

# Assessing an Enabling Environment for Open Local Contracting in Fako Division

Agnes Nanyongo Mbua Ndumbe

Faculty of Laws and Political Sciences, University of Buea, Buea, Cameroon

## ABSTRACT

Open Contracting has become part of public financial management the government uses to generate revenues through the issuance of licenses to operate public services, and in the sale of public property. As one of the measures in which the government spends its money, all levels of government whether at the national or at the local levels enter into contracts to deliver goods, works, and services to citizens. These public contracts are given to all economic sectors and agreements are made ranging from the small procurement of goods to large capital spending for development of major infrastructural projects to take place. However, public contracting has been identified as the government activity in the advanced and less advanced countries most vulnerable to wastefulness, mismanagement, inefficiency, and corruption oftentimes, the governments dishes out little or no information about (a) the planning of public contracts, (b) how public contracts are formed (e.g. whether by negotiation or through a competitive tender process); (c) the content of the agreements; (d) the progress of their performance or (e) the relevant government oversight mechanisms. This lack of information can make it difficult for civil society – and sometimes even for auditors and parliaments – to assess whether the government is getting good value for money or whether the parties to the contract are fully complying with their obligations.

This study therefore seeks to examine the environment for which open local contract is practiced in the Fako Division. The study uses the case study design and adopted both the quantitative and qualitative approaches using questionnaires as the main instrument of data collection. The non-probability purposive sampling was used and the findings showed that there are laws that regulates the award and regulation of public contract in Cameroon. These laws are combined in what is called the public contract code and is supposed to be owned by every contractor as well anyone who wants to know about public contract in Cameroon. The code has been published online for persons who cannot easily access the hard copy or anyone who wishes to access from the comfort of their homes. It also shows that most contractors are not versed with the legal and regulatory laws that guides the execution and implementation of public contracts. The study recommends the following: The contracting authority should make available information about public contract to the public both online and offline. With the coming of internet, contracting authorities can

make available information for any interested person to get it at the comfort of their homes, the government should make available copies of the public contract code. Some contractors do not have the public contract codes because some cannot read and some employ the services of an experience technician who can do the work for them. The government should make sure that every contractor owns a public contract code and knows and practices all the laws that have been spelt out in the public contract code.

## 1. INTRODUCTION

### 1.1. Background to the Study

Open Contracting has become part of public financial management the government uses to generate revenues through the issuance of licenses to operate public services, and in the sale of public property. As one of the measures in which the government spends its money, all levels of government whether at the national or at the local levels enter into contracts to deliver goods, works, and services to citizens. These public contracts are given to all economic sectors and agreements are made ranging from the small

*How to cite this paper:* Agnes Nanyongo Mbua Ndumbe "Assessing an Enabling Environment for Open Local Contracting in Fako Division" Published in International Journal of Trend in Scientific Research and Development (ijtsrd), ISSN: 2456-6470, Volume-5 | Issue-6, October 2021, pp.1366-1375, URL: [www.ijtsrd.com/papers/ijtsrd47651.pdf](http://www.ijtsrd.com/papers/ijtsrd47651.pdf)



Copyright © 2021 by author (s) and International Journal of Trend in Scientific Research and Development Journal. This is an Open Access article distributed under the terms of the Creative Commons Attribution License (CC BY 4.0) (<http://creativecommons.org/licenses/by/4.0>)



procurement of goods to large capital spending for development of major infrastructural projects to take place.

Public contracts is used as an important measure in the lives of citizens. It enables the citizens to enjoy provisions of the government such as the construction and maintenance of roads, schools, and hospitals; the generation of electricity; the exploitation of natural resources; the delivery of textbooks and medicine; and all of the other goods, works, and services which the governments as a means of spending its money, delivers to their citizens in order for development to be realized. Thus, the award of public contract should be given to whoever deserves it and is ready to provide what is need and in time.

