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CGD's Role in the Development of the Open Contracting Movement

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James Ladi Williams worked as a research associate at the Urban Institute while authoring this case study for CGD.



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About this Case Study

This case study is one of five that were produced as part of an external assessment undertaken between 2020-2022 to examine how the Center for Global Development contributed to influence and impact in some of its areas of work. The case studies detail five notable initiatives from the organization's first 20 years. On a broad level, the case studies also illustrate the complex ways in which policy change happens and is understood retrospectively, the variability of success, and the interdependency of a range of contextual factors in enabling (or hindering) progress.

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OVERVIEW

In October 2012, more than 140 people from government, business, civil society, and academia gathered in Johannesburg, South Africa, to launch a global movement united by one goal: bringing greater transparency to public procurement processes. Governments worldwide spend about \$9.5 trillion each year on public contracts to provide services for citizens, but these contracts often are prone to fraud, are poorly managed, and fail to deliver value for money.¹ The newly formed “open contracting”² movement, launched at the First Global Meeting on Open Contracting, sought to check this trend. Given the huge scale of government procurement, the movement sees open contracting as offering an opportunity to curb fraud and waste and improve government efficiency, yielding benefits not just for citizens (e.g., better public services and accountability) but also governments themselves (e.g., cost savings on procurement deals).

The movement aims to bring unprecedented transparency to government contracts, from the pre-award stage when a government tender is developed and solicited, to the moment an award is made, through the execution of the contract.³ What’s more, it seeks to strengthen public disclosure of contracting processes and increase the participation of civil society and private actors, in view of equipping them with data they can use to enhance contracting processes and foster improvements in service delivery outcomes.⁴

By the end of the movement’s launch meeting, stakeholders had agreed on an agenda to establish open contracting as a global norm. But this conversation raised several questions that needed to be addressed in order for the movement to achieve its aims, such as how to determine if and when contract transparency might do more harm than good to the public interest.

Prior to this launch meeting, researchers at the Center for Global Development (CGD) had become interested in understanding the power of the publication of government contracts to improve outcomes of government procurement, particularly in the construction sector.⁵ This interest soon evolved into a body of work addressing contract transparency in public

procurement more broadly, which intersected with the priorities of the emerging open contracting movement. Led by CGD senior fellow Charles Kenny,⁶ this body of work, begun in mid-2012 and comprised of publications and working group convenings, focused not only on explaining why open contracting was a worthwhile idea but also on bringing clarity to unresolved questions that stood in the way of its widespread acceptance.

This case study focuses on the intersection between CGD’s work and the open contracting movement. It seeks to analyze the claims of causal attribution that can be made about how CGD’s work supported the emergence of the open contracting movement as well as the movement’s continued progress. The case study relies primarily on 13 interviews with individuals involved in the open contracting movement and with knowledge of CGD’s work on the topic, including both individuals affiliated with CGD and outside professionals with expertise on government transparency issues. It also draws on a close reading of materials produced by CGD and other research and advocacy organizations on the topic of open contracting.

The case study finds that CGD’s work helped meet the movement’s early need for compelling evidence on the viability of open contracting, providing an intellectual foundation that many of those interviewed for the report perceived as a catalyst for global advocacy for open contracting. CGD’s reputation as a credible analytical actor emerges as a key factor facilitating this outcome. However, the study’s findings—along with the difficulties of tracing specific mechanisms of impact and the multitude of actors involved in the movement—call for a measured assessment of CGD’s influence on the movement. While CGD can claim credit for strengthening the case for open contracting, its work was more of an accelerant and amplifier of a complicated change process already underway, rather than a precondition for the observed progress of the open contracting movement. In other words, the movement grew faster than it would have in the absence of CGD’s work, but CGD’s work was likely not a necessary and/or sufficient condition to drive the movement’s progress.

THE OPEN CONTRACTING PARTNERSHIP

The Open Contracting Partnership (OCP) is a multistakeholder initiative that aims to “open up the entire process of planning, awarding, and delivering” government contracts. The partnership evolved from the activities of the World Bank’s Governance for Extractive Industries team, which was created to develop innovations in the governance of extractive industries and which soon saw contract transparency become a core focus of its work—on account of the salience of contract transparency issues in the extractives sector and growing interest, among other World Bank teams, in transparency of government procurement more broadly. Following the movement’s launch meeting, stakeholders concluded that it was important to establish a central partnership that would serve as a platform for collective action, collaboration, and learning.

