing by providers who later seek to recoup profits through cost variations leading to disputes and litigation, price fixing (cartels) by the more established providers, and requests from LGs to use Force Account.
- While a system of checks and balances is guaranteed by the 1995 constitution, in practice, many of the country's institutions in the construction sector are unable to



perform their duties efficiently because they are understaffed, have less technical capacity, and lack sufficient resources<sup>27</sup>

- The capacity of the institutions supposed to fight corruption is inadequate, as the resource basket assigned to it is meagre. Lack of sufficient financial resources is the leading cause of inefficiency in the institutions mandated to fight corruption. The situation is further aggravated by human resource challenges.
- Weak Public Support also hinders corruption fight. Article 17 (1) (i) of the Constitution of the Republic of Uganda, makes it the duty of every citizen to combat corruption and the misuse or wastage of public property. However, in Uganda the citizens seem not much concerned.
- Late payments resulting in contractors facing difficulties in repayment of loans used to invest in acquisition of machinery and equipment.

### 2.3.4 How CoST can be used to improve the Initiatives

The long-term success and sustainability of CoST is greatly influenced by how Public Entities prepare to promote transparency and disclosure of infrastructure data. This calls for increased effort in creating an enabling environment for the implementation of CoST and also ensuring that responsible agencies commit to embrace the initiative. This can be achieved by supporting the development of strong policy, legal and institutional framework that not only guides planning, procurement, and implementation of all types of public contracts, but also embraces transparency and accountability. The following recommendations are pointing at how CoST can contribute to boosting and intensifying ongoing work projects transparency and citizens' engagement.

- The GOU should embrace CoST core features—Disclosure, Assurance and Multi-Stakeholder working through the adoption of the IDS and a Formal Disclosure Requirement for Uganda.
- CoST Uganda should engage the top political leadership for them to appreciate CoST values as well as pronounce their support for transparency in the construction sector by increasing disclosure of construction data, adopting Infrastructure Data Standard, and following through with concrete actions on implementing the CoST programme. Support should not stop at making public statements but should translate into real action.
- CoST Uganda should continue engaging procurement entities to streamline CoST and Infrastructure Data Standard at the institutional level. This involves continuing to develop capacities of PEs to influence development of specific policies, guidelines, strategies and procedures to guide adoption of Infrastructure Data Standard and information dissemination.

<sup>27</sup> Martini (2012), p. 7.



- Inconsistent laws such as the Official Secrets Act should be amended to bring them in line with the requirements of increased transparency and openness by public bodies. CoST in partnership with Government should develop a pilot programme aimed at changing attitudes of public officers in primary sectors of the economy such as construction sector, on availing information to the public.
- CoST should continue to create a better understanding among PEs of current disclosure requirements, in order to raise the level of compliance. There is a need to go a further step to commit to a common data disclosure standard and even provide guidance to other agencies.
- Initiate discussion and engage the Road and Works sector working group and become a member. This will provide an opportunity to share information and input to the Budget framework, and also actively participate in the transport and works Annual performance and Sector reviews.
- Participate actively in planned government policy and legal review process in providing input by conducting research, generating information and submitting views to inform policy making processes, carrying out stakeholder consultations on then ongoing bills and legislations and submitting position papers in order to influence the review of the legal and policy framework to incorporate provisions of Infrastructure Data Standard.
- Consider legalising its legal status, so that it can sue and be sued. Most collaborative arrangements with government require an autonomous legal entity. Most government officers observed that it may be difficult to deal with an agency whose legal status is not clear, and this can prohibit the work of CoST.
- Boosting advocacy work—especially by increasing research and evidence based advocacy, and continuously carrying out an inventory of ongoing large public construction projects and conduct specialised monitoring for information disclosure—using the IDS.

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Generally, “transparency” implies openness, communication and accountability. It is a metaphorical extension of the meaning a “transparent” object is one that can be seen through. With regard to the public services, it means that holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest demands it (Chapman, 2000). Radical transparency in management demands that all decision making should be carried out publicly. A number of other transparency and accountability initiatives exist in Uganda. They include:

### 3.1.1 Anti-corruption strategy in the provision of water supply and sanitation (WSS) services

Uganda is one of the few countries in Africa to place corruption in the water sector high on the development agenda by pursuing an explicit anti-corruption strategy in the provision of water supply and sanitation (WSS) services. In 2006, as part of Uganda’s effort to improve integrity within the WSS sub-sector, the Ministry of Water and Environment (MWE) established a multi-stakeholder Good Governance Sub-Sector Working Group (GGSSWG) tasked with recommending specific measures to promote and monitor transparency, accountability and good governance. This process culminated in the creation of a Governance Action Plan to improve transparency and accountability in the sub-sector.

### 3.1.2 Red Flag Contract Management System

UNRA also established a Red Flag Contract Management System which provides building blocks for the implementation of CoST. The Red Flags are based on the indicators of transparency, accountability and value for money as outlined by the World Bank. UNRA reformed the procurement function through upgrading the Procurement and Disposal Unit (PDU) to a Directorate and the introduction of Independent Parallel Bid Evaluation (PDE) by an overseas procurement firm. In addition to that, UNRA applied for Accreditation from the Public Procurement and Disposal of Public Assets Authority (PPDA) and started implementing the CoST Principles for enhancing trust in the system. The development of procurement procedures were completed in September 2014.

