



OPEN GOVERNANCE STANDARDS

TO PROMOTE CITIZEN EMPOWERMENT AND PARTICIPATION

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Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

Transparency International Indonesia (TII) established in 2000 is one of the Asia Pacific leading chapters and a Core Team member of the Open Government Indonesia since 2012.

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1. PREAMBLE

The concept of open government has been around for some time, but only in recent years has it gained momentum on a global scale. There is an emerging consensus that access to information, transparency, accountability and participation are instrumental for building better democratic states and are a weapon against corruption. Based on this, international development institutions, civil society organisations and governments have committed time and resources to this cause.

There are many initiatives and instruments that fit under the open government rubric, such as anti-corruption conventions, international access to information instruments and standards¹, as well as international and regional coalitions working for access to information and transparency in specific sectors. Despite the explosion of open government mechanisms and initiatives the most important and ambitious element of this work remains a challenge - ensuring that open government contributes to the improvement of people's lives.

While it is crucial that governments formally support the principles of open government and are a part of global initiatives, signing up on paper is not enough. As a result there has been an increasing demand to bring the elements of transparency, accountability and participation together in a simpler, coherent, complementary framework that delivers stronger citizen engagement in open governance advocacy. With this holistic approach, we seek to affect 'Governance' in its entirety and not only the office/role of 'Government'.

The *Open Governance Standards* provide guidance to public institutions at all levels, as well as other stakeholders, such as civil society, with regard to which basic elements need to be in place to ensure open governance. The standards presented here may help to formulate new and improve existing efforts to make government more transparent, accountable and participatory. These principles were developed by combining different sources, avoiding repetition and overlapping concepts. The standards represent a selection and reorganisation standards and principles developed and compiled by leading organisations on transparency accountability and participation².

¹ Right to Information International Standards, UN Convention on Corruption and regional conventions against corruption.

² Initiatives include those developed by Access Info Europe (AIE) in its Open Government Standards, Transparency and Accountability Initiative's (TAI) Opening Government Guide, and the Sunlight Foundation's (SF) Open Data Policy Guidelines. Each standard is identified with its source in parenthesis.

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2. GUIDING DEFINITIONS

1. Governance :

‘A concept that goes beyond the traditional notion of government to focus on the relationships between leaders, public institutions and citizens, including the processes by which they make and implement decisions. The term can also be applied to companies and NGOs. – TI The anti-Corruption Plain Language Guide.³

Governance is understood as a cumulative result of the behavior and practice within and among governments. While the term government indicates the political unit (or body) for the function of policy making, governance denotes an overall responsibility for exercising authority over both the policy making and the related processes of administration⁴.

2. Access to information:

The right by law — often through freedom of information legislation (acts or laws) — to access key facts and data from the government and any public body. Budgets, project approvals and evaluations are typically published although citizens can petition for more materials to be released. – TI The anti-Corruption Plain Language Guide

3. Accountability:

The concept that individuals, agencies and organisations (public, private and civil society) are held responsible for executing their powers properly. – TI The anti-Corruption Plain Language Guide

An accountable government is one which makes itself answerable to the public, upholding standards of behaviour and integrity, and both explaining and taking responsibility for its decisions and actions. – Access Info Europe Open Government Standards.

4. Participation:

The concept that the ‘public can engage directly in the consideration of policy options and decision making, and can contribute ideas and evidence that lead to policies, laws, and decisions which best serve society and broad democratic interests.’ – Access Info Europe Open Government Standards.

5. Transparency:

Characteristic of governments, companies, organisations and individuals of being open in the clear disclosure of information, rules, plans, processes and actions. As a principle, public officials, civil servants, the managers and directors of companies and organisations, and board trustees have a duty to act visibly, predictably and understandably to promote participation and accountability. - TI The anti-Corruption Plain Language Guide

Transparency means that information about the activities of public bodies is created and is available to the public, with limited exceptions, in a timely manner, in open data formats and without restrictions on reuse. – Access Info Europe Open Government Standards.

³ Transparency International (2009), The Anti-Corruption Plain Language Guide

Integrating transparency, accountability and participation with a focus on outcomes, Transparency International comes to the following “formula” for Open Governance⁵:

RIGHT TO ACCESS INFORMATION AND PARTICIPATE IN GOVERNMENT
+ INSTITUTIONAL ARCHITECTURE AND POLICIES TO PROMOTE AND REALIZE TRANSPARENCY, PARTICIPATION AND ACCOUNTABILITY
+ TOOLS AND SUPPORTING INFRASTRUCTURE TO CARRY OUT THESE POLICIES

= OPEN GOVERNANCE, AND IMPROVEMENTS IN PEOPLE’S LIVES

Open governance is based on the rights to know and participate in decision-making, sustained by robust institutions and effective oversight, and developed through policies that promote and realize transparency, accountability and participation. These policies require investment in tools and supporting infrastructure, especially information and communications technologies (ICTs), given their relevance for anchoring and improving transparency, for enabling voice and participation, and for advancing accountability.