As a result, a steering committee, comprised of the Construction Sector Transparency Initiative (CoST), the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Integrity Action, the governments of Colombia and the Philippines, Oxfam America, and Transparency International, was formed to develop the partnership. These organizing partners agreed that the World Bank would serve as an interim secretariat for the partnership. Therefore, the OCP started out as an in-house initiative of the World Bank in June 2013 and began working with in-country coalitions to implement the open contracting agenda. In 2015, the OCP spun out of the World Bank to become an independent nonprofit organization dedicated to promoting contract transparency,⁸ a move seen by the movement’s organizers as crucial for defining open contracting as “a collectively-owned global movement, not merely a product of the World Bank.”⁹

The creation of the OCP was a critical moment for the open contracting movement because the partnership helped bring coherence to what was initially a very diffuse set of actors making arguments for increased transparency in public contracting (e.g., Transparency International, Oxfam, CoST, the Extractives Industries Transparency Initiative, Publish What You Pay, and a host of national governments committed to the cause). The partnership now serves as the anchor

institution for the global movement, providing a platform for collective action, collaboration, and learning, as key stakeholders envisioned.

Consistent with its mission, the OCP developed the Open Contracting Data Standard, which provides governments with a structure and guidance on how to publish contracting data—at all stages of the contracting process—in accessible and useful ways.¹⁰ The partnership also facilitated consultations, featuring stakeholders from government, civil society, business, development organizations, and others, to develop a set of global open contracting principles that articulate norms and best practices to serve as a guide to those advancing the open contracting agenda globally.

OVERVIEW OF CGD’S OPEN CONTRACTING INTERVENTIONS

CGD’s work on open contracting centered on a number of publications and working groups that addressed evidence gaps in the field. This section provides an overview of that work and is followed by discussions of impact claims associated with each initiative. As the report will later show, the publications and working groups described below helped give greater momentum to the open contracting movement.

The working paper “Publishing Construction Contracts as a Tool for Efficiency and Good Governance” was the first CGD publication on contract transparency.¹¹ Written by Kenny in November 2011, the paper drew attention to myriad problems in the global \$1.7 trillion construction sector, including poor-quality construction, cost overruns, and corruption. The report attributed these challenges to poor governance of the sector, and then offered evidence from other sectors and the construction sector itself to demonstrate the potential of increased transparency and oversight through contract transparency (i.e., open contracting) to improve development outcomes. The paper discussed the barriers to contract publication, suggested avenues to mitigate those barriers, and concluded with a discussion of how CoST, a global initiative that works with government, private-sector institutions, and civil society to improve transparency and accountability in

public infrastructure, could offer a model for improving transparency in the sector.¹²

The second CGD publication extended the scope of CGD's work on the topic beyond the construction sector and addressed contract transparency in public procurement more generally. The 2012 publication *Publish What You Buy: The Case for Routine Publication of Government Contracts*,¹³ written by Kenny and Jonathan Karver, discussed the benefits that contract transparency could have on the efficiency of contracting processes, the quality of government investment decisions, and public service delivery. This paper not only made the case for contract publication, but it also addressed two issues often cited by opponents as objections to open contracting reforms: concerns about the administrative burdens that contract publication would create for government bureaucracies and concerns that the risk of exposing confidential information would discourage firms from bidding for government contracts.

What's more, the paper argued that contract publication is beneficial for poor and rich countries alike, with benefits transcending country borders. For instance, greater transparency in contracting processes could reduce contracting costs and create more favorable environments for international bidders on government contracts. The report's authors argued that contract publication had an international public good component so significant that it would be worth creating an international institution to encourage countries to take up the practice and support them in implementing it.

Two years later, CGD convened the Working Group on Contract Publication, an 18-person group representing experts from government, civil society, and the private sector, to clear a path forward to address the concerns that contract publication raises, such as the related administrative burdens, confidentiality issues, and the risk that contract publication would engender collusion among bidders. Chaired by CGD's Kenny, this was the first of two working groups CGD convened on the topic, and the contract transparency working group process culminated in a CGD publication, *Publishing Government Contracts: Addressing Concerns and Easing Implementation*.¹⁴ This paper built upon arguments made in the previous papers

and reiterated the benefits of open contracting, providing supporting evidence from country experiences; it assessed the legitimacy of concerns raised about open contracting and marshaled evidence to demonstrate viable ways to address those concerns. Like the 2012 CGD publication on this topic, this report also restated the movement's need for an institutional home.

Then in 2018, CGD convened the Working Group on Commercial Transparency in Public Contracts, with the charge to bring clarity to the question of when it makes sense, from a public interest standpoint, to publish or redact commercially valuable information contained in public contracts. At the end of the deliberations, the working group produced a report, *The Principles on Commercial Transparency in Public Contracts*,¹⁵ that detailed 10 principles to guide decisions on when to exempt certain information from publication on account of commercial sensitivity concerns. The report ultimately concluded that information should be kept confidential only when it is in the public's interest to do so and offered detailed guidance on how governments should make that determination.

