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ADVANCING BENEFICIAL OWNERSHIP TRANSPARENCY IN PUBLIC PROCUREMENT

Beneficial ownership transparency is becoming an increasingly critical thematic area in the international policy arena. Its importance was highlighted when States Parties to the United Nations Convention Against Corruption (UNCAC) adopted Resolution 9/7 in Sharm el-Sheikh during the ninth session. Resolution 9/7 introduced a raft of measures aimed at enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime.¹ States Parties have recognised that the development and implementation of beneficial ownership transparency aligns their commitments under article 12 and 14 of UNCAC.²

Beneficial ownership transparency involves identifying the real individuals who ultimately benefit from the profits and assets of legal entities. In a highly complex and interconnected international financial system, intricate ownership structures can be exploited in advancing illicit activities. The ensuing opaqueness enables individuals to engage in a wide range of criminality, from corruption and tax evasion through to terrorist financing and money laundering.

Insufficient transparency in beneficial ownership not only aids in the laundering of corruption proceeds, but also severely impedes investigations and the ability to track and freeze illicit assets by law enforcement bodies. A proven solution to this issue lies in the

¹ [Resolutions and decisions adopted by the Conference of the States Parties to the United Nations Convention against Corruption](#)

² Article 12, paragraph 1 of UNCAC requires each State party to take measures to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. Article 12, paragraph 2 (c) of UNCAC highlights that measures to achieve those ends may include, *inter alia*, promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.

Article 14, paragraph 1 (a) of UNCAC requires that each State party shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasise requirements for customer identification and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions.

establishment of centralised registries containing beneficial ownership information that is openly accessible to the public.³ Such registries not only streamline the work of competent authorities but also enable scrutiny by various experts and investigators in the private sector, saving time and enhancing oversight.

As more States Parties begin to successfully conceive and implement measures to enhance beneficial ownership transparency, there is an opportunity to integrate the information created through these measures into public procurement functions. Procurement serves as the primary means through which state funds are deployed into the private sector. It would be both logical and highly effective to create practical links between the data that is generated by each function.

Beneficial ownership transparency and procurement reforms are interconnected when it comes to advancing efforts against corruption, particularly in the context of ensuring integrity and accountability in government transactions. The role that beneficial ownership transparency plays in combating corruption has already been described above. In turn, procurement reforms aim to enhance the transparency, fairness, and efficiency of government procurement processes. The link between the two lies in their collective ability to expose and prevent corrupt practices.

In public procurement, corrupt individuals may attempt to exploit the opaqueness of ownership structures to secure contracts unfairly, favouring companies in which they have a hidden interest. By implementing beneficial ownership transparency, governments can unveil the true owners behind bidding companies, making it more challenging for corrupt officials to manipulate the procurement process for personal gain. This transparency acts as a deterrent, fostering fair competition and discouraging corrupt actors from using complex ownership structures to conceal their involvement.

Moreover, the combination of beneficial ownership transparency and procurement reforms enhances the overall accountability of the procurement process. It allows for the

³ Numerous States Parties in Asia, South America, Europe, Africa and Oceania have already established their own beneficial ownership registers. Others are already in the process of implementing them or have planned to do so. See further Open Ownership's map which illustrates the implementation of beneficial ownership registers:

[Open Ownership map: Worldwide action on beneficial ownership transparency | openownership.org.](https://www.openownership.org/)

identification of potential conflicts of interest and ensures that contracts are awarded based on merit rather than through favouritism or bribery.

Uses of beneficial ownership data in preventing fraud and corruption in procurement

In particular, States Parties should take targeted actions to prevent, detect and address corruption in procurement using beneficial ownership transparency:

- 1) **Identifying conflicts of interest (COI):** as the UNODC has explained, when seeking to prevent and manage COI in public decision making, data and analytics play a vital role. In addition to transitioning to electronic systems for company registries, public procurement and financial disclosure, beneficial ownership data can be integrated to generate red flags. For example, where the shareholder of a bidding company also holds a position in government.⁴
- 2) **Deterring collusive practices:** beneficial ownership data can assist in the early identification of collusive practices such as bid rigging. Antitrust legislation in most jurisdictions prohibits activities such as cartel operations, price inflation, and collusion among companies. To address difficulties in proving these violations, a procurement system should be able to flag shared ownership among multiple bids, prompting closer investigation.⁵ For example, an institutional review conducted by one States Party revealed instances of price inflation through multiple companies owned by the same entity, demonstrating a scenario in which beneficial ownership data could aid in detecting fake bids.⁶
- 3) **Improving the effectiveness of developmental policy interventions:** Where States Parties have preferential procurement policies in place (for example where preference is assigned based on gender, or to other vulnerable groups for developmental purposes), having access to beneficial ownership data would

⁴ [Preventing and Managing Conflicts of Interest in the Public Sector GOOD PRACTICES GUIDE | UNODC](#) at 50, 76.

⁵ [Beneficial ownership data in procurement](#) at 11.

