



**OPEN DATA**

**+**  
**INCREASED  
DISCLOSURE**

**BETTER PPPs**

Measuring results in Latin America  
and the Caribbean

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*David Bloomgarden, Inter-American Development Bank and  
Georg Neumann, Open Contracting Partnership*

The benefits of open and participatory public procurement are increasingly being recognized by international bodies such as the G20, the Organization for Economic Co-operation and Development, and the multilateral development banks. Value for money, more competition, and better goods and services for citizens all result from increased disclosure of contract data. Greater openness is also an effective tool to fight fraud and corruption.

However, because public-private partnerships (PPPs) are planned over a longer-term timeframe and involve a larger number of groups, implementing greater levels of openness in disclosure is complicated. This complexity can be a challenge to good design. Finding a structured and transparent approach to managing PPP contract data is fundamental for a project's success and uptake in the community.

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There are already solid examples of greater openness and more detailed policies on contract disclosure throughout Latin America and the Caribbean. To solve Mexico's issues, for example, Mexican President Enrique Peña

Nieto announced at last year's Open Government Partnership meeting in Mexico City that Mexico will use open contracting in building the country's newest airport and selecting businesses to deliver on services. It's a significant announcement because the airport is one of the largest infrastructure projects in Latin America this decade, and the largest one in Mexico.

## OPEN CONTRACTING FACILITATES DATA DISCLOSURE

Open contracting is a solution that discloses all data along the public procurement process, from the planning stage, to the bidding and awarding of the contract, to the monitoring of the implementation. It uses a global open source data standard to publish that data and is already being implemented in countries as diverse as Canada, Paraguay, and the Ukraine. Using open data throughout the contracting process provides opportunities to innovate in managing bids, fixing problems, and integrating feedback as needed. Open contracting contributes to the overall social and environmental sustainability of infrastructure investments.

Mexico's airport project already publishes details of awarded contracts, including visualizing the flow of funds and detailing the awarded contracts and renewable agreements with full amounts. Standardized, timely, and open data provided by global standards such as the Open Contracting Data Standard will make this information useful for analysis of value for money, cost-benefit, sustainability, and moni-



toring performance. Crucially, open contracting will shift the focus from just the inputs into a PPP to the outputs: shifting the attention to the goods and services being delivered.

## BENEFITS OF OPEN DATA FOR PPPs

We think that better and open data will lead to better PPPs. Here's how.

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### USING USER FEEDBACK TO FIX PROBLEMS

The Brazilian state of Minas Gerais has been a leader in transparent PPP contracts with full proactive disclosure of the contract terms, as well as of other relevant project information—a practice that puts a government under more scrutiny but makes for better projects in the long run.

According to Marcos Siqueira, former head of the PPP Unit in Minas Gerais, Brazil, “An adequate transparency policy can provide enough information to users so they can become contract watchdogs themselves. Understanding the output specification and the levels of services required (and being delivered) empowers users and helps to create pressure on the operator to deliver what was promised in the bid.”

For example, a public-private contract was signed in 2014 to build a \$300 million waste treatment plant for 2.5 million people in the metropolitan area of Belo Horizonte, the capital of Minas Gerais. During preparation, the project team operated under a policy of full disclosure. As the team members conducted

appraisals, they continuously disclosed them on the Internet. In addition, the team held around 20 public meetings and identified all the stakeholders in the project.

The sharing and discussion of this information changed the project dramatically. Most notably, the facility was relocated to a less-populated area. When the project went to the bidding phase, it was much closer to the expectations of its various stakeholders.

### MAKING BETTER DECISIONS ON CONTRACTS AND PERFORMANCE

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Chile has been a leader in developing PPPs (referred to in Chile as concessions) for several decades. Its PPPs span sectors including urban and inter-urban roads, ports, airports, hospitals, and prisons. It tops the list for the best enabling environment for PPPs in Latin America and the Caribbean, as measured by Infrascope, an index by the Economist Intelligence Unit and the Multilateral Investment Fund of the IDB Group.

At the core of Chile's success lies the concept of active transparency. In 2008, Chile introduced an Access to Public Information Law to make information more widely available. The implementation of the law is overseen by the Transparency Council. Information about all PPP projects will be published on the website of the Concession Unit of the Ministry of Public Works, which oversees the open bidding process. Every project is also required to publish a social cost-benefit analysis.