CGD's working group process was itself an important influence on the nature of the reports the groups produced, and, as discussed below, was a major factor in the ability of those reports to gain traction. The working group model is one that CGD often uses to weigh in on pertinent development issues by bringing together diverse actors to deliberate on the issue at hand and publish recommendations for follow-up action. This model has in the past been credited for enabling CGD to "harvest the wisdom of a well-connected group of experts" to create momentum and change how an issue is viewed, as an assessment from Arabella Advisors phrased it.¹⁶

A thread that runs through CGD's portfolio on open contracting is the marshaling of evidence to evaluate open contracting on its merits and to make the case for reform. Consistent with this approach, CGD conducted an evaluation of Ukraine's "ProZorro" procurement reform. In 2015, Ukraine introduced e-procurement through its ProZorro platform, which provides full access to all public contracting data via the Open Contracting Data Standard; the CGD working paper "Examining

the Impact of E-Procurement in Ukraine”¹⁷ sought to measure the impact of the reform on competition and prices. The study found that the reforms helped increase the number of bids in addition to yielding greater savings, a more diverse pool of bidders and winners, and a reduction in the amount of time required to procure goods and services.

In between producing these major publications, CGD experts also published several blog posts in which they highlighted lessons learned from the experiences of countries implementing open contracting,¹⁸ offered insights on working group deliberations,¹⁹ and discussed key developments in open contracting.²⁰ More recently, CGD experts have published commentary making the case for contract transparency in the context of procurement of COVID-19 vaccines.²¹

It is important to note that CGD’s work focused on determining what is possible to put in the public domain and the circumstances under which publishing contracts might be damaging. This work had very little, if anything, to do with the equally important technical question of how to publish information on platforms and in formats that people can use.²²

CGD AND THE CREATION OF THE OPEN CONTRACTING PARTNERSHIP

Given how important the OCP is to the open contracting movement, any inquiry into CGD’s place within the movement must begin with the organization’s connection to the establishment of the partnership. Although the OCP owes its existence to the multistakeholder collaboration coordinated by the World Bank and partners such as GIZ, CGD’s work intersects with the OCP’s origin story in two ways.

First, CGD articulated the vision for an entity like the partnership that now exists to coordinate the movement’s agenda globally. Specifically, in one of CGD’s earliest publications (2012) on open contracting, *Publish What You Buy: The Case for Routine Publication of Government Contracts*, CGD researchers Charles Kenny and Jonathan Karver suggest the creation of “an international institutional structure” that would support

proactive contract publication, with a mandate to “advocate for contract publication and monitor implementation by governments which had committed to publish what they buy.”²³ According to Kenny, this report was one of the first, if not the first, to make a public case for an anchor institution for open contracting.²⁴ The report saw such an institution playing a number of roles in support of the global movement toward contract publication, including advocating for the idea, developing practical guidelines for its implementation, building the capacity of civil society actors to use contracting data to hold their governments to account, and monitoring the impact of contract publication on service delivery.

A year after CGD made this call for an international institutional structure, the World Bank created the OCP, which later (in 2015) spun out of the bank to become an independent entity. This is very much a realization of CGD’s vision. Today, the OCP focuses on four main activities consistent with CGD’s vision for an international institutional structure for the movement, as articulated in *Publish What You Buy: advocating for a global norm of open contracting*, supporting on-the-ground implementation of open contracting reforms, building a community of practice, and sharing best practices.²⁵ However, this is not to suggest that the World Bank’s decision to create the OCP was inspired by CGD’s recommendations or that CGD had a direct hand in its creation; neither claim was backed by those interviewed for this case study. But the creation of the OCP speaks to CGD’s foresight in identifying a legitimate need of the movement and lifting up means of meeting it. To further illustrate how CGD and the OCP’s origin story connect, it is telling to note that the World Bank’s first major publication on open contracting, *Open Contracting: A New Frontier for Transparency and Accountability*,²⁶ cites CGD’s *Publish What You Buy* multiple times in building a case for open contracting. Not only that, CGD’s Kenny is also recognized as a contributor to this World Bank report, which also discusses the role of the OCP, then an in-house initiative of the World Bank, in realizing the impact of open contracting.

The second point of connection between CGD and the OCP’s origin story came when the OCP was set to become an independent nonprofit entity. Though the OCP’s creation and

CGD's work on the topic ran parallel to each other, these efforts intersected during the launch event for the OCP, held on November 19, 2014.²⁷ This launch event marked the OCP's transition from a World Bank initiative into a stand-alone, independent effort—and it is not a coincidence that CGD chose this event as the occasion to release its seminal paper on open contracting, *Publishing Government Contracts*, the output paper of the CGD Working Group on Contract Publication. “The paper was explicitly meant to provide some more empirical underpinnings for OCP and help boost its prospects as a stand-alone endeavor,”²⁸ CGD's Kenny explains. And as demonstrated below, the report had the envisioned effects, “giving the [newly independent] Open Contracting Partnership a credible face to the world.”²⁹

But it wasn't just the report that was significant; the working group process that led to its development offered an entry point for CGD to help shape the thinking around the OCP's creation. Because there was an overlap in the membership of the CGD working group that developed the report and those more generally involved in conversations on what the OCP should look like in practice, some interviewees saw this sequencing of events as a likely avenue for CGD to have influenced the OCP's work. According to Michael Jarvis, who led the OCP while it was nested within the World Bank, “People took the insights from that [CGD working group deliberations] into parallel conversations that were happening about the strategy of open contracting partnership,” and “what are the best arguments, how do we want to frame this.”³⁰ These conversations were happening right before the OCP was set to spin out of the World Bank to become an independent nonprofit organization, and there were strategic decisions to be made about how to position the organization in a way that would allow it achieve its goals.³¹ However, while members of the CGD working group took part in conversations concerning strategic decisions about the framing of the OCP's work, it's difficult to pinpoint who made what recommendations that were adopted as part of the OCP strategy, let alone attribute causal impact to CGD.