⁶ [GAO-20-106. DEFENSE PROCUREMENT: Ongoing DOD Fraud Risk Assessment Efforts Should Include Contractor Ownership](#), United States Government Accountability Office (GAO), November 2019, 2.

significantly reduce vulnerabilities which allow for a manipulation of the procurement system through fraud.⁷

Benefits of using beneficial ownership data in procurement

Beneficial ownership data not only directly benefits procurement processes but also brings about broader systemic advantages within the business environment. By promoting transparency through beneficial ownership data States Parties may be able to:

- 1) **Improve competition:** knowing the individuals who unduly or disproportionately benefit from state procurement allows for state intervention to level the playing field, fostering increased competitiveness among businesses and reducing corruption risks.
- 2) **Reduced due diligence costs:** beneficial ownership data aids in mitigating financial and operational risks by enhancing supply chain visibility, benefiting both large corporations and smaller enterprises. Transaction costs incurred through lengthy due diligence processes are reduced, resulting in greater economic efficiency and freeing up resources which can be more effectively deployed.
- 3) **Fostering a culture of transparency and trust in business:** by cultivating a culture of transparency and trust, there is an increased confidence in business-government interactions, closing loopholes for unethical practices. This ultimately leads to better value-for-money in public procurement, and fosters open competition.⁸

How beneficial ownership transparency may be implemented in public procurement

⁷ See, for example, South Africa, where the practice of “fronting” has been identified as a hindrance in policy progress:
<https://www.open-contracting.org/wp-content/uploads/2021/12/OCP2021-WOB-South-Africa-.pdf> at 21.

See also, the opportunity for Australia to better support indigenous-owned businesses through preferential procurement with access to beneficial ownership data:
“Beneficial Ownership Transparency”, Open Government Partnership Australia, 2020,
<https://ogpau.pmc.gov.au/consultations/phase-2b-deliberation-drafting/beneficial-ownership-transparency-accuracy>.

⁸ Open Ownership: [Beneficial ownership data in procurement](#) at 16.

While there is no set formula in how to best implement beneficial ownership transparency in procurement, there are numerous ways in which States Parties may elect to do so:

- 1) **Commercially available beneficial ownership data:** the data could be purchased from private third-party providers. However, these providers often have limited visibility and rights to distribute full ownership data, often relying on inferred information. Limitations include potential gaps in coverage and debates about data quality.⁹
- 2) **Centralised registers:** beneficial ownership data can be collected by the state and maintained in centralised registers. This could either be done during the procurement process, storing the data in a central procurement-specific register, or it could be done by integrating and pulling data from a central beneficial ownership register which covers all sectors.¹⁰
- 3) **Public access:** by publishing beneficial ownership data, whether for procurement or broader use, invites greater data scrutiny, resulting in higher levels of utilisation, accountability and transparency. This is critical in maximising the effectiveness of the policy intervention. However, in doing so, it is necessary to exercise awareness around potential privacy concerns. This means that the nature and extent of data publication should be closely aligned with its intended use.¹¹
- 4) **Harmonisation:** verification (ensuring that disclosures made are correct and updated) is a perennial challenge, particularly when it comes to the beneficial ownership of foreign entities. These challenges may be addressed by ensuring that there is a single legal definition of beneficial ownership. The adoption of beneficial ownership standards which are utilised uniformly between different state entities (and ideally between jurisdictions) assist in minimising the risk of beneficial

⁹ Jack Lord: [Beneficial Ownership Registers: who knows what?](#) Notes on open data and transparency, 8 November 2018.

¹⁰ Open Ownership: [Beneficial ownership data in procurement](#) at 18.

¹¹ "Data Protection and Privacy in Beneficial Ownership Disclosure", The Engine Room, Open Ownership, and The B Team, May 2019, <https://www.openownership.org/uploads/oo-data-protection-and-privacy-188205.pdf>.

ownership data becoming siloed and incapable of integration with other systems – both of which threaten the efficacy of the intervention.¹²

Use cases

One State Party introduced the Register of Public Sector Partners in 2017, a Beneficial Ownership (BO) register specifically for procurement. It covers private entities providing goods or services to the public sector over specified values, mandating registration for awardees. The responsibility falls on public-sector partners (PSPs), who must appoint an authorised person to register and verify their data, with sanctions for non-compliance. The Register has already positively impacted public procurement, resulting in legal actions and reducing risks for subcontractors, especially small and medium-sized enterprises (SMEs).¹³

Another State Party developed an e-procurement system named ProZorro. It is globally recognised for monitoring public spending and was established in 2014 as part of procurement transparency reforms. The country also maintains a central, publicly accessible register called the Unified State Register of Legal Entities to collect Beneficial Ownership (BO) information of registered entities. The law mandates the refusal of bidders if the Unified State Register lacks BO information. ProZorro offers free online access to information about bidders and awardees, including their beneficial owners, in a machine-readable format, enabling public scrutiny. Research indicates that ProZorro has saved at least 10% of the procurement budget by fostering competition and reducing corruption.¹⁴

Conclusion

¹² Alex Parsons, “[Using private IDs in public](#): Options for improving deduplication in ownership data”, mySociety Research, July 2020. See also Open Ownership: [Beneficial ownership data in procurement](#) at 19-20.

¹³ Kiepe et. al, “Early impacts of public registers of beneficial ownership: Slovakia”.

¹⁴ Guide to Beneficial Ownership Information in Ukraine: Legal Entities and Legal Arrangements”, Global Forum on Asset Recovery (GFAR), December 2017, [Guide to Beneficial Ownership Information in Ukraine: Legal Entities and Legal Arrangements](#);
David Marghania and Tato Urjumelashvili, “Open Contracting in Ukraine: a collaborative effort for procurement reform”, OCP, 2 June 2015, [Open Contracting in Ukraine: a collaborative effort for procurement reform](#).

Beneficial ownership transparency is an evolving and crucial policy area in combating corruption and maladministration. Its inclusion in the policy landscape aligns seamlessly with States parties' commitments under the UNCAC. The establishment of publicly accessible central registers, as exemplified by some of the use cases above, not only enhances transparency but also demonstrates a commitment to accountability, fair competition and the integrity of public procurement processes.