To develop standards that can guide the creation and expansion of open governance, we identify principles and a set of ideal conditions stemming from those principles for each of the three dimensions of this equation: rights; institutions and policies; and tools.

1. Acknowledgement of the rights to access information and participate in decision-making processes.

Principle

Citizens have a right to participate in decision-making processes and public affairs, and everyone, including non-citizens and legal entities, has the right to access public information without giving reasons, in reasonable time, and with no exceptions other than those established by law.

Standards

1.1. Right to access information

1. The right to access information is recognized in the country’s constitution and relevant laws, and a legal framework exists that enables citizens to access information.
2. *Scope* – The right of access to information applies to all information held by national and supranational bodies, including all bodies performing public functions and operating with public funds. (AIE)

⁵ This definition is adapted from a similar formula derived in partnership with the *Alianza Regional por la Libre Expresión e Información*, an important partner to the TI Americas department and the 16 Latin American chapters it represents, in the wake of the annual OGP meeting in Brasilia in April, 2012.

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3. *Limited and Clear Exceptions* – Exceptions are narrowly construed in law and applied judiciously in practice, subject to a well-developed public interest test elaborated through guidance from the information commissioner and courts. (TAI)

1.1. Right to participate

1. The right to participate in decision-making processes is recognized in the country's constitution and relevant laws. A legal framework exists that enables citizens to participate in public affairs, and in the formulation, implementation, monitoring and evaluation of policies at the local and national levels of government.
2. *Scope* – The right to participate in decision-making processes includes the legislative and policy processes, the different stages of the policy process and all relevant levels of government, including the local and service delivery level.
3. *Limited and Clear Exceptions* – The procedures and means for participation in public affairs are clearly laid out, and when participation is limited in time, scope or demographic criteria, these limitations are duly justified and made explicit in law and regulations.

2. Institutional architecture and policies driving Transparency, Accountability and Participation

Principle

Transparency, participation and accountability require a robust institutional architecture to shore up and advance the conditions of open governance. All governments must develop and implement a policy of transparency, participation and accountability.

2.1. Standards on Transparency

1. *Institutional independence and protection of the right* - The right to access to information is overseen by independent bodies which review compliance, may undertake ex officio investigations, receive and rule on complaints from the public (individuals, legal entities, etc.), and are empowered to order appropriate action to ensure compliance, and impose sanctions where appropriate. (AIE)
2. *Promotion* – Significant power and funding is provided to a central body to promote the right to information. This should include a substantial budget for public education on the right to access to information and the ability to require public authorities to take measures to address structural problems. (TAI)
3. *Clear procedures* – The rules and mechanisms to access information, to review decisions made regarding the publication of information and contest exceptions are established in the law, along with the timeframes and mechanisms to introduce these requests for review and legal recourse.
4. *Reasonable timelines* – The adjudication processes to determine access to information are structured to ensure information can be accessed promptly by requesters, and all internal and external appeal mechanisms are clearly laid out, simple, free and include clear timelines (AIE).

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5. *Proactive Publication* - Access to information laws explicitly require public institutions to proactively publish relevant information, and include a list of program and sectoral information that must be made public (AIE).
6. *Accessibility and publicity of Audit Reports* - The Supreme Audit Institution should provide free and equal access to all its reports, and afford services to all persons (OECD-Involve).
7. *Accessibility and publicity of the legislative process* - Parliament should proactively publish its administrative and organizational information. Documentation relating to the scheduling of parliamentary business shall be provided to the public. Parliament shall provide public access to preparatory analysis and background information to encourage broad understanding of policy discussions about proposed legislation. (DPO)
8. *Accessibility and publicity of the justice procurement process* - The judicial branch should proactively publish its organizational and administrative information, its judgments and related background information, a schedule of judicial hearings and detailed financial information of its budget allocations and expenses.
9. *Free of Charge* – All information must be made public without charge (excluding reasonable charges on delivery) and without limits to reuse. (AIE)
10. *Clear and Comprehensive* – All background materials available to public officials involved in a decision-making process must be made available; key data and analysis should be presented in a form that is accessible and comprehensible to citizens.⁶ (AIE)