Nevertheless, what we should note here is that while CGD cannot claim responsibility for the formation of the OCP, it can,

in its role as a convener and knowledge producer, claim some role in influencing both the content of the partnership and the intellectual environment surrounding its emergence. The discussion that follows explores these ideas in greater detail.

UNDERSTANDING CGD'S INFLUENCE ON OPEN CONTRACTING

There is no doubt that the creation of the OCP was a key moment for the open contracting movement. But to gain a more complete perspective of what CGD's work has meant for the movement, we need to look beyond the creation of the OCP itself. This is because focusing on the creation of OCP alone risks ignoring the significant contributions that CGD made to the movement beyond the workings of the partnership.

A central finding of this case study is that CGD's research during the movement's early days provided an intellectual foundation that served as a catalyst for global advocacy for open contracting. In particular, CGD's contributions are perceived by many of those interviewed for this study as demonstrating the viability of the idea of open contracting, lending credibility to it, making clear what it would take to implement it, and fostering synergies among key stakeholders.

Making the case for open contracting

By the time CGD began its work on open contracting, a consensus narrative of the benefits of open contracting had already emerged. In its publications, CGD articulated a case for open contracting that rested on several arguments that echoed the position of the movement's leaders, most notably the OCP. Taken together, the CGD papers argued that publication of government contracts can lead to better government investment decisions by incentivizing government officials to pursue contracts in the public interest; that publishing contracts would foster competition and increase the quality of tendering processes, potentially benefiting governments in terms of cost savings; and that open contracting would empower citizens and civil society to monitor service delivery and hold providers to account. None of these arguments was new per se.

Yet even though there was consensus on the *why* for open contracting, several questions about the *how* remained unaddressed at the time of the movement's inception. When asked to comment on the challenges of implementing open contracting, participants at the First Global Meeting on Open Contracting in South Africa raised a number of issues, including the need for a clear definition of what information should remain confidential in published contracts, how to balance disclosure and confidentiality while ensuring respect for human rights, and how to gather evidence to demonstrate that contract transparency leads to better development outcomes.³²

Put simply, the movement had a need for insight on what it would take to implement open contracting, and this is precisely the challenge CGD's working groups and publications took on. A big part of filling this gap involved deconstructing opposing arguments and addressing salient concerns about confidentiality, costs, and national security that cast doubt on the viability of open contracting. Opponents argued that it would cost governments too much to publish contracts and that publication would be an overwhelming administrative burden, especially if those contracts contain confidential information.³³ Businesses also worried about the risk of exposing trade secrets due to contract publication. Moreover, there were legitimate concerns about exposing confidential information contained in contracts related to national security.

In response to these arguments, CGD marshaled evidence to prove that it was possible to pursue open contracting in ways that addressed these concerns of varying legitimacy (see, for example, Box 1). "The most important thing that I saw happen in the working group was grappling with these questions of confidentiality, national security arguments, and cost to the government of making it public," says Bill Savedoff, a former CGD senior fellow who sat on the CGD Working Group on Contract Publication.³⁴ By analyzing the experiences of countries such as Australia and Colombia that were already implementing contract publication schemes, CGD demonstrated that publication costs were not as high as opponents imagined, that redaction processes could address confidentiality concerns, and that national secrecy concerns apply to only a

BOX 1. MAKING THE CASE FOR OPEN CONTRACTING

"I think because nobody really thought that it was possible. Right? Like why in the world would governments agree to publish their contracts? Why would the private parties agree? Nobody wants that kind of stuff published. And so some of his [Charles Kenny's] work actually demonstrated that it was possible, which is actually what is extraordinary."

– Beth Schwanke, University of Pittsburgh and Former CGD Senior Policy Counsel and Director of Policy Outreach

small number of contracts.³⁵ According to Patrick Heller of the Natural Resource Governance Institute, this work spoke to CGD's ability to "crystalize arguments in fairly succinct and compelling ways."³⁶

Reflecting on the working group proceedings, Savedoff notes, "I think it really drew those issues and came up both with analytical arguments and empirical evidence that made the case very well."³⁷

And there is some evidence it worked, as proponents of open contracting started to head off some of the challenges and arrive at clear answers to them, with some success. "We were able to knock out those arguments one by one," recalls Jarvis. "The work of CGD helped in terms of countering these claims of commercial confidentiality," he adds.³⁸ Through its working groups and publications, CGD helped parse a litany of arguments, distinguishing between the opposing arguments that merited serious consideration and those arguments that did not hold up to scrutiny.