### **3.1.3 Promoting transparency and accountability in service delivery and community empowerment**

Existing efforts to enhance transparency and accountability in the construction of infrastructure in Uganda include Transparency International (TI) which focuses on promoting transparency and accountability in service delivery and community empowerment in the areas of education, health and extractive industries. The 2003 Public Procurement and Disposal of Public Assets (PPDA) Act requires Procurement and Disposal Entities, like the Uganda National Roads Authority (UNRA), to promote transparency, accountability and fairness in procurement including publishing of bid evaluation results before contracts are awarded. In addition to that, the World Bank (WB) and African Development Bank (AfDB) keep UNRA committed to implementation of the Governance and Accountability Action Plan (GAAP) for all projects which the banks finance.

### **3.1.4 Governance structure and anti- corruption efforts in Uganda**

A series of laws and policies aimed at reducing corruption and its pervasive effects were established, but the lack of implementation and enforcement of these rules and policies have raised doubts about the seriousness of the government efforts as well as of its political will actually change the situation in the country. Other measures taken by the government include;- the enactment of Anti-Corruption Act, in 2009, the 2007 declaration signed by Ugandan, Kenyan and Tanzanian anti- corruption authorities to deny safe haven to corrupt persons and investment in illicit funds (World Bank, 2011), and the establishment of specialised anti- corruption court within the judiciary. Criminal responsibility for corruption is provided for in both the Penal Code Act and the Anti-corruption Act of 2009.

The latter defines corruption as “soliciting and acceptance of anything by a public official, diversion of public funds, as well as fraudulent acquisition and concealment of property”. The Act regulates corruption in both the public and private sector (Conference of the States Parties to the United Nations Convention against Corruption, 2011). The Leadership Code Act (2002), the Anti-Corruption Act (2009) and the Code of conduct and ethics of the Ugandan Public service regulate conflict of interest, as well as related prohibitions such the acceptance of gifts and hospitality. The Inspectorate of Government is responsible for overseeing the code (World Bank, 2011). The 2010 Whistle-blowers Protection Act provides for mechanisms encouraging individuals to blow the whistle on corruption cases. The act includes monetary incentives for whistle-blowers and also guarantees their protection. The Inspectorate of Government has established a hotline where individuals can report corruption anonymously.

### 3.1.5 Uganda signing international conventions against corruption

Uganda has been a signatory of the United Nations Convention against Corruption (UNCAC) as well as of the African Union Convention on Preventing and Combating Corruption since 2004, but it still has to improve its legal framework (and its implementation) in order to be fully compliant with both conventions.

### 3.1.6 Key investigations by IGG and Commission of inquiry into Construction projects

The government has been at the forefront of ensuring accountability and value for money, although much is still desired. In doing so it has instituted commissions of inquiry and also asked IGG to investigate some of the projects with queries. Examples of projects that the IG has investigated include; Katosi - Nyenga Road Project, Karuma Dam Project and Commission of inquiry on UNRA. In addition several projects being implemented under Northern Uganda Social Action Fund (NUSAF2) and Peace Recovery and Development Plan (PRDP), Universal Post Primary Education and Training (UPPET), Uganda Support to Municipal Infrastructure Development (USMID) have been investigated.

### 3.2 The value of CoST in transparency, accountability and anti-corruption initiatives

- CoST should promote transparency in PEs by playing foresight role to request for infrastructure data from PEs also disclose data from public infrastructure investments well as verification of the authenticity, accuracy and completeness of this information.
- CoST should continue to take an upper hand in empowering citizens, and enabling them to hold decision-makers to account. Informed citizens and responsive public institutions can lead to the introduction of reforms that will reduce mismanagement, inefficiency, corruption and the risks posed to the public from poor infrastructure.
- CoST should aim at reducing inefficient management during construction and operation of infrastructure facilities and fight corruption through improving the efficiency of project management, reduction of squander and corruption.
- CoST should mobilise strength in building robust multi-stakeholder partnerships and strategic alliances in Uganda that support better training and capacity building of open contracting data users and promote integrity and Good Governance practices.
- CoST should partner with IGG and other stakeholders to raise public awareness programmes - Radio programs, TV shows, transparency seminars on the values of accountability and transparency.
- CoST should organize and hold consultative meetings with stakeholders to discuss the challenges affecting the construction industry and to devise mechanisms through which the challenges can be overcome.

- CoST and partners should conduct regular monitoring and inspection of projects with the objective to: verify the existence of the projects; ensure the implementation is in accordance with the set guidelines and guiding principles; and ensure that there is value for money.
- CoST should support Social Accountability Monitoring: Communities should be mobilized to elect Community Monitoring Groups (CMGs) who are then trained on how to monitor projects and report any challenges.

### **3.3 Civil society organizations' participation in oversight of public infrastructure projects**

#### **3.3.1 Civil Society Organizations currently promoting CoST core features.**

Africa Freedom of Information Centre (AFIC), Transparency International Uganda (TIU), Anticorruption Coalition Uganda (ACCU) <http://accu.or.ug>, Uganda Road Sector Support Initiative (URSSI), Uganda Contracts Monitoring Coalition (UCMC), CISCOT, Civil Society Budget Advocacy Group (CSBAG), Media among others

#### **3.3.2 Key development partners supporting CoST**

Democratic Governance Facility (DGF), The World Bank, DFID, Open Society Initiative for East Africa (OSIEA) among others

#### **3.3.3 Provision of checks and balances**

CSOs are often involved in the implementation of programmes funded by government. They also form a countervailing force that is necessary in providing checks and balances to public sector agencies. The nature of the relationship between the civil society, the public sector and the private sector has a bearing on establishing accountability and sustainability of quality service delivery.