However, public contracting has been identified as the government activity in the advanced and less advanced countries most vulnerable to wastefulness, mismanagement, inefficiency, and corruption oftentimes, the governments dishes out little or no information about (a) the planning of public contracts, (b) how public contracts are formed (e.g. whether by negotiation or through a competitive tender process); (c) the content of the agreements; (d) the progress of their performance or (e) the relevant government oversight mechanisms. This lack of information can make it difficult for civil society – and sometimes even for auditors and parliaments – to assess whether the government is getting good value for money or whether the parties to the contract are fully complying with their obligations. It also makes it difficult for private sector actors who wishes to compete in the public contracts sector to do so, as well as for civil society groups and communities to participate and monitor public contracts or for the private sector to give feedback on public contracting processes.

Due to the on growing recognition of these harms in the public contract sector, as well as developing rules connected to access to information and collaborative governance, there has been a recent curiosity of increased disclosure and participation practices in public contracting in most if not all countries around the world. The suggestion underlying these norm is that exposure and participation are mutually reinforcing drivers of accountability in environments that public contract is characterized by non-disclosure, civil society and the media (and, in some cases, parliaments and auditors) cannot sufficiently monitor, criticize, or applaud the use of public resources. If adequate information are given to the public, they can expressively partake in public contracting processes and work closely with the government, civil society, donors, and the private sector. This can help the contracting processes to

achieve better contracts for governments, and also go a long way to provide a high quality of goods, works, and services for citizens around the world.

In recent years, governments around the world have begun taking action to enhance disclosure and participation in public contracting. Such open contracting efforts include:

- Developed a framework for which there will be a transparent and unbiased contracting process;
- Identifying that there should be a right of the public to access public contracting information;

However, there remain significant challenges and obstacles to implementation of transparent contracting processes in many places. Such challenges include the fact that governments lack the technical capacity and knowledge to initiate and manage reforms to the system, and of some staff to adhere, implement and manage the contracting process. Too many responsibilities for public contracting within government can also result in the lack of predictability in application of existing rules and weak application. In addition, some governments in the world do not have the sufficient political will to enact reforms or enforce existing rules due to the vested interests of those that may benefit from the opportunities for misappropriation of the contract award process.

For those governments that have regularized laws that are applicable to a transparent public contracting, have seen that it comes with a lot of enjoyable benefits. Some of these benefits are evidence that these governments enjoy less corruption, have been shown to save time, enjoy increase value for money, and improve access to public contracting opportunities for small and medium sized enterprises (Kaspar and Puddephatt, 2012: 38).

### **Problem Statement**

Procurement is an essential component of government spending. Worldwide, governments spend about US\$9.5 trillion or 15% of global GDP—on contracts with companies to procure works, goods and services (Open Contracting Partnership OCP, 2015: 35). Procurement constitutes about 30% of government expenditure in high-income countries. In low- and middle-income countries, it makes up an average of 50% (Lucas Amin, January 2017: 28).

However, Corruption during the contracting process has been identified as a major problem. The OECD, the European Commission, and the UN Office of Drugs and Crime (UNODC) all cite public procurement as the largest corruption risk for governments (OCP, 2015: 42). According to the UNODC, corruption reduces the value of a public

contract by 10 to 25% (UN Office on Drugs and Crime, 2013: 18). Most bribery cases prosecuted under the OECD Anti-Bribery Convention involved bribery during the contracting process (Lucas Amin, January 2017: 33). The financial cost – not to mention the human cost – of corruption in this sector is significant. The importance of open contracting goes well beyond anticorruption. A clear case can be made that it has a significant impact on government efficiency, value for money, and fair competition. A recent study of 3.5 million procurement records across Europe found a clear correlation between publishing more information about tenders and a reduced likelihood of single-bid contracts, equivalent to savings of about €3.6-6.3 billion per year. This study also found that single-bid contracts are 7–10% more expensive (M Fazekas and G Kocsis, 2015: 12).

Local governments commission and procure a wide range of infrastructure, goods and services on the behalf of their residents. Contracts are often the route through which policies get translated into tangible benefits for people and communities. Open contracting is the principle that residents should be able to know and influence what local government is contracting, with whom and for what.

