En route to an open platform
Governmental Procurement Information

Policy response to the Open State Foundation's report

'How do we unlock procurement data?'

An inventory of the needs of users and re-users'

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A: Prologue

In October of 2019, the Cabinet announced its governmental procurement strategy, entitled: 'Procurement with Impact'. Since then, sustainable, social and innovative procurement has become the new norm. Realising this policy will require coordinating a structured, productive dialogue between the national government and external stakeholders, such as citizens, businesses and interest groups. It will also entail sharing governmental expertise with local authorities and knowledge institutes. All of which will increase the likelihood of providing a joint response to the common societal challenge, and will raise support among the public for government policy.

In a series of interviews, external stakeholders were asked about what information they needed to have a fruitful discussion with the government. The subsequent answers were discussed in a public meeting, where anyone interested was welcome to attend. This input can be leveraged to develop an open, accessible and well-organised platform that contains information about governmental procurement and has a provision which allows users to dialogue with the national government about this information.

The scope of the platform is category management. Ministries procure services and products not only for themselves, but also for each other. Twenty-two categories are covered, including temporary employees, the workplace environment, and energy. For every procurement category, a category manager will be authorised to manage this part of governmental procurement: from needs assessment and strategy formulation at the beginning to evaluation of the services and products delivered at the end, including the effect on the social goals realised. This is an iterative process because the results of the evaluation form the basis for a new procurement cycle. Each year, approximately €2.5 billion is spent on governmental procurement using the category management strategy.

Following the recommendations of the Elias Commission, in 'Grip on ICT', the national government has instituted strategic supplier and contract management (SLM Government) as well as software asset management (SAM) for its major ICT suppliers. This information will also be made public, in an effort to increase the social added value of ICT by dialoguing with external stakeholders.

Finally, the platform will direct visitors to other publicly available information.

One of the spearheads of 'the European Green Deal', European commission policy, is to boost the social significance of governmental procurement. The Netherlands can learn how to do this from other EU countries. And vice versa, the Netherlands can share its own knowledge and expertise on its approach. In the spring of 2022, the concept of an open platform for governmental procurement information will be discussed in consultation with EU country representatives to determine any potential improvements. This meeting will be organised by the Chief Procurement Officer (CPO) of the national government and the Open Contracting Partnership (OCP), an independent non-profit.

In principle, all information about governmental procurement using the category management strategy is publicly disclosed. Relevant information about the entire governmental procurement cycle is either already publicly available or soon will be. This includes market research, category plans, government tenders, government contracts and public expenditure. The platform not only makes the information accessible, it also actively promotes a dialogue about it.

The Public Procurement Act 2012 and the Open Government Act, entering into force in May of 2022, have provisions that protect entrepreneurs from disclosing confidential and competitively sensitive information. This pertains to information like trade secrets, prices and planning. The national government must comply with these laws and regulations. However, the national government is also obliged to indicate the decisive reasons that led to the winning bidder. The category managers follow this up by furnishing the losing bidders with the necessary information, then actively discussing it with them. From this perspective, the national government

will consider which procurement information can be made public within the applicable legal frameworks, while also taking the interests of citizens, companies and interest groups into due consideration.

B: External stakeholders' information needs

In May of this year, the Open State Foundation (OSF) published its report 'How do we unlock procurement information, an inventory of the needs of users and re-users'. To this end, the OSF approached the widest possible group of stakeholders: industry associations, companies, scientists, journalists, interest groups and initiators of open procurement initiatives abroad. The OSF then issued seven recommendations for public disclosure and the potential establishment of an open platform for governmental procurement information.

In May of 2021, the ICTU (the national government's ICT implementing body) presented its report 'Communication procurement via an external website: an inventory of the wishes and requirements of category managers, SLM/SAM' to the commissioner: the national government's CPO. To determine which information is relevant to whom at what time requires using the procurement process steps as the starting point and determining which channel and information is suitable for which process step. The ICTU provides a conceptual framework for this, and it recommends, among other things, organising the management professionally, starting with balanced, feasible steps and paying attention to subsequent optimisation or changes in the provision of information in the design.

For each of the OSF's seven recommendations, this policy response makes a proposal as to whether they can or cannot be implemented. The ICTU's recommendations have been taken into account for this.