#### **3.3.4 Promotion of Citizen Participation rights**

Ugandan laws enable citizen participation, in consultation, observation, and monitoring at all levels of planning, procurement, and implementation of construction contracts. Citizen participation in construction affairs is a right enshrined in Article 38 of the 1995 Constitution. Uganda also has a Public Sector Monitoring and Evaluation Policy which the Prime Minister has directed all the sectors to start operationalizing. The policy promotes CoST principles by advocating for accountability and value for money. In line with the PPDA Act, 2003, procuring entities are required to consult project affected persons

prior to awarding contracts, and are also engaged to participate in the monitoring and implementation of Public Contracts<sup>28</sup>.

### 3.4 Barriers affecting civil society participation (CSOs) in CoST Program in Uganda

Meaningful and active participation of Civil Society in CoST Program is challenged mainly due to lack of civic competence caused by low levels of awareness (Kakumba 2010). This makes them unable to demand transparency, quality services and to hold their leaders accountable in government. Active participation is only possible if civil society is sensitized about their rights and role, and empowered through participation in policy decision-making. The laws that govern civil society are also restrictive. Most often public contracts do not have special provisions for third party monitoring and do not explain the role of citizens and interest groups in contract execution. Civil Society is therefore denied participation on technical grounds that their roles are not provided for under the contract.

<sup>28</sup> PPDA strategic plan under section 1.7 provides for third party contract monitoring, however challenged by lack of access to specific contracts in question

# DISCLOSURE OF INFRASTRUCTURE DATA IN UGANDA

4.0

## 4.1 Summary of laws, Legal provisions and opportunities for access to Infrastructure Data/information

Ugandan laws such as PPDA act (2003), Access information act (2005), the Local Government Act (1997) among others provide for access to Infrastructure information e.g. procurement plans, *tender notices, bidding documents, and award notices* (including winner, price, reasons and including non-competitively awarded contracts). In addition Local Government Act (1997) and other regulations provide for quarterly reporting, generation and sharing of inspection reports. Information relating to these procurement stages is published by the procuring entities using different media such as websites, notice boards, the Uganda Gazette and Newspapers with wide circulation like the Daily Monitor and The New Vision.

However, some public procurement officials do not regard such publication as necessary since summaries are published on the PPDA website. In addition, in majority of cases reviewed, there was no evidence of published full contracts detailing technical specifications and implementation details. This is probably because in some instances the laws are silent on publication of detailed information on contracts e.g. contracts awarded and their implementation. Furthermore, in some laws<sup>29</sup>, the provisions for access to information on public contracts contain “claw back clauses” that seem to provide for access but make it discretionary for the information holder to furnish that information. Lastly, compliance with full publication of contract information varies from project to project and is more lacking in government funded projects as compared to donor funded projects. Access to detailed procurement information is only possible through reactive disclosure after requests by interested parties. Disclosure of information under reactive disclosure often suffers delays due to bureaucracy including requirements for payment of a prescribed fee.

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29 See Section 74 of the Petroleum (Refining, Conversion, Transmission and Mid-stream Storage) Act of 2013



#### 4.1.1. The Access to Information Act 2005

The Access to Information Act (2005) provides for the right to access to information pursuant to Article 41 of the Constitution; and it prescribes the classes of information referred to in that article and procedures for obtaining access to that information. This Act provides a legal framework that should support CoST. Although the regulations governing the opening up of information are not extensive enough, the Act is a firm legal foundation for opening up. The Act does provide the appropriate foundation and mandate to enable government to make its data/information public and based on this it is possible for government agencies to make this information public.

The purpose of this Act is to:

- Promote an efficient, effective, transparent and accountable government;
- Give effect to Article 41 of the Constitution by providing the right to access to information held by organs of the state, other than exempt records and information;
- Protect persons disclosing evidence of contravention of the law, maladministration or corruption in government bodies;
- Protect transparency and accountability in all organs of the state by providing the public with timely, accessible and accurate information; and
- Empower the public to effectively scrutinise and participate in government decisions that affect them. In June 2011, the government passed regulations to operationalise the Access to Information Act 2005<sup>30</sup> However, some provisions make access costly and difficult and, as such, they are not in the spirit of the strong right to information provision found in the Constitution.
- In accordance with this law, all government ministries have appointed information officers. In addition, government designated the Minister in charge of information to manage implementation activities. The Directorate of Information and National Guidance in the Office of the Prime Minister is the Nodal agency spearheading this task. But as a senior Civil Society Player working on Access to information highlights, much remains to be done in implementing the law:

*“Although ATIA and other related laws exist, they have not yet been maximally utilised, since challenges of dissemination and use of information still exist, hence the need to build capacity for increased information access. Building capacity requires concerted effort, ranging from empowering masses to exercise their right, restructuring systems, development of human resource and enhancing institutional capacity to handle information more effectively” . Mr. Gilbert Sendugwa, Coordinator Africa Freedom of Information Centre*



- In order to have a well-managed process, it is important to have in place procedures and processes for archiving and dissemination of this information. This calls for a strategy to ensure that this is done in an appropriate manner. Magara (2007) states about the Right of Access to Information Act 2005: “(Article 5 and 6) lays a foundation for the development of such a strategy for archiving and dissemination of public information. In addition, a preservation of records (Article, 21) and protection of information (Article 26) are clear indicators of an effective archival and dissemination strategy.”