2.2. Standards on Participation

1. *Institutional independence and protection of the right* – Citizens excluded from participation in decision-making processes have options available to challenge and contest that exclusion. When citizens face retribution for participating in public affairs, they have access to a public defender, oversight and accountability mechanisms for preventing retribution, and seeking redress.
2. *Promotion* – The right to participate in public affairs is actively promoted with funds, resources and outreach activities by government agencies in all levels of government; participation is promoted through the most appropriate mechanisms, including public announcements, local assemblies, via the internet, mailing lists, and through media outreach, encouraging everyone, and particularly key stakeholders, to engage. (AIE)
3. *Openness and Clear Procedures* - Opportunities to participate directly in decision-making processes are easily accessible for different stakeholders, citizens, organizations and groups affected by policy and decision-making processes. The rules for participation are inclusive, detailed and explicitly stipulated in the policy framework (AIE).
4. *Active Collaboration* - Public bodies are proactive in their interaction with individuals and legal entities, and establish multiple channels to gather information to ensure all relevant stakeholders⁷ have an equal opportunity to participate.

⁶ Background materials include all documents used in the decision-making process, including briefs, diagnostic reports, analyses and datasets.

⁷ All relevant stakeholders include, but are not limited to individuals affected by policies, experts in the subject matter, civil society organizations, businesses, academic institutions and other legal entities.

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5. *Reasonable timelines* – Participation processes are structured so as to ensure sufficient time to allow interested stakeholders to learn about, review the materials considered in the decision making process, and prepare quality and considered input. (AIE)
6. *Inclusiveness* -- mechanisms must be provided to ensure the participation of all stakeholders, including disabled, illiterate and vulnerable populations.

2.3. Standards on Accountability

1. *Effective oversight* – Clear oversight functions over policy allocations and results are attributed to the legislative and an independent Supreme Audit Institution in all levels of government. (TAI)
2. *Capacity of the SAI* –The Supreme Audit Institution should have statutory independence from the executive, it should have the capacity to sanction public officials and the mandate to access information and appropriate resources to audit and report on the use of public funds, and the results of policy. The SAI should operate in an independent, accountable and transparent manner. (GIFT)
3. *Codes of conduct* – Clear codes of conduct should exist that require public officials to keep a true and complete record of their actions. (AIE)
4. *Conflict of interest and financial disclosure* – All branches of government shall enact clearly defined rules to ensure disclosure of information necessary to protect against actual or perceived conflicts of interest and ethical violations. Systems should be created to ensure financial disclosure of public officials and their family members' assets. (WB-PAM, AIE and DPO)
5. *Transparency in lobbying* – All branches of government shall enact rules regulating the interaction of public officials, civil servants, legislators and judges with lobbyists and pressure groups. Registration and reporting provisions should be made explicit, and apply to contacts made by third parties with the executive, legislative and judiciary branches of power, and to private bodies performing public functions, or exercising public authority. All registries and reports should be public. (AIE, DPO)
6. *Protection of whistle-blowers* – There are channels and mechanisms to promote and protect persons to reveal wrongdoing within governance frameworks. (AIE)
7. *Sound procurement* – All goods, works and services acquired by the government go through open tendering procedures adhering to the principles of competition, fairness, economy, efficiency, transparency and accountability in the use of public funds.
8. *Social accountability mechanisms* – There are legal and institutional means to enable citizen participation in directly overseeing and auditing policy programs and results.

3. Investment in Information and Communication Technologies, and other policy Tools

Principle

All governments must make investments and develop tools and information and communication technologies to advance their transparency, participation and accountability policies.

Standards

1. There is a government-wide policy on the use of ICT, developed through an inclusive process. (TAI)
2. Information stored electronically should be delivered to those who request it electronically and in open format, and governments provide Application Programming Interfaces that allow third parties to automatically search, retrieve, or submit information directly from databases online. (AIE)
3. All government data shall be published in a non-proprietary, searchable, sortable, platform-independent, machine-readable format, including information made public and information published proactively, independently of other formats used. There is a mandate requiring all new data to be created, collected and released in open format. (AIE, TAI, SF)
4. There is an oversight authority for open data policy. (TAI, SF)
5. Open data commitments apply to all organizations handling public data, including private enterprise and civil society organizations. (TAI)

SOURCES

- Access Info Europe – Open Government Standards
(<http://www.opengovstandards.org/>)
- Transparency and Accountability Initiative – Opening Government Guide
(<http://www.opengovguide.com/>)
- Sunlight Foundation – Open Data Policy Guidelines
(<http://sunlightfoundation.com/opendataguidelines/>)
- Opening Parliament network - Declaration on Parliamentary Openness
(<http://www.openingparliament.org/declaration>)
- Global Initiative for Fiscal Transparency – High Level Principles on Fiscal Transparency and Accountability (<http://fiscaltransparency.net>)
- Organization for Economic Cooperation and Development (OECD)
 - Indicators for measuring openness in government (developed by *Involve*)
<http://www.oecd.org/gov/46560184.pdf>