What makes Chile stand out is that it discloses information on performance of PPPs. The Concessions Unit regularly publishes summaries

of the projects during the different phases of the projects, including construction and operation. The reports are non-technical, yet include all necessary information to understand the scope of the project.

Managing renegotiations and adjustments of the original contract are a critical factor in the success of PPPs. Over the course of a PPP, for example when building a road, additional works emerge frequently. Sometimes, concessions need to be renegotiated. New transparency mechanisms introduced in 2010 were created to handle this new information. Introducing additional bidding for these works and dispute-resolution mechanisms have reduced the extent of renegotiations and improved the quality of competition. Clear public data during performance, including usage of built projects, is key to making decisions.

Eduardo Abedrapo Bustos, Concessions Coordinator in the Chilean Ministry of Public Works, says that these processes “are reinforcing the dissemination of information to better incorporate interested parties in monitoring the construction and operation of projects. This way, they are not only recipients of information. Citizen and user committees can provide support and feedback to solve problems, identify new requirements, and verify that the project complies with what is committed and planned.”

The benefit of improved transparency, information sharing, and citizen feedback is clear to Abedrapo: “Perfecting the methodologies for participation helps infrastructure match citizen needs and contributes to better quality of life. In this way, civil society becomes part of the project and its value. This process helps to reduce costs by avoiding run-over costs and delays if adjustments are needed after the fact,

and minimizes conflict with communities, creating more sustainable and inclusive projects.”

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## INCREASING COMPETITION

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Jamaica has shown the greatest improvement in its capacity to carry out PPPs. It now ranks eighth, up from 13th in the latest Infra-scope. Increased transparency in the identification, development, evaluation, implementation, and management of PPPs is a significant reason for this leap forward. Jamaica’s PPP policy provides information about PPPs at all stages from planning onwards.

Unsolicited proposals can be a source for new ideas the Jamaican government may not have identified on its own. However, managing these unsolicited proposals for innovative solutions can be tough. They may lose in an open competition, not achieve value for money, and cause complaints from other private operators that did not get a chance to submit a bid.

Jamaica’s new regulation balances the need for competitive tension by requiring competitive bids for projects already in the government’s pipeline of PPP projects. A Swiss Challenge is used for unsolicited proposals: this allows challengers and new or non-traditional businesses to submit a bid as long as it offers the same or better services at the same or less costs without increasing the risk to the government or public. The challenge bids must offer equivalent assurances on quality, performance guarantees, and financial standing.

Denise Arana, General Manager for PPP and Privatisation Services at the Development Bank of Jamaica, believes that this “competi-

tion facilitates innovation, optimal risk allocation, transparency, equity, and delivery of value for money for the public.”

## AN ARGUMENT FOR RADICAL TRANSPARENCY

The key to further progress is to make all public contracting information open. “Open” means not only that information is available, but that it is readily shareable and usable and in data formats that enable large-scale analysis.

Siqueira, writing in the World Bank Group’s PPP Blog, has proposed radical transparency. “A radical approach to transparency is the single best solution to managing the duration and complexity of PPP projects,” he explained. “Transparency makes it difficult for either party to disrespect the contract. When brought to the light of the day, decisions tend to become better and opportunistic behavior is highly discouraged.”

There may be some circumstances where it is not in the public interest to publish specific details of public contracts that touch on national security, privacy laws, and some commercial secrets. However, these are few and far between. That is the conclusion of an excellent paper by Charles Kenny from the Center for Global Development, who analyzes such exemptions in detail. Most of the commercial confidentiality concerns can be addressed by specifying when information needs to be disclosed as many concerns arise during the bidding process.

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What we need to avoid is a lazy default where information is routinely classified as confidential, especially where other checks and balances on misuse of government or corporate power are proportionately weaker.

Most importantly, open contracting makes financial sense. Under open contracting, ratings for Minas Gerais increased, providing better conditions for lending more money. Indeed, the state’s strong fiscal management system, including the publication of its contracts, led Standard & Poor’s in 2012 to raise its credit rating for the state.

Increasingly, private sector financing will be needed to finance the growing demand for infrastructure projects that address the Sustainable Development Goals. The infrastructure goals alone carry a hefty price tag. We need to ensure that money is well spent and results in real benefits for the world’s poorest people.