#### **4.1.2. The National Development Plan II (2015/16–2019/20),**

Objective 4, calls for enhancement of access to quality, affordable and equitable information services country wide. In the same vein, the draft National IT policy (2010) for Uganda under the IT infrastructure objective, strategy, calls for automation of government processes and procedures to bring about transparency, reduce constraining controls, increase efficiency and productivity and reduce cost of service delivery.

#### **4.1.3. The Uganda National e–government framework (2010),**

Addresses the importance of information Management Systems, under section 1.1.1 (v), it states that the whole of government information architecture is a catalyst to governing all Ugandans in an open, effective, and efficient manner that also ensures a sustainable future. The country still has weak legislation pertaining to the ICT industry. Laws related to Intellectual Property Rights, Data Security, Privacy, Data Protection and cyber-crimes are still in their infancy and where they exist, enforcement is still low and others are outdated. Interoperability framework: The National Information Technology Authority of Uganda (NITA-U) has developed the interoperability framework and roadmap for the next five years.

### **4.2 Public access to the laws and policies governing the public infrastructure sector**

The scoping study analyzed the laws and regulations governing construction data disclosure. It also carried out interviews to ascertain whether these laws are easily accessed by the public, and whether they clearly outline the disclosure process of project information right away from planning, procurement, and implementation of public contracts, including requirements related to disclosure of information and participation of stakeholders. The findings indicate that laws and regulations governing procurement and execution of construction contracts are available in print, and online on the PPDA website at <https://ppda.go.ug/>. However, the laws and regulations governing procurement are not widely circulated; they are also written in legal/technical language that limits interpretation and use. Hence, they are more easily accessible by literate members of society. There has not been sufficient effort to translate them into local languages.

### 4.3 The Lacuna in the existing legal framework for the Implementation of CoST IDS

Quite telling was that even some of the otherwise well-informed respondents in this study had no knowledge of some vital legislation in place in Uganda. For instance, some respondents confessed that they were not aware of the Access to Information Act 2005. It was noted that there is limited awareness about the different legislation and that this dis-empowers the citizens to demand for service delivery, accountability, and transparency based on the laws. Arguably, having in place the laws in itself is not sufficient; there ought to be harmonious coexistence of the new law and existing laws and this seems to be a major challenge. For example, Eng. Tonny Richard Mugenyi asserts that Access to Information Act 2005 is in conflict with some other enabling laws and what takes precedence is sometimes debatable. This argument is backed by Magara (2007), for example, the laws governing government officers with regard to making information accessible to the public goes contrary to the Act. Article 9(1) of the Public Service Act, 1969 and Article 22 (12) of the Education Service Act, 2002, Act 6, No. 4, criminalizes the disclosure of information by public servants (Uganda, 2002). The Public Service Act 1969 in particular specifies that: “It is an offence for any member or officer of the Commission [government department or organization] and any other person to knowingly publish or disclose the contents of any document, communication or information whatsoever that has come to his notice in the course of his duties in relation to the Commission without the written permission of the Minister (Uganda, 1969, Chapter 277, Article 9).

It is prudent to note that government officials abiding by these regulations deny a citizen or any other stakeholder like CoST access to information citing this law. The study also noted that whereas the regulations to implement The Access to Information Act 2005 were released, they still have a lacuna. For example, you need 21 days before your request for information is approved, this is at the maximum. Data is spread in different offices and a citizen needs clearance from the Accounting Officer of the government department before they access the data. Also, a number of respondents attributed the foregoing state of affairs to lack of political will. Political leadership is at the fore of ensuring that these laws are implementable. For example, the Access to Information Act has been in existence since 2005 and to date it is still shrouded with controversy.

### 4.4 IDS and Information Disclosure

The majority of respondents had an idea about IDS, and clearly understood what it stands for. Their understanding was demonstrated by the appreciation of the values presented by IDS in enabling transparency in the development of the construction sector. All respondents commented that government data is public data and therefore should be made available to the public. Hon. Nathan Byanyima mentioned that times are changing and disclosure of construction data is the latest, desirable trend with regard to governance and accountability. Eng. Bagonza, the chief government Engineer noted that

some government procuring agencies such as Ministry of Works and Transport already publish information on public infrastructure projects.

*"It is now that I realise that we have been practicing disclosure of construction data. This practice enables citizens to have access to information that would otherwise not be available in the public domain. For example since we began publishing procurement and contract information on our website and in News papers, the number of complaints at the ministry has tremendously reduced and I think even leaders are being put to task to account what has been received for service delivery."* **Eng. Bagonza, the Chief Government Engineer".**

The high level of awareness of what disclosure of project data means or implies that public officers already appreciate the value of disclosure of project data and what it can deliver in terms of strengthening the construction sector in Uganda. This is therefore an opportunity for CoST Uganda to harness by going further to engage these procuring Entities so that the project data is disseminated in a harmonized format and following the IDS. All respondents agreed that government should open up its construction data to the public because of the associated benefits. Mr. Sam Bambaza of Hope for Traffic Victims<sup>31</sup> stated that disclosure of construction data would enable citizens to demand more with regard to value for taxpayers' money. He also noted that there was a lot of data within government that continues to be concealed. Yet that information could be put to use by citizens if it were placed into the public domain.