Open contracting continues to gain momentum, and is on the way to becoming a global norm. Many governments in OGP have assumed open contracting commitments, several of which have led to strong results. Still, important challenges remain that require moving beyond the status quo of contracting reforms by

- Engaging citizens to utilize contracting data for impact. Most open contracting commitments in OGP focus exclusively on information disclosure and do not include essential ingredients for data usage, such as citizen feedback loops. Engagement with users may be more important than immediate standardization; and
- Providing higher-quality contracting data is imperative. A lack of high-quality data continues to present challenges. Timeliness and completeness are essential to ensuring greater impact. In addition, usability is key, specifically, getting data out of PDFs and into a machine-readable format.

At its core, open contracting consists of: 1) the affirmative disclosure of information; and 2) participation, monitoring, and oversight. According to the Open Contracting Partnership (OCP), “open contracting is about publishing and using open, accessible, and timely information on government contracting to engage citizens and businesses in

identifying and fixing problems.”<sup>7</sup> Importantly, open contracting consists of disclosure and engagement throughout the entire chain of procurement, including planning, tendering, awarding, and implementation. It can also cover non-procurement issues such as licensing and extractives contracts.

Open contracting reforms range from the provision of more information on each stage of the contracting process (i.e. planning, tender, award, contract and implementation) to the active involvement of citizens in defining, awarding or overseeing contracts. Publishing and using structured and standardized information about public contracting can help stakeholders to (OCP, 2015: 88):

“Build trust and ensure that the trillions of dollars spent by governments result in better services, goods, and infrastructure projects.”

Governments and other stakeholders to affirmatively are expected to disclose documents and information related to public contracting in a manner that enables meaningful understanding, effective monitoring, efficient performance, and accountability for outcomes (OCP 2015: 92). These cover both “affirmative disclosure”, and “participation, monitoring, and oversight”.

Open contracting improves value for money, efficiency, competition, quality of services, and public integrity. Open contracting data can enable effective oversight of government services by revealing who is getting paid how much to deliver what, as well as how they were selected, and whether they delivered on time and with quality. This can expose anomalies that alert the public and government officials to procurement processes that are inefficient or uncompetitive, delivered the wrong results, delivered them late, or are too expensive. This, in turn, can help identify kickbacks or collusion during the procurement process. (OCP, 2018:42: Katherine Wikrent, Nov. 2016: 28). In addition, the transparency of the announcement and awarding of tenders can encourage new, often smaller, companies to participate in public procurement, and clarify demographic differences in who is applying. This, in turn, can promote sustainable development and higher-quality goods and services. The publication and use of open contracting data for monitoring and oversight therefore helps to achieve a number of mutually reinforcing goals:

- Deliver better value for money and efficiency for governments;
- Create fairer competition and a level playing field for business, especially smaller firms;
- Prevent fraud and corruption; and

- Promote smarter analysis and better solutions for public problems (OCP 2015: 22).

There is empirical evidence for the advantages of open contracting. A 2017 World Bank study covering 34,000 firms in 88 countries found that greater transparency in the contracting process (as well as effective complaint mechanisms and external auditing systems) leads to greater competition—particularly from smaller firms – and fewer kickbacks to officials (Stephen Knack et al, May 2017: 51).

Created on the 9<sup>th</sup> of December 2011, the Cameroon ministry of public contract was placed under the presidency. The intent was to accelerate the implementation of vision 2035. The creation was also intended to give opportunity for more open and thorough scrutiny of hurdles to ensure the removal of speed breaks, especially in terms of mismanagement of public funds and other ills that had bedevilled the business community in the country (Tanwie, 2019). More so, the government saw the need for transparency and efficiency in government public contracting (Beer 2011:19-20).

Gerde sees the need for the creation of the ministry of public contract in Cameroon, taking into consideration the ineffective, inefficient, corrupt and non-transparent practices of the award and execution of contracts in Cameroon (Tanwie (2019:2). The function of a public contract ministry is to bring about development and ensure good governance. It also functions to reduce poverty, corruption and improves the entire public financial management system.