Recommendations of the OSF Report

1.   *Facilitate all forms of use/re-use*

The OSF's first recommendation is to use all the assessed wishes and needs of the external stakeholders as the starting point for developing the platform.

This recommendation will be followed, in large part. We will optimise the disclosure of public information on governmental procurement and will commit ourselves to the Open Contract Data Standard (OCDS) for said disclosure.

For now, it would be going a step too far to meet every wish of users/re-users. A cost-benefit analysis between the administrative costs and the benefits of the additional opportunities for re-use would be appropriate here. This is because the level of detail of the information requested is quite high, which requires major adjustments to various data collections and systems, as well as possible expansion of their scope (what the data collection or system is intended for). Additional data fields must be refilled, and data must be collected and verified. There is no doubt about the willingness to (proportionally) meet the need for information. Based on the concept of 'open, unless', we are exploring, in tandem with the source owners, whether and to what extent it is possible to add data fields within the given frameworks and preconditions. Any additions will be implemented after a positive inter-departmental decision.

In the meantime, we are unlocking information that is already in the public domain. This is not only what the ICTU recommends, but it is also what the category managers consider realistic. For example, (the public versions of) all twenty-two category plans will be publicly disclosed in 2022. The focus of the category plans is threefold:

> ➢ The category's contribution to the governmental strategy 'procurement with impact'.
> ➢ How well the client's needs are fulfilled.
> ➢ The professionality of the (governmental) procurement.

The national government's CPO has drafted a guideline for the disclosure of (the public versions of) the category plans, to attune their information to the needs of the external stakeholders and to publish it so that it is accessible and readable. Using a common format for the public plans will improve their uniformity. However, every category and market is different, and the categories vary in terms of the stage of their development. This diversity will be maintained; therefore, each category must be able to apply its own accents when presenting its plans to the outside world (Local Flavour).

Communication experts can help category managers optimally formulate their message for the public disclosure of their information. Practice will show the extent to which their plans meet the needs of external stakeholders. Engaging in and monitoring dialogues with external stakeholders will enable parties to determine which additional information the external stakeholders require or which information may be omitted, and to what extent the category managers can satisfy this.

2. Publish data from the entire procurement cycle

This OSF recommendation will be fully implemented. For each phase of the governmental procurement cycle, information will be published on the open platform. The ICTU also recommends using the process as the starting point for identifying the information needs. More specifically, this concerns:

- (Public versions of) the category plans
- Market consultations
- The government tender calendar
- Published tenders
- (Metadata relating to) government contracts
- SLM plans and an SAM plan
- Public expenditure
- Evaluation and research reports

Compiling this information onto a platform, from the perspective of coherency in the governmental procurement cycle, will improve the accessibility and usability of the governmental procurement information, thus simplifying the dialogue with external stakeholders.

3. Prioritise the publication of contract data

This recommendation will be followed to the extent permitted by the applicable legal frameworks.

The core data (metadata) of and about the government contracts are already public; this information is updated on a quarterly basis. The documents for public tenders, often with contract templates, also contain information on the requirements to be met by the winning bidder. The national government, like any contracting authority, is obliged to communicate the decisive reasons for choosing the winning bidder over the losing bidders. In practice, the category managers fulfil this obligation by providing the entrepreneurs concerned all the necessary details about the decisive reasons and by actively engaging in a dialogue about this information.

The external stakeholders have expressed a desire for the totals of the winning bids to be publicly disclosed or, even better, to publish the contracts in their entirety. This desire, and thus OSF's recommendation, will be met insofar as the contract data may be made public. The national government will consider, within the limits of the Public Procurement Act 2012 (*Aanbestedingswet 2012*) and the Open Government Act (*Wet open overheid, Woo*), which additional governmental procurement information can be made public. The national government's aim is to make additional information public whenever possible. Citizens, businesses, interest groups, different stakeholders and category managers will be involved with this.

4. Create a 'single source of truth'

We will follow this recommendation. The unlocked information will be centrally organised, so that it is more accessible and easier to find.

Building a single database is not a desirable option. Currently, a significant amount of data and information about public procurement is already being published and stored in assorted online environments. Each web link has its own perspective and specific information need, which will be met. Haphazardly throwing all of these online environments together would be to the detriment of the discoverability, overview and consistency of the governmental procurement information. The better approach is to access all of the sources in a single location: the platform. This will clarify the origins of the governmental procurement data, and the data will be more readily accessible. It will then be possible to switch to other online environments that contain additional and/or specific information.