Since one of the main objectives of procurement reform is to encourage the widest possible competition among suppliers, it is not surprising that the requirement for information disclosure is mostly centered on the **tendering processes**. In the **post contract completion** stage, Uganda requires disclosure of the actual contract price and time. Evidence from the study indicates that the common ways of disclosure of project information in Uganda are (i) in the newspapers (ii) on websites or Portals (iii) hard copy at office, (iv) project notice boards (v) site signs.

The research inquired from respondents about the frequency of disclosure of project and contract information. A question was posed by listing all the 8 Procurement Entities and asking how often these public entities were disclosing information. Half of the respondents 50% indicated that these agencies were always disclosing information on projects as compared to 12% who indicated that the agencies never disclose contract information.

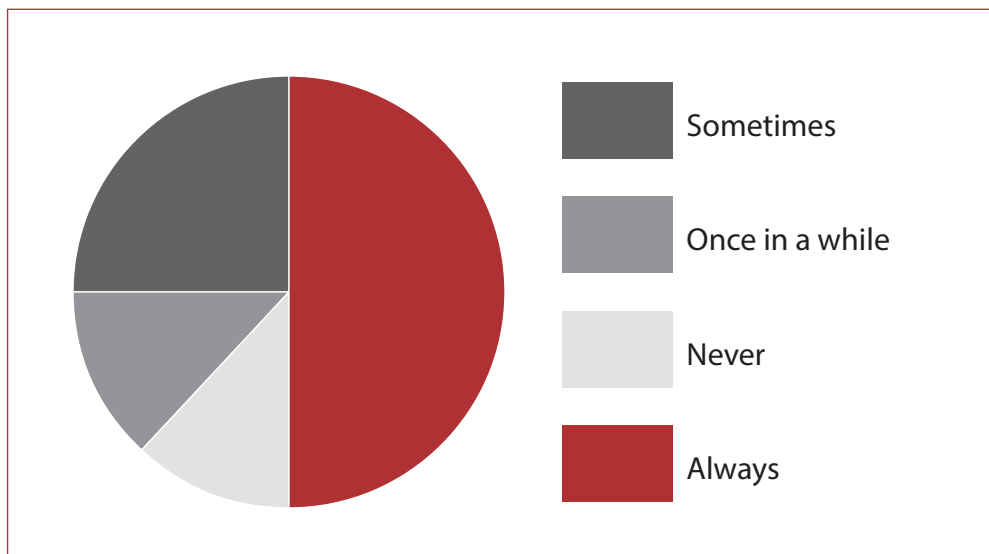
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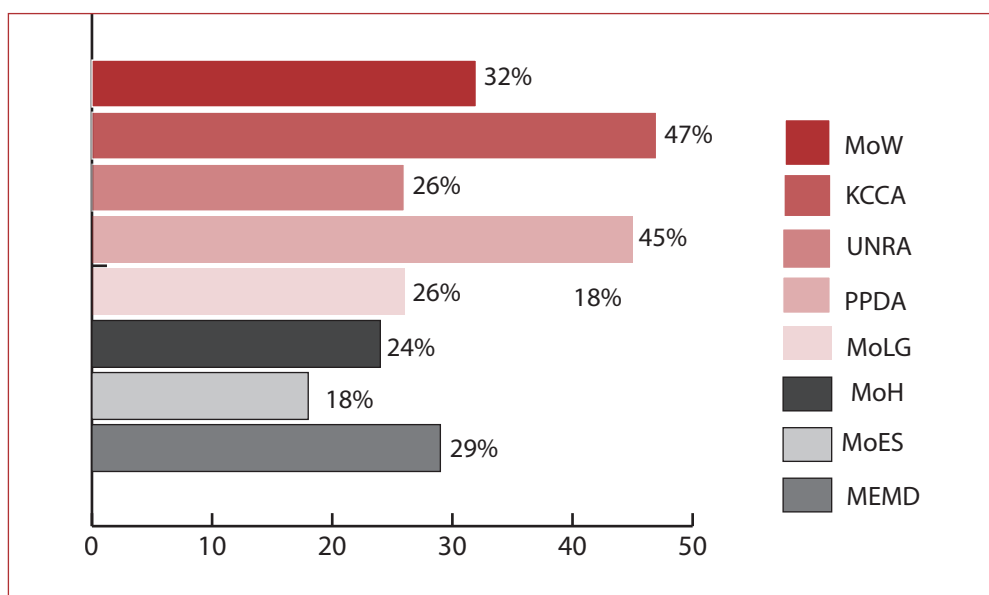
## Frequency of information disclosure by 8 Sampled PEs



### 4.5 Average number of data items that individual sampled PEs claim to be disclosing as a percentage of the total number of items

Of the 40 data items, findings indicate that KCCA disclosed 47% of the total items, followed by PPDA, (45%) and only 18% was disclosed by ministry of education and 26% by ministry of health. The graph below shows the data disclosure amongst all the 8 sampled PEs.