More than this, CGD's insights helped introduce more nuance to the claims of the open contracting movement. Specifically, CGD's work played a role in shifting the movement's narrative from its original call for governments to publish all contracts to a recognition that there are cases in which contract transparency may harm the public's interest. As CGD's Kenny sees

it, CGD's work "helped delineate some of the areas where it would be harder to get to complete openness... and that was probably important too, because it turned it [open contracting] from being a 'publish everything' effort into something a bit more nuanced."³⁹ This view is supported by the OCP publication *Mythbusting Confidentiality in Public Contracting*, in which the partnership accepts that "not all contracting information will be published all the time," noting that "there are occasions when information will be redacted in the public interest."⁴⁰ It is noteworthy that this report makes 20 references to the CGD paper *Publishing Government Contracts: Addressing Concerns and Easing Implementation*.

Because the question of impact lies at the heart of our inquiry, it's also important to note that while sources interviewed perceived CGD's reports on and arguments for open contracting as compelling, it has proven difficult to identify specific occasions in which an encounter with CGD research led major actors to embrace open contracting.

Still, comments from several interviewees suggest that the evidence base CGD built provided proponents with ammunition they needed to strengthen the case for open contracting and engage with government and business stakeholders who were explicitly opposed to the idea of open contracting, had reservations about the concept, or simply did not give open contracting the attention its proponents felt it warranted. "We cited some of the materials [CGD] produced in campaigns we were involved in," Heller notes. As another example, an Oxfam review of the contract disclosure policies of 40 oil, gas, and mining companies cites CGD's report to counter the claim that the increased transparency that open contracting calls for would cause businesses to become unwilling to bid for public contracts.⁴¹

The transformation of the OCP into an independent nonprofit organization was a critical node in the narrative of the movement's evolution and progress. And the fact that leaders of the newly independent OCP—Gavin Hayman, executive director, and Kathrin Frauscher, deputy executive director—leaned on CGD's report for evidence during such a critical juncture demonstrates the significance of CGD's work to the movement.

When asked what he thought were the movement's defining moments, one of the first things Hayman mentioned was the CGD publication *Publishing Government Contracts: Addressing Concerns and Easing Implementation*. Hayman came into contact with the publication in 2014, before he formally assumed the role of executive director. For him, the report was "the first major asset" that demonstrated the huge potential for open contracting to "genuinely make a difference in the world."⁴²

On meeting Charles Kenny at the report's launch event, co-organized by the OCP and CGD in Washington, DC, in November 2014, Hayman approached Kenny and said to him: "I just want to thank you for this report because this is now the evidence base for everything we will do in our initial advocacy and work."⁴³ These affirmations of the report's value are by no means trivial. When Hayman took charge of the OCP, he and his team had their work cut out for them. They faced the daunting task of promoting the uptake of open contracting practices in a crowded field of skeptics, a task made no easier by the fact that pertinent questions about how to implement open contracting did not yet have clear answers at the time. Another complication was the reality that, as a newly independent organization, the OCP did not yet have a track record it could leverage to effectively make the case for open contracting. Concurring with these views, Frauscher, the OCP's deputy executive director, described the CGD publication as "one of the fundamental stepping stones" that helped the movement "to make open contracting what it is now."⁴⁴

These findings point to another dimension of CGD's influence on open contracting: it mattered that the analytical insights discussed earlier came from CGD, as opposed to an advocacy organization (see, for example, Box 2). Some sources could easily imagine a scenario in which an organization like Transparency International were to publish a paper that presented the same evidence as the CGD report, and they anticipated that, in that scenario, the report would have been categorized as "a civil society ask"⁴⁵ and generated less buy-in due to the tendency for policy communities to view advocacy groups as lacking the same level of rigor and nuance on matters of policy.⁴⁶ What's more, others suggested that even the OCP itself would have had a hard time addressing the concerns about

BOX 2. CGD AS A NEUTRAL ANALYTICAL ACTOR

"CGD has been a more neutral analytical actor in the governance space and I think has been able to analyze some of the arguments that are in favor of a much more rigorous commitment to contract transparency—and with a lens of objectivity that is helpful for the rest of us in being able to cite, and refer to as we have campaigned on some of these issues."

– Patrick Heller, Natural Resource Governance Institute

commercial confidentiality "in a way that felt independent enough to have this legitimacy to it."⁴⁷

Testimonials from multiple sources suggest that the credibility of both Kenny and CGD itself made stakeholders more attentive and receptive to the arguments for open contracting. Heller suggests that "there are probably people who have, thanks to CGD's work, been more open and attentive and receptive to these arguments, that would not have been in the absence of CGD's work." One factor that made this outcome possible, according to sources interviewed, is that CGD was already perceived as a credible entity by several of the audiences crucial for the promotion of open contracting, particularly government, the private sector, and multilaterals. On the one hand, CGD's convening of a diverse cast of actors in its Working Group on Contract Publication is a testament to the organization's wide-ranging credibility. On the other hand, that process and the resulting publication helped to "promote the idea [of open contracting] as something worth looking at, worth testing out, and worth learning more about,"⁴⁸ former CGD senior fellow Todd Moss explains. From this perspective, CGD's impact resulted not just from what CGD said about open contracting and how CGD said it, but also, importantly, from the mere fact that it was CGD that said these things about open contracting.