The line organisation will ensure the accuracy of the procurement information that the national government publicly discloses. ICTU recommends designating clear owners who bear responsibility for the accurate entry, updating and completeness of the data. For all public information about governmental procurement, the responsible party will be indicated for each information source. This responsibility will be safeguarded by the national government. Beyond that, according to the ICTU, central direction is required, as well as centralised access and management. The added value of the platform lies precisely in its ability to bring information together and to make it accessible and user-friendly.

5. Open, unless ...

We fully endorse this concept and will follow it.

Pursuant to the Open Government Act (*Wet open overheid, Woo*), which is to replace the Government Information (Public Access) Act (*Wet openbaarheid van bestuur, Wob*) in May of 2022, the principle of active disclosure is enshrined in law for local authorities. Based on this perspective, the OSF recommends that transparency should be the starting point for publishing information on governmental procurement and, whenever requested, reasons should be provided for not publishing certain data and information.

6. Apply the Open Contracting Data Standard (OCDS)

We will follow this recommendation. The OCDS will be applied.

One of the projects from the previous 'Open Government' action plan involved researching the applicability of the OCDS for governmental procurement. The research concluded that the national government sufficiently complies with this standard and that no drastic measures are required to increase its applicability. During that time, however, the observation was also made that providing better access to the national government's procurement data and making them publicly available was advisable in order to improve the dialogue between the national government and external stakeholders. This observation led to the Contract Register project, to applying for a grant from the European Community and to the inclusion of this project in the new Open Government Action Plan 2020-2022.

When constructing and designing the platform, establishing standards and definitions will promote the comparability of information. In the ICTU's estimation, whatever is the same can be called the same, and it recommends working toward a procurement thesaurus. This will also help to meet the demand for robust, processable data. Contract managers are also calling for uniform presentation, standards and definitions. But realising this will not be easy . The various existing standards and definitions will have to be unified: in the

information statute, around dashboards and with various third parties — also outside of the national government. It is a lengthy and tedious process to agree upon the 'list of all lists' with the owners of the numerous sources.

7. Develop a mechanism for consultation and independent monitoring

We will follow this recommendation when it comes to the development of the platform.

However, to develop independent monitoring of governmental procurement would be going too far. The OSF bases its recommendations on the conviction that public procurement reforms cannot succeed without the participation of users and re-users who are outside the national government. However, the national government does have several mechanisms for safeguarding and monitoring the reliability of procurement information.

We share information for the benefit of the stakeholders in society. Actively disclosing this information allows for a dialogue with external stakeholders in order to determine the best approach. Because the current control of public procurement information is regulated and based on the laws and regulations that have been agreed upon for this express purpose, developing mechanisms for independent monitoring, unlike the consultation mechanism described in the following paragraph, would be an overreach.

A mechanism for consultation would be highly useful for further developing the open platform. The ICTU recommends establishing a quality circle. A user panel with a representative delegation of external stakeholders, is, in the first instance, an effective way to garner feedback on the accuracy, completeness and currentness of the platform's information and to implement improvements on that basis. The best approach would be to make a good start and develop the platform in collaboration. Particularly at the start, frequent consultation between the user panel and suppliers of the governmental procurement information will be instrumental in ensuring a functional platform and in fostering a culture of open information exchange. Identifying leaders and adopting best practices will help accelerate this process.

C: Follow up to 'Open Procurement in Focus'

Obtaining information that is complete and in order will require a change in culture. This is one of the most important insights of the meeting 'Open Procurement in Focus', and it's also mentioned by the ICTU. The national government must be more outward looking, for the open exchange of views on policy and the considerations involved. This will require transparency, as well as a change in culture by all concerned. The goal of this will be to collaborate on governmental procurement for the greatest possible sustainable, social and innovative impact, within the limits of legality.

Beyond assisting external users, a working open platform for governmental procurement could also act as a lever for the national government itself and for other public authorities. Sharing knowledge, expertise and best practices between parties will contribute to more effective procurement that has a greater social impact. If the information is both accessible and appropriate for re-use, procurers will spend less time and energy on searching. This gain can then be used to improve the procurement process, especially at a time when procurers are often overburdened.