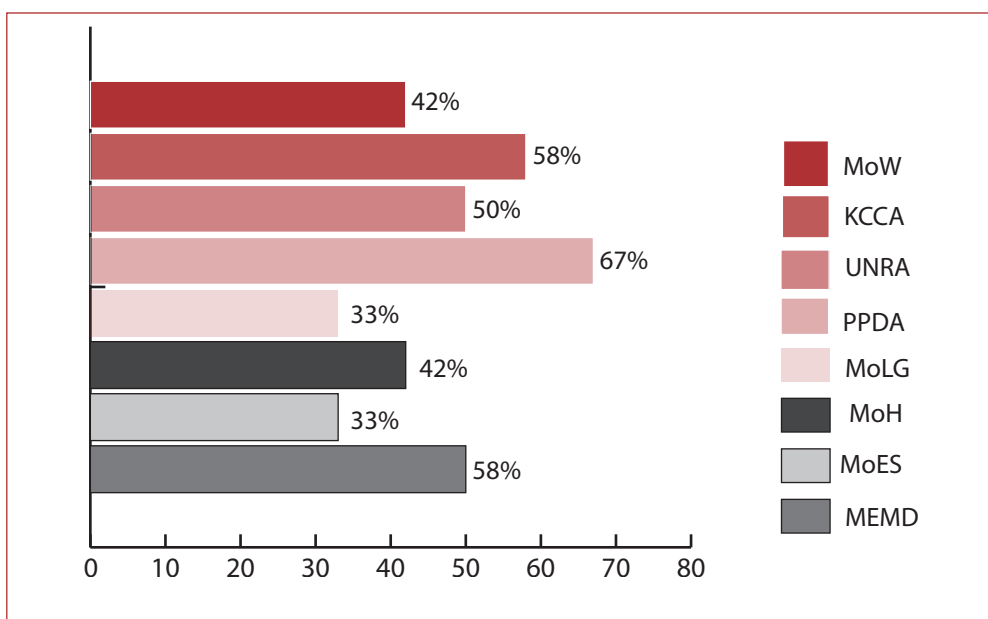
#### Information disclosure by 8 sampled PEs as a % of total number of items



#### 4.6 Average percentage of legally required disclosed data items in 8 Sampled PEs

Of the 12 data items legally required to be disclosed, findings indicate that PPDA disclosed 67%, KCCA (58%) and UNRA (50%). The least legal disclosure came from ministry of education (33%), ministry of local government (33%) and ministry of health (42%) as shown in the graph below.

Information disclosure of 8 sampled PEs as a % of the items legally required to be disclosed



#### 4.7 The most common used medium of communication by 8 sampled PEs

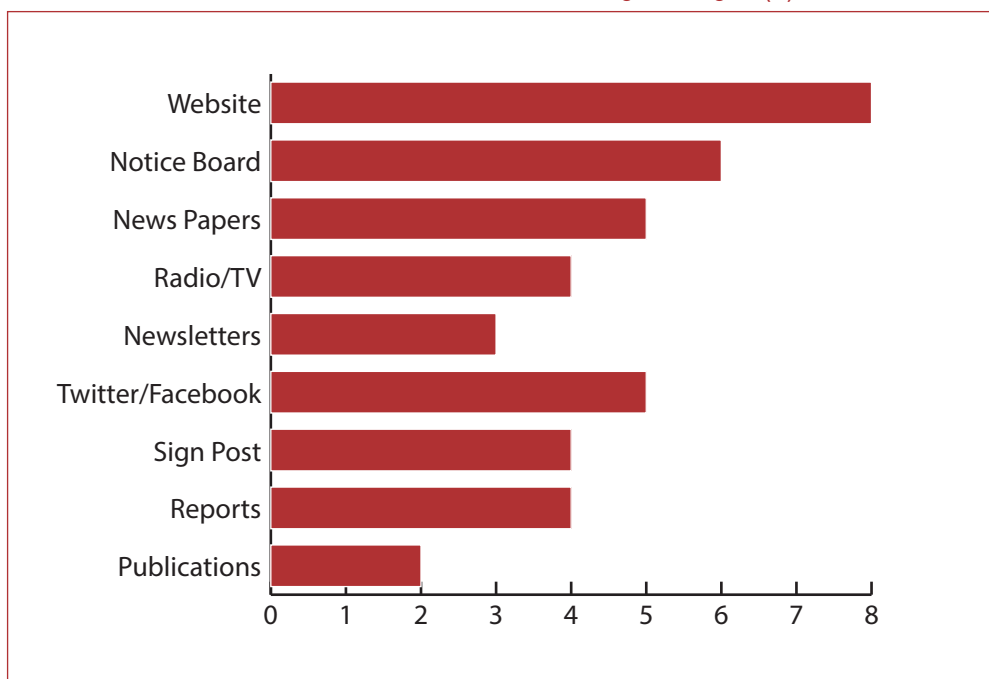
Findings indicate that PEs use a number of medium of communication which include website, noticeboard, newspaper, radio/TV, newsletter, twitter, facebook, sign post, reports and publications. It was found out that the most common used medium is website where all the PEs use it to disclose information. See the figure below;

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## The most used medium of communication among the eight (8) PEs



### 4.8 Value of disclosing data

The study inquired whether the Infrastructure Data Standard information was being collected and published online or offline in a timely manner. Evidence from the study indicated that some agencies publish information more comprehensively, routinely and timely than others. For example, expression of interest is, prequalification, bid and tender notices are published timely in national newspapers like the New Vision (<http://www.newvision.co.ug/category/tenders>) and The Daily Monitor; and websites of Ministries and public authorities. Others, like the UNRA, publish information on the costs, duration and contract details of its ongoing projects. The Authority also publishes road works updates and strategic plans (see Uganda National Roads Authority ([www.unra.go.ug/](http://www.unra.go.ug/))).