As several interviewees put it, CGD's research filled a clear gap that had not been previously addressed:⁴⁹ a need for

compelling evidence on the viability of open contracting. With respect to academic arguments, CGD carved out a space for itself as an "early mover"⁵⁰ in making the case for open contracting, so much so that several interviewees credited the organization with creating an intellectual climate that made the promotion of open contracting more feasible.

Therefore, a strong case can be made that the OCP would likely have evolved differently had CGD not convened its working group and released the associated publication when it did. This idea is revisited in later sections of the case study.

Making the case for commercial transparency in public contracting

There is evidence that CGD's work has made a difference beyond the way it influenced the OCP. In particular, the evidence base in the CGD reports has been widely circulated as a core foundation for advocacy by other actors making the case to their governments or other global communities. Sources interviewed for this study recalled meetings in which different stakeholders referenced the CGD publications to promote open contracting,⁵¹ while others made general comments affirming the report's usefulness.⁵² "It was welcome evidence and something that started to get deployed in advocacy campaigns and used as a reference point," Jarvis explains.

Here, it is worth taking a closer look at CGD's second flagship investment in open contracting issues: the CGD Working Group on Commercial Transparency in Public Contracts. Convened in 2018, the working group aimed to offer guidance on "when it is in the public interest to publish or redact information that is potentially commercially valuable."⁵³ The working group focused on this issue because, as has been mentioned earlier, commercial sensitivity is an often-cited reason for refusing to publish contracts or for redacting material from contracts that are published.⁵⁴

Like the working group that preceded it, this one also brought together leaders from business, civil society, and government to tackle an unfilled gap: a lack of understanding of, and consensus on, the circumstances under which public contracts may be justifiably redacted on commercial confidentiality grounds. This working group process culminated in the

Principles on Commercial Transparency in Public Contracts report, which laid out 10 principles to guide implementation of policy on commercial transparency.⁵⁵

The influence of this piece of work is best appreciated when considered in the context of the extractives industry, which has long grappled with—and made recent progress on—contract transparency issues. Some actors in the extractives industry have internalized some of the principles lifted up in the CGD report, most notably the recommendation to apply a “public interest test” to requests to redact contract information. In 2019, the Extractive Industries Transparency Initiative (EITI), which “implements the global standard to promote the open and accountable management of oil, gas and mineral resources,” made contract transparency a requirement under its standards.⁵⁶

In the assessment of the Natural Resource Governance Institute’s Rob Pitman, CGD’s report was a valuable input to the policy dialogues that helped bring about this outcome (see, for example, Box 3). In fact, Pitman noted that the output paper of the Working Group on Commercial Transparency in Public Contracts was important in helping advocates “reach a tipping point in EITI,” leading to the global contract transparency requirement in 2019.⁵⁷ Heller of the Natural Resource Governance Institute echoes this sentiment, noting that the CGD reports and convenings were helpful “as part of the momentum” and “strength of the arguments” that have led to progress in the extractives space.”⁵⁸

Again, it is worth considering the catalytic role that CGD has played as a convener of working groups set up to tackle issues critical to the implementation of open contracting. According to those interviewed for this study, it mattered that CGD brought together groups of people, representing various interests, who otherwise may not have had the space or a reason to be in dialogue with each other regarding contract transparency in particular. And it helped that the commercial transparency working group process included people from companies and initiatives with private-sector backgrounds beyond extractives. By Pitman’s account, this “allowed people from the extractives sector to see that they were actually

BOX 3. CGD’S INPUT TO POLICY DIALOGUES AROUND CONTRACT TRANSPARENCY IN THE EXTRACTIVES INDUSTRY

“I think that CGD has done a really good job of advancing a more nuanced discussion about commercial sensitivity that hasn’t always been present in discussions on the publication of contracts. Specifically, that commercial sensitivity shouldn’t be seen as the monolithic impediment to disclosure that it is often portrayed as, but rather should be weighed up in a public interest test. For transparency advocates working on oil, gas and mining, the CGD paper is one of the first reference points for those who are making this case.”

