



# Inclusive Responses to the COVID-19 Pandemic: The Role of Open Contracting

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The COVID-19 crisis that plagues the world is not just a health crisis – but a crisis that affects every sector and every individual globally (Adhanom, 2020). A UN report on the socio-economic impact of the crisis cautioned that the pandemic “risks reversing decades of progress in the fight against poverty and exacerbating already high levels of inequality between and within countries” (UN, 2020a: 8).

There is consensus that the pandemic impacts countries and people differently, and that the most vulnerable sectors of the population will be badly hit – children, women, youth, indigenous people, the disabled, among others (Social Platform, 2020).

In open contracting, a variety of different measures have been suggested to ensure that emergency procurement is transparent and accountable. However, the pandemic has aggravated existing inequalities, showing that current responses failed to ensure an inclusive response and recovery (UN 2020b). If indeed the crisis severely impacts on the most vulnerable, how can open contracting principles, mechanisms, and processes be used to ensure that COVID-19 response and recovery measures are inclusive and protect the most vulnerable?

Hivos commissioned research to provide evidence that can be used by local actors and donors in the design, implementation, and advocacy for inclusive crisis response and recovery. In this paper, we present the findings from the research undertaken in Guatemala and the Philippines.

## Guatemala

Exceptions to standard public procurement procedures followed the announcement of a State of Calamity on 9 March 2020 by Guatemala’s government. At the same time, new reporting requirements were introduced to

ensure transparency and accountability. Several organisations made use of these reporting requirements to hold public institutions to account. This resulted in the detection of procurement irregularities, and even to the resignation of senior government officials leading the government's COVID-19 response.

However, none of the procedures or reporting requirements contained provisions to encourage the participation of marginalised groups in the public procurement of supplies and services related to the COVID-19 pandemic. Moreover, the allocation of additional budget to resource the health response to the pandemic focused on hospital care and human resource costs at the expense of providing primary care at the district level which serves indigenous and rural populations. Despite non-governmental stakeholders' efforts, low levels of execution by government agencies and inefficiencies in the acquisition and supply of equipment, materials and supplies needed to fight the pandemic further disenfranchised marginalised populations.

## The Philippines

On 8 March 2020, President Duterte signed Proclamation No. 922, declaring a State of Public Health Emergency throughout the Philippines. The proclamation facilitates faster access to emergency funding and relaxes procurement rules and processes, among other measures. Fifteen days later, Congress promulgated the Bayanihan to Heal as One Act which grants the President emergency powers, including the power to reappropriate budget allocations of departments and expedite the public procurement of medical goods and services.

The government initiated several support programmes, mainly in financial assistance, to ameliorate the economic and social effects of the lockdown measures implemented. The extent to which support reached the intended beneficiaries appeared to be limited in some cases. Local government authorities were also reported to be struggling in terms of dispersing emergency funds. These shortcomings would have had a direct impact on the extent to which marginalised communities with more limited capabilities would have been able to benefit from the support made available by the government.

Further exclusion in the Philippines resulted from a lack of participation by marginalised communities or representative organisations in planning and executing the government's recovery and response efforts.

An examination of the response of a local government, the City of Pasig, revealed processes that resulted in a more inclusive response to the pandemic. However, in terms of procurement by the city during the pandemic, inclusion was hampered by opaque processes and a lack of publicly available data. Nevertheless, a change

in city leadership that brought to an end decades of patronage, closer proximity to city residents and a better appreciation of their needs, the intervention of a high-profile and trust social accountability network, combined with political commitments to being inclusive, bode well for more inclusive procurement by the city.

## Conclusions and recommendations

A common sequence of events in relation to public contracting during the COVID-19 pandemic is evident in both cases. The process starts with the declaration of a state of emergency, which allows for standard public procurement procedures to be bypassed to expedite government purchases.

In the case of Guatemala, the changes in the legal framework has compelled government institutions to release comprehensive and granular data for all COVID-related procurement into the public domain. The publication of this data disrupts positively existing procurement flows which were hampered by the incomplete and irregular publication of procurement data. Second, civil society organisations, the media, and other stakeholders use the data to analyse public procurement for irregularities and set up initiatives to monitor the delivery of COVID-related purchases by government agencies. As a result, procurement data that previously was unlikely to disturb or challenge the status quo of those in power becomes much more valuable and effective as those in power seek to exhibit their commitment to supporting the people of Guatemala during an unprecedented crisis triggered by a lethal and indiscriminating virus.