The concept for the open platform will be discussed with the other EU countries in spring of 2022. This consultation is already provided for in the project plan for the Contract Register and will be organised by the Open Contracting Partnership (OCP) in cooperation with the national government's CPO. It is vital for the EU countries to share their knowledge and expertise in a way that actually leads to greater openness about the procurement process. This will be the guiding principle of the EU conference, which is being organised with funding from the Open Government action plan.

There is consensus on the positive effect of greater transparency by the principal on procurement. The more transparent the principal, the better the tenders. And that is our objective. Whether the contents of all government contracts or the prices of the winning bidder are made public is, as previously indicated, subject to additional research.

There is also agreement on the fact that establishing an open platform is not an easy task. This will require setting priorities, weighing up various public/private interests and working with a growth model. Not everything can be done at the same time. We will proceed from the firm belief that openness should be at the core of our approach, but also that privacy or other security considerations will only prevail in exceptional cases. The politics on this are clear. Promises have to be kept.

D: An initial yet fully fledged design for an open platform on governmental procurement information

The open platform for governmental procurement information, designed in accordance with the recommendations issued in both the OSF and the ICTU reports, will not be ready all at once, but rather will be built gradually over time. After each step, there will be feedback collected and a public consultation will be organised. This can be accomplished by setting up a quality circle: a feedback loop with the users of the information.

The entirety of goods and services procured by the national government is very diverse. Governmental procurement ranges from major infrastructure works, defence materials and protective equipment to laptops, tablets and the recruitment of temporary staff. The platform's scope will be to enable access to information about general, department-wide government tenders within the framework of category management (these are all European tenders). This entails approximately €2.5 billion in expenditures annually. In addition, the open platform will direct users to other web environments with previously disclosed public information.

The following will be the input for the first, fully-fledged design. The platform design will be based on this information, assuming possible expansion at a later date:

> ### The following information will be placed directly on the platform:
>
> - Cabinet policy 'Procuring with Impact'
> - The (public versions of) category plans (procuring with impact, customer satisfaction and professionalism)
> - Market consultations
> - The government tender calendar
> - Published tenders
> - Key information from government contracts
> - Strategic supplier and contract management and software asset management (SAM)
> - Public expenditure
> - Evaluation and research reports on governmental procurement
> - Best practices in governmental procurement, to inspire local authorities.
>
> Information will be presented on the open platform from the perspective of maintaining consistency in the governmental procurement process. The information will also be presented in a form that suits the target group and is easy to deliver. This could take the form of (or refer to) data collections, documents (whether or not audience friendly), infographics or other forms. The documents and data, which are essential to properly understand governmental procurement, will be posted on the platform or will be referenced in case they are available elsewhere. The data will be regularly updated. For example, category plans will be updated every three years, public expenditure annually and the government procurement calendar and the overview of government contracts will be every quarter. The other information will be updated as appropriate.

Users will be able to ask questions about the published information (FAQ hub)

Such a platform will contain a FAQ hub, where users can pose factual questions about the governmental procurement information. Questions will be channelled to the sources capable of providing answers. The questions and answers provided will be stored, and this information will remain immediately accessible. Pursuant to the General Data Protection Regulation (GDPR), the questioner's personal data will of course not be stored. What the FAQ hub will look like is still being worked on in conjunction with existing websites, offices and contact points.

The platform will have a provision for dialogue

External stakeholders and the national government will be able to have dialogue about the information on the platform. To steer this dialogue in the right direction, the user panel will draft a set of rules of conduct to facilitate an orderly discussion. The outcomes of the dialogue will be stored, and this information will remain immediately accessible.

The open platform will be designed by experts

The open platform will be professionalised by outside experts. Regarding the design, the two main criteria will be accessibility and user-friendliness. The national government's CPO and the coordinating directors of procurement (CDIs) will decide on a suitable platform, be it existing or new. It will then be possible to create a design that serves as the basis for the first, fully-fledged version of the platform that can actually be built or organised.

The platform will be further developed

The platform will require several years to mature. The best approach will be to design with (technical and functional) expansion in mind and, after the launch, to further develop the platform together. Particularly at the start, frequent consultation between the user panel and suppliers of the governmental procurement information will be instrumental in optimising the platform and in fostering a culture of open information exchange. Identifying leaders and adopting best practices will not only accelerate this process, it will also provide leverage for more 'procurement with impact' by local authorities.