– Rob Pitman, Natural Resource Governance Institute

leading on something [commercial confidentiality issues] and that people were interested in learning from their experience.”⁵⁹ And, Pitman notes, this made it difficult for extractives companies with good practices to “peddle back on contract transparency in global discussions” around the EITI.⁶⁰

As was the case with CGD’s earlier work on open contracting, the *Principles on Commercial Transparency* report also demonstrated CGD’s capacity to introduce nuance where it was lacking in discussions about contract transparency in the extractives industry. Reflecting on the contract transparency debate in the extractives space, Pitman observed that CGD helped drive home the point that “commercial sensitivity shouldn’t be seen as the monolithic impediment it is often portrayed as” but should instead be assessed against the public interest.⁶¹ According to Pitman, this perspective, once downplayed in the campaigns of contract transparency advocates in the extractives sector, is “now making it into their thinking” and informing country plans for disclosing extractives industry contracts under the new EITI requirement—with the Working Group on Commercial Transparency

in Public Contracts document often serving as the evidentiary basis for this case.⁶²

This is yet another instance in which interviewees noted the strength of the arguments CGD marshaled, but it still proved difficult to map out who exactly was influenced by them and how those arguments informed the actions of key actors in the movement. In fact, Kenny offered a different perspective on the relationship between CGD's work and the EITI's decision to adopt a contract transparency requirement. He suggested that "the influence probably goes as much the other way round" because the EITI had, long before the OCP was established, been an advocate for contract transparency and succeeded in publishing information on contracts in the extractives sector. The EITI was, in fact, one of the examples that CGD's research referenced to make the argument that open contracting reforms were feasible, leaving open the question of how crucial CGD's work might have been to the EITI's decision to adopt its contract transparency requirement. Therefore, it's impossible to say with certainty that CGD was the source or main impetus for the EITI's adoption of the contract transparency requirement, but interviews suggest that a case can be made that it was one of the factors.

Outside the extractives industry, one source noted that CGD's paper with the 10 principles helped bring coherence to and provided an intellectual backing for transparency arguments being made by the Open Government Partnership (OGP), a multistakeholder initiative that brings government and civil society leaders together to promote transparent, participatory, inclusive, and accountable governance. Sanjay Pradhan, executive director of the OGP, described the CGD paper as sound documentation of principles that should underpin open contracting, noting also that the report "became the reference point" encapsulating the OGP's understanding of open contracting.⁶³ Not only did the 2019 *Open Government Partnership Global Report* highlight open contracting as a priority policy area for promoting transparency, but it also cited the CGD's principles as "a strong starting point" for the long journey to establish open contracting as a global norm.⁶⁴

These findings are in contrast to comments by some sources suggesting that the principles, though valuable on their own merit, had limited influence in the real world, unlike the output of the Working Group on Contract Publication, which was widely seen as having played a major role in strengthening the legitimacy of open contracting.⁶⁵ Two factors possibly explain the variation in the perceived influence between the two reports. One deals with the different gaps addressed by the two reports; it could be that the first report addressed a more important gap (that is, a need for compelling evidence on why and how to pursue open contracting in the first place) than that addressed by the second report (that is, a need for technical guidance on commercial transparency—an important, but narrower scope of concern). This would mean that the report that addressed the bigger issue attained greater policy impact than the one that addressed a relatively smaller issue. The other factor is timing. The second report was published in 2019, and it's possible that not enough time has passed to observe its influence, unlike the case of the earlier report, whose content dates back as far as 2011.

PUTTING CGD'S INFLUENCE IN PERSPECTIVE

According to those interviewed for this study, CGD's working groups and resulting publications were not only intrinsically valuable but influential contributions to the content and effectiveness of the open contracting movement. Much of that influence is concentrated in the movement's early days, or seeding phase, when the idea of open contracting was only slowly starting to build momentum. In this context, CGD made timely research contributions that provided intellectual planks upon which others could build.

Though the narrative presented here points to the nature of CGD's influence on the movement, there is still much more to learn, through further research on the specific ways different actors leveraged CGD's research and what resulted from those uses. Additionally, because there were multiple actors involved in actual "movement building" work (working with governments, leading advocacy campaigns, etc.) to elevate open contracting, it is difficult to isolate causal impacts

attributable to CGD in such a crowded field. Given this, it is best to see CGD's work as one input to a complicated process of policy change.

By 2016, open contracting had gained real momentum, marked by its prominence in the global transparency agenda and the increase in the number of countries that had made public commitments to implement open contracting. The 2016 UK Anti-Corruption Summit, during which 14 countries committed to implementing open contracting, was another important milestone in that year.⁶⁶ "There was something about that 2012 to 2016 period where we had world leaders who were talking about open government: they were committing and there was still an upswing of momentum to which open contracting contributed but also benefited from and that helped it sustain itself into that later period," Jarvis commented.⁶⁷

CGD's role in furnishing evidence supported this momentum, but not to a degree that would warrant granting it strong causal attribution in bringing about the rise in the number of countries committing to open contracting reforms. This is because CGD had very limited direct contact with countries that signed commitments, unlike, say, the OCP, which was heavily involved in encouraging governments to commit to open contracting.⁶⁸ Having said this, the earlier discussion would suggest that although CGD's work did not play a central role in the increase in country commitments, it helped shape the broader policy context in ways that supported that outcome.⁶⁹ In other words, CGD's work strengthened the credibility and boosted the salience of open contracting. Given this, it makes sense to think of CGD's role as influencing the influencers—or those with greater proximity to the actors that needed to be influenced in order for open contracting to take root.