Bolton (2006:20) considers public contracts to be the process of acquiring goods, works and services at the best possible total cost, in the right quantity, quality, time and place to benefit of the society. Public contract are considered by the Cameroon public contract code as written agreements entered in, in accordance with the provisions of the degree, by which an entrepreneur, supplier, or service provider undertakes to either carry out work for, or supply goods or services within a given time limit, for a price.

Public contracts are managed by the Agence de Regulation des Marches Public (ARMP), a Public Contract Regulatory Agency. Created by Decree N° 2001/048 on February 23, 2001 in the framework of profound reforms, the Public Contract Regulatory Agency (ARMP) is a public administrative establishment with its own legal personality and financial autonomy. Under the trusteeship of the Presidency of the Republic, it set up to oversees regulation, follow-ups and evaluation of the public markets sector. It is specifically charged with:

- Contributing to training and informing those in the system on regulations and applicable procedures in public markets;
- Elaborating and diffusing documents and procedural manuals;
- Assuring the editing and publication of the Public Markets Journal;
- Bringing additional technical support necessary to public markets commissions;
- Overseeing through studies and regular opinions in the healthy application of regulation and procedures relative to public markets and to make all appropriate recommendations relative to improvements;
- Collecting and centralising (in view of constituting a databank) documentation and statistics on attribution, execution and control of public markets.
- To this effect, the Agency receives master works and commissions from copy markets and other documents or rapports concerned of which it is responsible for its good maintaining and conservation in the archives relative to public markets;
- Proceeding to publication in the Public Markets Journal, of public offering opinions, resulting attributions, and amounts and market delays;
- Recruiting independent observers and auditors;
- Contributing to the promotion of a transparent environment favourable to the stakes of competition and to the development of businesses, as well as to stable and well performing competencies;
- Proposing to the Government and to the crew leaders all measures tending to improve the control systems, as well as the controlling and the carrying out of public markets;
- Participating in the updating of regulations on public markets;

Thus, for developments in the management of public contracts to be felt, Cameroon has to depend on the efficiency and effectiveness of its public procurement and contracts award procedures. The system involves several actors in the public and private sectors, controlled by ARMP under the presidency of the republic and the prime minister's office. Tanwie (2019:8) opines that the gap between amount disbursed for development and the actual implementation of the project continues to widen due to widespread corruption that cost FCFA billions each

year to the state. Corruption has gained deep roots in the award of contracts and the government has become incapable of exercising close control. Like other developing countries, Corruption has attained alarming proportions and has become one of the obstacles to progress in the ministry in charge of public contracts.

The ministry of public contract is created to serve the public especially as the country moves towards infrastructural development and the provision of good and services to the entire nation in the most possible accountable manner, through open contracting by using the principles of accountability, transparency and participation. Yet, this ministry seems to have been experiencing a handful of setbacks due to corruption, embezzlement, ineffectiveness and inefficient in the execution of public works, as open contracting faces a lot of challenges in the award and implementation of public contracts, both in the central services in the Ministry and in the delegations.

Yet, the institutional, legal, technical and cultural contexts within which open contracting activities take place has a significant immediate effect on its prospects for success, and on the degree to which it can realistically be sustained and developed over time. That is why open contracting encourages policies, laws, and institutional arrangements that promote, facilitate or reinforce the broader adoption and better implementation of basic principles of accountable and responsive government.

Thus, it is compelling to assess the legal and regulatory, institutional and collaborative, and data management and disclosure context and the possibility of mapping such enabling environment.

### 1.3. Research Questions

To what extent does the legal and regulatory context for the awards of contracts permit open local contracting in Fako Division?

### 1.4. Research Objectives

Identify the legal and regulatory context for the awards of contracts permit open local contracting in Fako Division;

### 1.5. Research Hypotheses

H<sub>0</sub>:  $\mu = 1$ , i.e., the legal and regulatory context for the awards of contracts permits open local contracting in Fako Division;

H<sub>1</sub>:  $\mu \neq 1$ , i.e., the legal and regulatory context for the awards of contracts does not permit open local contracting in Fako Division;

### Research methodology

This chapter presents the methodology of the study and vividly describes the study area. Issues under

consideration here are: research approach, research design, population, target population, sample and sampling techniques, sampling frame, method of data collection, method of data presentation, method of data analysis, validity and reliability of instruments, and ethical considerations.