### 4.9 Proactive disclosure of data

The Ministry of works proactively publishes project information inform of project notices, budget estimates, tender notices and bids, however this information does not follow the Infrastructure Data Standard for proactive disclosure. Uganda has made progress in integration of ICT within public sector to promote public information openness however the progress is un-even, probably due to disparities between individual departments, inadequate resources dedicated to ICT and the lack of common standards. Some ministries including Ministry of Defense do not publish any information on procurement at all e.g. ([www.defence.go.ug/](http://www.defence.go.ug/)); where as other agencies like KCCA fairly publish procurement details e.g. <http://www.kcca.go.ug/>. There are also variations in dates of publishing information



online and offline and neither PPDA nor any government ministry or authority publishes actual contracts, online.

#### 4.9.1 Disclosure of Data at project site level (A case of Construction of the New Nile Bridge Project by UNRA)

A site visit to the above project site was organised, with a view of understanding infrastructure data disclosure Initiatives at the site. The Nile bridge is located approximately 82 Km by road East of Kampala City, 500m South of the existing Kampala – Jinja Highway. The project consists of the construction of a new three span totalling to 525 m long cable –stayed bridge across the river Nile. With a main span (Clear Span) of 290m, 22.9m wide prestressed concrete box girder will accommodate two traffic lanes and one walk way (7.0m carriage way +2.2m walkway) in each direction and will be supported by a single plane of cable stays anchored in the middle of the girder and the load shall be transferred to the ground through the four supporting structures with two pylons having an inverted Y-shaped approximately 69.0m high. The project also includes 1,829m access road.



*Project Information Board For the New Nile Bridge (CoST File Photo)*

### 4.9.2 Key observations

It was easy to get information from the Engineer and the Client and there was evidence of proactive disclosure of information. There is an information bill board displaying key project information. It was also noted that both the client and contractor publish a weekly brief work progress update. A copy accessed at the site contains the following details; Project title, Project details, design life, employer, Funder, contractor, consultant, Start date, Construction period, Bridge general view, Pylon view, Pylon side view, box girder standard drawing, Bridge length, Access road, deck width, superstructure specifications, stay cables, details on concrete works etc. The cost of the project was however provided on request.

### 4.10 Barriers to release of project information by PEs

In summary the barriers include;-

- Poor information management systems and limited capacity of PE
- The high cost involved in compiling information in the absence of electronic data storage
- Scepticism over the potential benefits of wider disclosure
- Limited awareness of the legal requirements
- Limited financial resources
- The complex issue of governance

### 4.11 Key observations on the current status of disclosure

- Information that is posted on a site notice board or disclosed in official documents (included under 'other') was also considered to be pro-actively disclosed.
- However information that is only available in a hard copy file in the head office of the PE is not easily accessible to the public and cannot really be regarded as being put into the public domain is regarded as re-active.
- Most the available information relates to project identification and preparation, less information is disclosed at project completion.
- The items that PEs reveal to be disclosing in pro-active way were not exceeding 1/3 of what is required under IDS.
- Even some of the information that would be pro-actively disclosed, is still taken to be under reactive.
- Most of the items can only be viewed by consulting a hard copy at the head office of the PE, leaving aside the issue of whether the PEs actually allows the public to enter the office.



- Most of the information that is required by law to be pro-actively disclosed relates to the tender process and contract award (*tender procedures for design, supervision and works and the names of the successful bidders (contractors or consultants)*).
- Legal and policy requirements are aimed at participants in the procurement and tender market and not at informing the public about projects.
- Little requirement for transparency around the project (project identification, funding, feasibility and planning), and changes to contract time/cost during implementation.

**Better lives from better infrastructure.**

**CoST UGANDA CHAPTER**

COUNTRY SCOPING STUDY ON INFRASTRUCTURE DATA STANDARD



## 5.1 Conclusion

Uganda is arguably implementing NDP 11 and Vision 2040 aimed at propelling the economy to the middle income status by 2020. Consequently there are deliberate efforts to speed up construction of key infrastructure projects that will enable attainment of the same. The construction sector is also boosted by oil and gas resources which are expected to be produced by 2020. This and more road constructions, schools, health centers, hospitals, SGR constitute a huge construction projects that are currently ongoing or expected to commence in the very near future. It is thus critical for CoST initiative to help ensure that there is transparency and value for money in all the construction projects ongoing or yet to commence. It is thus important to design CoST interventions and ensure appropriate implementation to ensure transparency in the construction sector for the benefit of the citizenry.

## 5.2 Recommendations

### 5.2.1 Specific Recommendations for Civil Society

#### (a) Capacity building can strengthen engagement and credibility

Civil society engagement needs to take into account the varying capacities and incentives of civil society organisations. Such engagement may require building both technical and governance skills to ensure all stakeholders can play an informed and credible role at the table. In Vietnam, for example, where there was little experience of cross sector engagement, expert facilitation of the initial dialogue was needed to help establish ways of working together. Representatives on the MSGs may also need help to reach out to the wider community. Civil society investment in time and human resources, including separate capacity building funding and networking, can ensure effective engagement across the sectors, as well as between the MSG representatives and the broader constituency.

#### (b) Advancing CoST goals by linking with other initiatives

CoST is only one of a number of current initiatives that aim to improve the effectiveness of public investments in construction. Experience from the pilot suggests that the impact

of the programme will be greatly enhanced when it is aligned with these other initiatives. The MSG of CoST Uganda should create working relationships with key stakeholders mapped under this study and also map other relevant reforms and processes that influence its work. Initiatives of particular interest to civil society include the following: National and international access to information campaigns, Procurement and information management initiatives.