Further, the fact that there were many actors seeking to advance open contracting also makes it difficult to isolate CGD's impact on the movement, but at the same time there is an open question about whether CGD's work would have been as influential as it was absent the rich cast of actors advocating for open contracting. The CGD working groups are a microcosm of this dilemma. Members of CGD's working groups that helped produce the seminal reports represented diverse

organizations, industries, and perspectives on open contracting. And any of those working group members could have acted as causal agents in their own capacity by building on the working group process and report to establish or deepen relationships and spread arguments for open contracting. As Beth Schwanke, former CGD senior policy counsel and director of policy outreach, explains, "Each of the people in the working group really becomes a stakeholder in the document and takes it back to their own organization and wants to move it forward in various ways."⁷⁰ This suggests that any success CGD had in boosting the salience of open contracting is tied to the working group process, which, as former CGD senior fellow Todd Moss explains, is "a way of catalyzing and crowding in supporters, allies, and influence."⁷¹ But by its very nature, in the diversity of stakeholders it cultivates, the working group process makes it difficult to isolate CGD's own distinct impact. In the case of the commercial transparency working group, one source reflected that "the relationships that came out that process have proven invaluable already."⁷² This source explained that her organization, The B Team, a nonprofit organization that advocates for better business practices, likely would not have gained exposure to influential open contracting stakeholders or established key relationships in the open contracting field were it not for the networking opportunity that the working group provided. This kind of connection matters for understanding different perspectives, determining how to align business and civil society priorities, and engaging in day-to-day advocacy.⁷³

But in general, when asked to reflect on the sequence of events following the conclusion of the CGD working group proceedings they had participated in, many working group members could not offer precise responses because they found it difficult to recall specific events or did not keep track of developments after the group's work ended. Ultimately, then, while we cannot observe the infinite number of channels through which CGD's work may have influenced the open contracting movement, CGD's influence on the movement appears to have had as much to do with its convening power as it does with its intellectual products.

AN ALTERNATIVE NARRATIVE

In most interviews, sources shared their views on how the open contracting movement might have evolved in the absence of CGD's work on the topic. Such counterfactual reflections provided an entry point to isolate CGD's contributions and gain a better understanding of the importance of those contributions vis-à-vis the movement's momentum.

A strong case can be made that the movement would have hit the same milestones it did even in the absence of CGD's contributions, but likely on a delayed timeline. This is primarily because the case for open contracting would have been a weaker one without CGD's work, meaning that it would have required more time and investments in initial case building to gain traction.⁷⁴ "I think if you were looking at where we are in 2021, we would probably have still gotten to a similar point without the CGD element but it would have taken longer to get us there," says Jarvis. So even if "open contracting wouldn't look too much different today"⁷⁵ without CGD's work, it nonetheless "sped up that process"⁷⁶ and helped the movement grow faster than it perhaps otherwise would have.

Notwithstanding the significance of CGD's body of work on open contracting, it is not difficult to imagine a counterfactual scenario in which another entity or a collective of entities produced a report that addressed the gap that CGD's research filled. In fact, some sources speculated that the OCP might have taken on the challenge of filling the evidence gaps,⁷⁷ although, at the time, as has been mentioned before, the OCP's research likely would not have carried the same weight.

But timing matters. It is undeniable that CGD's work landed at a time when there was a clear but unmet need in the field, enabling the organization to have the catalytic effect that many testimonials allude to. Without the evidence base CGD helped build, the OCP would have had a harder time hitting the ground running, in terms of mobilizing funds for its work. As Frauscher, OCP's deputy executive director, explains, "It was incredibly helpful to have a credible source that showed the scale of the problem and why funders have to pay attention to it, and why an organization such as OCP could help tackle that issue... I do think we had higher chances or were able to secure early funding because we had the paper and Charles that we could reference."⁷⁸

In a counterfactual world in which CGD did not intervene the way it did and when it did, the lack of evidence on the promise of open contracting, and the associated funding implications, might have translated into a tepid launch for the organization charged with promoting open contracting globally. "I think a best-case scenario for us probably would've been us having to take a year to really build the evidence base ourselves," says OCP's Hayman. "The reality then, though, is we may not have been able to seize on that kind of initial momentum and really start with a bang."⁷⁹

Ultimately, then, CGD's work was more of an accelerant and amplifier of a complicated change process already underway, rather than a precondition for the observed progress of the open contracting movement.

Notes

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- 24 Interview with Charles Kenny, May 10, 2021. The only other source I came across that comments on this is the synthesis document on the First Global Meeting on Open Contracting published in October 2012. That document notes that "some coordinating body would be necessary" to support the uptake of open contracting. See *Open Contracting, First Global Meeting: Open Contracting* (Johannesburg, South Africa: Open Contracting, 2012), http://d3n8a8pro7vhm.cloudfront.net/opencontracting/mailings/9/attachments/original/Johannesburg_Meeting_Report_-_FINAL_-_Dec_11_2012.pdf?1355256101.
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