### Description of the study area

The selection of a research site is important. It influences the usefulness of information produced (Ndue Paul 2017:93) the research site of the work is Fako Division found in the south west region of Cameroon, with a surface area of 2,093km<sup>2</sup> and a population density of 222.8km<sup>2</sup>. It is made up of Buea, limbe I, II, III, Muyuka, Tiko and west coast.

Buea is the capital of the Southwest Region of Cameroon. The town is located on the eastern slopes of Mount Cameroon. Originally, Buea's population consisted mainly of the Bakweri people. However, owing to its status as a university town and the regional capital, there are significant numbers of other ethnic groups. About 300,000 people live in Buea (including the villages of Bokwaongo, Muea; Bomaka; Tole; Mile 16 (Bolifamba); Mile 17; Mile 15; Mile 14 (Dibanda); Bova; Bonjongo; Likombe; Buasa; Great Soppo; Molyko; Small Soppo; Bwitingi; Mile 18 (Wonyamavio); Lower farms; Bokwai; Bonduma; Sandpit, Wonyamongo, Bulu; Bokova and surrounding villages).

Buea is known for its high level educational practices. This is evident in the fact that the town hosts the University of Buea, which is Cameroon's first Anglophone University. It is the site of several other higher institutes of learning, including St Francis Schools of Nursing and Midwifery presently known as Biaka University Institute of Buea (BUIB) and one of Cameroon's three Catholic universities (CUIB).

Buea has a subtropical highland climate. Because of its location at the foot of Mount Cameroon, the climate in Buea tends to be humid, with the neighborhoods at higher elevations enjoying cooler temperatures while the lower neighborhoods experience a hotter climate. Extended periods of rainfall, characterized by incessant drizzle, which can last for weeks, are common during the rainy season as are damp fogs, rolling off the mountain into the town below.

Tiko is a town and an important port in the south west region of Cameroon. It grew as a market town for Duala fishermen, Bakweri people, farmers and hunters from Molyko, Bewnga, Bule, and Bokova. The core quarters in Tiko include; street 1-7, Motombolombo, down beach, new quarter, p & t

quarters, new layout, Longstreet Likomba, golf club, Mutengene, Ombe. As of 2012, Tiko had a population of about 78,885 people.

Tiko is an industrial area which is mostly occupied by CDC (CAMEOON Development Corporation) which produces rubber, banana and palm oil. Tiko hosts the Tiko golf club which is a popular destination for golf lovers.

Tiko is also known for its education background, as it serves as a home for many colleges such as GBHS, sure foundation comprehensive college and Plive College.

It's also a town known for business this is evident in the fact that Tiko is inhabited by many Nigerians who settle there for the purpose of business therefore the reason for the big and organized market in Tiko. Metengene in the south west region has a population of about 47,478 inhabitants, 246km west of Yaoundé the country's capital.

### Research approach and design

The research design refers to the overall strategy that is employed in order to integrate the different components of the study in a coherent and logical way, thereby ensuring that the research problem is effectively addressed. It constitutes a blueprint for the collection, measurement and analysis of data. This study will employ the case study design because it will give special attention to the opinions of several key actors and it will enable us to understand the overall context and challenges in the specified public institution.

### Target population

This refers to the total group of people from which the sample is drawn. This constitutes the entire group of individuals or objects to which researchers are interested in generalizing the conclusion of the research findings. The target population in this study therefore is the entire population of the Tiko, Buea, Limbe and Idenau who are involved in local contracting. A sample of 260 will be drawn from this population and they will constitute the sample size (respondents/participants) of the study.

### Sampling Size

Considering the fact that it would be cumbersome to study the entire population due to time, cost and accessibility, a subset of the population i.e. sample size was chosen so as to represent the whole population. Sample is viewed not as a whole in itself but as an approximation of the whole.