### **(c) Increasing access to needed information**

Getting access to needed information has been a perennial problem for citizen groups: in the field, monitoring the quality of constructions works can be difficult for lay people and difficult without continuous presence at the construction site. Getting information from government offices has also proved difficult in many cases, even though Uganda's Constitution guarantees the people's right to government information. Making extensive use of the media to share documents from government can result into construction monitoring activities in the field. Scrutiny by CSOs can contribute to changes from government and contractors in the quality of service delivery.

### **(d) Social accountability initiatives:**

Linking CoST information with local community engagement and project monitoring can improve governance and performance in the infrastructure sector. Disclosed project information may be tracked on an online map, for example, and used by civil society monitors to assess the efficiency and effectiveness of projects on the ground. Information disclosed by procurement agencies on a project's location, scope, cost, and time to completion can be verified in the affected communities. The monitors can share their findings with the MSG and procuring entities to highlight strengths and areas for concern, so as to increase accountability and responsiveness. Such engagement bridges the local communities with the national MSG and procuring entities, and can provide concrete evidence of the value of transparency in the construction sector.

### **(e) Building Demand**

Though the scope of the CoST pilot was limited, due to time constraints, to the disclosure of key project information, it became clear that civil society can play a vital role on the demand side to raise awareness and access to information, and engage a wider range of stakeholders in the dissemination and take-up of information. Civil society can strengthen channels to address procuring entities, and build capacity for holding responsible bodies accountable.

## **5.2.2 Specific Recommendations to Government**

- Review of the legal and policy framework to incorporate provisions of Infrastructure Data Standard for example *Extension of the legal requirement for disclosure to embrace the earlier and later stages of the project cycle*. GOU should put in place legal provisions for the implementation of CoST; this is what we call a Formal Disclosure Requirement

(FDR), so that CoST doesn't have to approach each Public Entity to sign MOUs but only refers to the FDR to access data.

- Create a better understanding among PEs of current disclosure requirements, in order to raise the level of compliance
- Strengthening the capacity of PEs to put in place strong information management systems and move to electronic data storage to facilitate pro-active disclosure
- Deployment of a standard, user-friendly electronic format for data collection with clearly defined terms adapted to the local context
- Strengthening enforcement of existing disclosure requirements, with sanctions
- Creation of a dedicated unit in each PE as a depository of Project Information
- Assigning oversight responsibility for the collection and subsequent disclosure of project information to a central body
- To merge existing project databases and improve access to them
- Boosting advocacy work-especially by CoST
- Government needs to work on issues of accessibility to lower the cost of accessing internet and create functional interactive websites which are essential in ensuring that government-citizen communication is two-way.
- Interactive websites should enable bottom-up approach that enables citizens to direct and influence the reforms they wish to see undertaken. Increase training for government staff in ICT and e-procurement.
- Other disclosure avenue should be explored such as mobile phone SMS (see NITA-U initiative called GCIC)
- Strengthen physical disclosure on notice board and information center with better oversight on compliance.

### 5.2.3 Specific Recommendations to development partners

- Increase support to strengthen institutional capacities to implement CoST. This involves identifying both government and civil society players in the construction sector and supporting joint and collaborative effort for capacity building and strengthening.
- Intensify the development of guidelines and policies that require clients and partners in the construction sector to disclose information.

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CoST Infrastructure Data Standard			
Project data for proactive disclosure			
Project Phase	Project Data	Contract Phase	Contract Data
<b>Project Identification</b>  (6 items)	<b>Project owner</b> <b>Sector, subsector</b> <b>Project name</b> <b>Project Location</b> <b>Purpose</b> <b>Project description</b>	<b>Procurement</b> (13 items)	<b>Procuring entity</b> <b>Procuring entity contact details</b> <b>Procurement process</b> <b>Contract type</b> <b>Contract status (current)</b> <b>Number of firms tendering</b> <b>Cost estimate</b> <b>Contract administration entity</b> <b>Contract title</b> <b>Contract firm(s)</b> <b>Contract price</b> <b>Contract scope of work</b> <b>Contract start date and duration</b>
	<b>Project Scope (main output)</b> <b>Environmental impact</b> <b>Contact details</b> <b>Funding sources</b> <b>Project Budget</b> <b>Project budget approval date</b>		
<b>Project Completion (6 items)</b>		<b>Implementation</b> (6 items)	<b>Variation to contract price</b> <b>Escalation of contract price</b> <b>Variation to contract duration</b> <b>Variation to contract scope</b> <b>Reasons for price changes</b> <b>Reasons for scope and duration changes</b>

## Project Information for reactive disclosure on request

## Project

**Identification & Preparation**

Multi-year program & budget  
 Project brief or Feasibility study  
 Environmental impact assessment  
 Resettlement & compensation plan  
 Project officials & roles  
 Financing agreement  
 Procurement plan  
 Project approval decision

**Completion**

Implementation progress reports  
 Budget amendment decision  
 Project completion report  
 Project evaluation report  
 Technical audit reports  
 Financial audit reports

## Contract

**Procurement**

Contract officials & roles  
 Procurement method  
 Tender document  
 Tender evaluation results  
 Project design report

**Contract**

Contract agreement, conditions  
 Registration & ownership of firms  
 Specifications & drawings

**Implementation**

List of variations, changes, amendments  
 List of escalation approvals  
 Quality assurance reports  
 Disbursement record  
 or Payment certificates  
 Contract amendments



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