In the case of the Philippines, there is no publication of procurement data during the crisis to disrupt data flows, allow scrutiny of procurement activities potentially tainted by corrupt practices, and hold government officials to account. While there have been allegations of over-priced procurement during the pandemic, as well as the awarding of contracts to black-listed suppliers, the public discussion did not reach to the same level as in Guatemala. However, at the local level, as illustrated by the case of the City of Pasig, a hand over of power that puts an end to institutionalised patronage and a commitment to supporting greater public participation in the governance of the city, results in new power dynamics between the city and its residents that resulted in more inclusive policies and measures during the COVID-19 pandemic, albeit not in the case of the city's procurement. The city of Pasig has the same problem as that of the national government; published data does not allow citizen groups to effectively follow the money, shielding the negotiated procurement process from scrutiny.



Analysing the two cases, the following key learnings are evident:

1. During times of emergencies, it is easy to ignore differences in context, needs, and vulnerabilities. The Philippine national government response against COVID-19 exemplifies this, as shown by the lack of attention to the different needs of habitually excluded groups, like for example, persons with disabilities.
2. Poor inclusion outcomes in COVID-19 response are a result of the lack of participation of people outside government in the design, implementation, and monitoring of initiatives to contain the virus and cushion the population against adverse economic impacts. This is evident in Guatemala, where the procurement of supplies favoured urban centres, to the detriment of those living in rural areas.
3. Data and information is a critical component in a more effective and inclusive emergency response. When information is provided, it opens up spaces for discussion, contestation, and productive collaboration, albeit not sufficient in itself. Even when using negotiated procurement, the publication of procurement activities and results can foster transparency and encourage accountability, especially when users of procurement information have the skills to analyse the implications of published data to procurement results. Complaints regarding overpricing, awarding of contracts to blacklisted suppliers, among others, will be monitored and appropriately acted on if procurement activities allow public scrutiny of negotiated arrangements, as the case of Guatemala suggests.
4. The role of intermediaries can not be overemphasised in ensuring that procurement during the times of crisis is transparent and accountable. Even during normal times, procurement activities are susceptible to corruption. This will be increasingly so during emergencies when stringent transparency and accountability requirements are foregone for the sake of expediency. Although procurement records can be made publicly accessible, without intermediaries, like media, watchdogs, or social accountability advocates and organisations, to scrutinise procurement records including those indicating the receipt of goods and services, as well as its consequent distribution and/or utilisation, a more accountable procurement process can not be achieved. Intermediaries need to have the skills and technical knowledge to access and analyse procurement data to ascertain the quality of received goods and the reasonableness of purchase price, to ensure that the government is getting value for money despite the nature of the emergency procurement.

What does this mean for marginalised communities and, in broader terms, for our interest in greater inclusion in public procurement? We distil three key actions that should be taken in the event of a crisis such as the COVID-19 pandemic:

1. Government should, from the very beginning of any crisis, make procurement data publicly available, with a comprehensive and timely publication that allows for the tracking of procurement processes from advertisement to delivery.
2. Government, civil society, the media and other stakeholders, as part of a social compact, should cooperate from the very beginning of any crisis to ensure efficient and effective use of public resources in response to the crisis.
3. All stakeholders should always be mindful that emergencies such as COVID-19 impact different people differently and should ensure that response takes into account the different circumstances, location, and intersecting vulnerabilities of people, in particular by promoting participation of traditionally excluded and vulnerable groups in the planning of the response.

Transparency, co-operation, and intentional efforts for inclusion are needed for an equitable response to the crisis, providing marginalized communities with equal opportunity to benefit from the government's response and recovery efforts.

To read the full case studies of the two countries, please read the following papers:

**Canares, et al., 2020.** An Inclusive Response to the COVID-19 Pandemic in the Philippines, What is the role of open contracting?

**Aguilar et al, 2020.** An Inclusive Response to the COVID-19 Pandemic in Guatemala, What is the role of open contracting?

## References

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