### Sources of Data Collection

The study employs both primary and secondary data. Primary data was collected through in-depth field

studies using qualitative tools such questionnaire, meanwhile secondary data came from published books, journal articles and the internet. In collecting primary data, the researcher focused on evidence provided by the correspondents. The secondary data sources were used to explore discussions on the subject matter.

### Construction of Instrument for Data Collection

The data collection instrument used was a structured questionnaire because structured questionnaires are extremely flexible and could be used to gather information concerning almost any topic, from a larger or small number of people. The questionnaires were divided into four sections. Section A collected basic demographic information regarding the respondents such as gender, age, level of education; Section B collected information on the achievements made in the institution of reforms in the award of contracts which comprised closed-ended questions such as the level to improve the level of transparency in the public sector or the private sector. Section B used a Five- point Likert scale of Strongly Agree (5) Agree (4) Disagree (3) Strongly Disagree (2) and Neutral (1). The respondents were asked to indicate the extent to which they agreed/disagreed with various statements raised.

Questionnaires were earlier designed and pretested to see whether they can collect the necessary data to achieve the pre-determined objectives of the study. Secondary data was also obtained through review of literature related to the study purpose.

### Validity and Reliability of Instrument

An instrument is said to be valid when it is capable of measuring what it is meant to measure and reliability on the other hand looks at the consistency with which an instrument measures. The student researcher in this study took into consideration face validity, content validity, and construct validity. Pilot studies were ensured.

### Face Validity

After constructing the questionnaire the student researcher gave it to peers for review. Then they were given the supervisor for appraisal. The student researcher then effected the necessary corrections before administering the questionnaires which were now considered valid.

### Content Validity

To ensure the validity of the instrument, the student researcher's supervisor checked the relevance of the questionnaire with relation to the study objectives.

### Construct Validity

This is the extent to which an instrument measures the theoretical constructs it intends to measure. The

Likert scale questionnaire was constructed following the research questions. This was equally validated by the supervisor.

**Method of Data collection**

Both primary and secondary sources of data will be sourced. Primary data will be generated through questionnaires with semi structure and structure questions. In addition an interview guide will be prepared to assist in guiding the researcher during the field work. The preparation of the questionnaires and interview guides will be done with the assistance of a supervisor to ensure that it conforms to the research objectives. Instruments like tape recorder and camera will be used where necessary to capture evidences to support the proposition of the study. Observation will also be employed a way of sourcing for data.

**1.6. Method of Data presentation and analysis**

Quantitative data collected from the field will be

**Presentation of results based on research question and findings**

**Research Question 1:** To what extent does the legal and regulatory context for the awards of contracts permit open local contracting in Fako Division?

**Table 1: Cross tabulation of legal and regulatory context for the award of contracts against open local contracting in the execution of public works in Cameroon**

Crosstab						
Count						
		Open local contracting in the execution of public works in Cameroon				Total
		40%	60%	80%	100%	
Legal and Regulatory context for the award of contracts	100%	0	1	0	0	1
	80%	3	16	3	0	22
	60%	8	33	52	2	95
	40%	4	31	25	4	64
	20%	0	0	20	58	78
Total		15	81	100	64	260

**Note:** Open local contracting (20% - Low achievement; 40% - slight achievement; 60% - moderate achievement; 80% - high achievement; 100% - excellent achievement); Legal and regulatory context (20% - Least challenging; 40% - slightly challenging; 60% - moderately challenging; 80% - very challenging; 100% - extremely challenging).

Table 1 shows a cross tabulation of legal and regulatory context for the award of contracts against open local contracting in the execution of public works in Cameroon. Respondents who rated the legal and regulatory context as extremely challenging, indicated a low to slight achievement in open local contracting while respondents who rated the legal regulatory context as least challenging, indicated an excellent achievement in open local contracting.

**Table 2: Chi square test establishing relationship between the legal and regulatory context and open local contracting**

Chi-Square Tests			
	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	178.843 <sup>a</sup>	12	.000
Likelihood Ratio	198.336	12	.000
Linear-by-Linear Association	102.235	1	.000
N of Valid Cases	260		

a. 7 cells (35.0%) have expected count less than 5. The minimum expected count is .06.

The chi-square statistics [ $\alpha_{cal} (.00) < \alpha_{crit} (.05)$ ;  $\chi^2 (178.843_{cal}) > \chi^2 (21.026_{crit})$ ] in table 2 shows a significant relationship between the legal and regulatory context and open local contracting in the execution of public works in Cameroon.

**Table 3: Symmetric measures to determine the extent to which the legal and regulatory context for the awards of contracts permit open local contracting in Fako Division**

Symmetric Measures			
		Value	Approx. Sig.
Nominal by Nominal	Phi	.829	.000
	Cramer's V	.479	.000
	Contingency Coefficient	.638	.000
N of Valid Cases		260	

Table 3 shows values for the Phi coefficient (.829), Cramer's coefficient (.479) and Contingency Coefficient (.638). Since the cross tabulation is a 5 x 4 table, we use Cramer's V to determine the strength. The following scale below are used to categorize the strength of relationship.

0 – 0.30 = no relationship (0) to weak relationship

0.31 – 0.70 = Moderate relationship

0.71 – 1.0 = Strong relationship

The Cramer's V reads 0.479 which falls within the second scale (Moderate relationship). This tells us that the legal and regulatory context moderately influences open local contracting in Fako.

After investigations in these areas concerned, the researcher found out that there are laws that regulates the award and regulation of public contract in Cameroon. These laws are combined in what is called the public contract code and is supposed to be owned by every contractor as well anyone who wants to know about public contract in Cameroon. The code has been published online for persons who cannot easily access the hard copy or anyone who wishes to access from the comfort of their homes.

In addition to the above, contractors could also access these regulatory laws through the authorities that are concerned with the public contract code in Cameroon who are: the ministry of economy, planning and regional development (MINEPAT) the public contract regulatory agency (ARMP) and the council concerned.

In overall findings finding of hypothesis reveals that although 118 correspondents affirm to the presence of legal and regulatory context for the award of public contract in Fako Division, 140 of the correspondents are not in the fact that legal and regulatory laws are present to regulate that award and execution of public contract in Fako Division.

### Contractor's knowledge of public contract of laws and regulations

From the interviews carried out from correspondents, it shows that most contractors are not versed with the legal and regulatory laws that guides the execution and implementation of public contracts. Some do not even see it necessary as one states as seen below

*'One does not need to know about the rules and regulations to execute a contract because all one needs is to know the right channel to pass because those rules and regulations are not obeyed.'*  
(Source: interview conducted from the field in 2021)

The spearman rank correlation model was used to find out if the correspondents sampled for the study significantly differ in their opinion by sex, age, level of education, and the number of experiences at work for each item that aimed at capturing their perception of the legal and regulatory context for the award of public contract in Fako Division. Statistically, the findings reveal that the correspondents do not significantly differ in their opinion on the view on the legal and regulatory context for the award and execution of public contract in Fako Division.

### Conclusion

This work was set out to explore an environment for open local contracting of public contracts in Fako Division with case study of Buea, Tiko, limbe III, and Idenau. To arrive at this conclusion, the study made use of quantitative as well as qualitative research methods. Closed ended questions was done on a simple random method. From the data collected, it shows that measures have been put in place to make possible for open contracting though with a lot of challenges that come with it coupled with the environment in which the open contracting operates.

The theme of the work questioned how the legal and regulatory context for the award of contract permit open local contracting. This has a bearing on, and in some cases control over, the extent to which data on public procurement may or may not be disclosed. It also governs the extent to which civil society has a mandate to participate in or contribute to oversight functions (OCG, 2018: 20).



The legal and regulatory context for the award of public contract is the public contract code. Created in 2004 and renewed in 2008, the public contract code was created to serve as a base to guide the provisions and regulations on the award and execution of the public contracts in Cameroon and in Fako Division. Everybody is expected to own a copy of the public contract code, in order to be able to understand how the public contract operates. Chapter II article 24 gives provision for the existence of central contracts control boards who are technical bodies placed under the ministry of public contract. They shall be responsible for ex ante control of actions for the award of public contracts under their remit initiated by Project Owners or Delegated Project Owners. Article 42: (1) gives provision for an independent observer who shall be a natural or corporate body recruited through competitive bidding by the public contracts regulatory body to ensure compliance with regulations, transparency rules and principles of equity in the public contracts award process. The independent observer shall have the following responsibilities: (a) assess the process by reporting, at each stage, non-compliance with the regulations, transparency rules and principles of equity; (b) indicate practices contrary to good governance in the procedure for the award of public contracts especially influence peddling, conflict of interest and insider dealing.

All the above are the necessary measures that have been put in place for open contracting to be possible. This explains how important the public contract code is and why any information that is asked from any of the offices concerned with public contract you are referred back to the public contract code. The public contract code has been made in both English and French for the satisfaction of all.

In a nutshell, some contractors do not even own the public contract code. They do not see the need to own the code. In a simple discussion I had with one of the contractors, he said “*some contractors are not aware of the provisions of the public contract code. Some do not even know how to read and therefore do not own the code they employ the services of an experienced technician who do all the work for them*”. When asked about his opinion about transparency in the award, he said

*“in public contracts one does not necessarily have to go through the process. For those who have money, they have the ability to pass through those who matters and they will get the contract. It’s not about who is eligible for the contract but who knows who inside”*

## RECOMMENDATIONS

For proper improvement on open local contracting, the following recommendations if taken into consideration by the appropriate authorities concerned in the award and execution of public contracts will go a long way will help to open local contracting in Fako Division and in Cameroon.

### TO THE CAMEROON GOVERNMENT

#### 1. Establish readable data mechanisms

The government of Cameroon will go a long way to improve on open local contracting if they establish a readable data mechanism where all information about public contract will be published and every contractor, citizen, civil society and any person who has interest in public contract can easily access and download these information.

#### 2. Develop and implement mechanisms for consultation and independent monitoring by citizens and civil society

The government should make availability for measures in which the citizens and civil society can monitor the process of public contract from the first to the last stage. This will be open for criticisms and therefore will serve as a measure for transparency.

#### 3. Organize training courses for contractors

The government should organize seminars where contractors are trained on the rules and regulations of public contract and the importance of transparency in the process.

#### 4. Ensure an open data mechanism

The government should make sure that there is a mechanism for open information where all information about public contracts, the available contracts, bidders, and the person who won the contract, date of start of execution. In fact, every information that there is about a contract launched should be put online in a readable and a downloadable format where anybody who needs any information about a particular contract can easily get it.

#### 5. Make available public contract code

The government should make available copies of the public contract code. Some contractors do not have the public contract codes because some cannot read and some employ the services of an experienced technician who can do the work for him. The government should make sure that every contractor owns a public contract code and knows all the laws that have been spelt out in the public contract code.

## TO THE CONTRACTING AUTHORITY

### 1. Make available information about public contract

The contracting authority should make available information about public contract to the public both online and offline. With the coming of internet, contracting authorities can make available information for any interested person to get it at the comfort of their homes.

### 2. Reduce the level of corruption in public contracts.

Contracting authorities should put in their best to make sure that smooth and transparency is seen during the award and execution of public contract .only contractors who merit contracts should be awarded.

## BIBLIOGRAPHY

- [1] Bolton (2006:21)
- [2] Lucas Amino, Jan 2017:28
- [3] M. fazekas and G koksisi 2015:12
- [4] Ndue Paul 2017:93
- [5] OECD, 2013
- [6] Open contracting partnership OCP, 2015:35
- [7] OCP, 2015:88
- [8] OCP, 2015:42
- [9] OCP, 2015:92
- [10] OCP, 2015:22
- [11] OCP, 2015:88, Kathrine wikrent, Nov 2016:28
- [12] Reyes et al,al,chile, 2006
- [13] Stephen knack et al, 2017:5
- [14] Tanwie L, 2019:21
- [15] UK Cabinet office, 2011
- [16] World bank 2011, OECD 2007, Kenny, 2012:5, de Simone and shap 2012:42,African progress panel:2006
- [17] World bank 2021
- [18] World bank, policy note-Russian Fed 2013

