



PUTTING OPEN CONTRACTING ON THE MAINSTREAM

Open contracting refers to norms and practices for increased disclosure and participation in public contracting. It covers the whole contracting chain from planning to finalization of contract obligations, including tendering and performance. It includes the variety of contract types, from more basic contracts for the procurement of goods to complex contracts, joint venture agreements, licenses and production sharing agreements. Open contracting encompasses all public contracting, including contracts funded by combinations of public, private and donor sources.

Background

In 2012, a new advocacy for open contracting came about with the formation of the Open Contracting Partnership, comprising a group of organisations with a shared commitment to actively seek for enhanced contract disclosure and citizen participation in public contracting. The year 2013 followed with a Book Sprint, which gathered together 17 open contracting advocates from around the world to produce an open contracting guidebook entitled *Open Contracting: A guide for practitioners by practitioners*. Since its publication, several civil society organizations have expanded their work on open contracting to reach a larger community.

Open Contracting Matters for Everyone

The contract is a fundamental element common to all public government works; it is the mechanism which allows for the delivery of public goods and services such as roads and bridges, school buildings, and healthcare facilities, to name a few. Simply put, public contracts are formal agreements entered into by the government to finance a particular task or project. Across the world, governments spend an estimated amount of US \$9.5 trillion through contracts. There exists, however, an issue involving the secrecy surrounding most public contracts, which often leads to and is a cause of fraud and corruption, on the part of the government as well as of the contractor in charge of such projects. Because contracting information is often unavailable, the public has little way of knowing whether or not government projects follow the provisions in the contract. Ultimately, it is the public who suffers the most due to poor development outcomes caused by an opaque contracting system.

In response to the hindrances caused by opaque contracting processes, leaders from all over the world have given voice to a new advocacy of open contracting. The open contracting advocacy, initiated by the World Bank Institute, calls on governments and citizens to work hand-in-hand in ensuring that public resources are spent and utilized in a most efficient manner, and at the same time promote transparency and accountability of public offices. Open contracting has two components: increased contract disclosure and citizen participation, which must be exercised throughout the entire contracting process: from planning to execution, and contract closure.

For open contracting to be a reality, citizens must know that they have the right to demand disclosure of public contracts. The government only acts as custodian of public resources and in turn, signs contracts on behalf of everyone. Likewise, open contracting encourages active citizen participation through citizen monitoring mechanisms. Thus, open contracting encourages constructive engagement between government and citizens. With these factors in mind, the norms and practices developed by open contracting translate to “better contract performance and improved development outcomes.”



In 2013, the Open Contracting Partnership wrote and published a 106-page how-to-guide intended for the use of practitioners of Open Contracting. The book, entitled *Open Contracting: A guide for practitioners by practitioners* (OC Guide), is the fruit of the collaborative work of 17 OC practitioners gathered from different parts of the globe. Since its release, the book has been translated into different languages to reach a wider audience: French, Spanish, and Mongolian. The guidebook aims to provide Open Contracting practitioners a clearer understanding of how they can engage with open contracting activities in different countries, settings and environments, and what elements to take into account when engaging in this type of work.



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US \$9.5 trillion every single year through contracts.

OPEN CONTRACTING MATTERS FOR EVERYONE

In all open contracting endeavours, one must begin with a context analysis. At this preliminary stage, the primary objective is for the OC practitioner to get to know the environment, simply by talking to people and asking the right questions. By doing so, one is able to identify the various stakeholders and their roles in the entire contracting process. It is important to consider the legal framework—laws, regulations and standards can make contract disclosure and participation easier or difficult. Keep in mind that while this stage of the intervention comes first, the environment does not remain static; changes may happen later that could have an impact on the open contracting process.

1 Context Analysis

Another important feature of the open contracting process is constructive engagement. At this point, various stakeholders convene to discuss "the realities around public contracting, and then identifying areas in need of reform or enhancement." The purpose of constructive engagement is for the stakeholders to build a spirit of collaboration, founded upon trust and a serious commitment to help each other out. This will allow the stakeholders to arrive at a consensus, thus identifying their purpose and the changes that must be accomplished.

2 Constructive Engagement

The Open Contracting Process

4 Closing the Loop

To make the open contracting endeavour a fruitful one, see to it that problems that were identified during the initial stages have been addressed and changes have been effected. This last stage shows that the goals of open contracting can be achieved only if "problems are resolved to the satisfaction of all stakeholders," through a careful context analysis and with proper feedback mechanisms.

3 Monitoring, Analysis and Reporting

At the heart of the open contracting process, practitioners make use of open contracting tools and methods to monitor and evaluate contractual projects—from the planning stage, tendering and up to the point of execution. Identify the main purpose of the activity and gather the necessary information that would be needed for changes to be implemented later on. The reality of open contracting varies across different contexts and so one must have an open mind and be ready for the challenges ahead.

The open contracting advocacy is a growing global movement.

A global community of practitioners has spearheaded their own open contracting activities in different countries, with a shared commitment to put open contracting into the mainstream.

Integrity Action

Forming a network of civil society organizations from Afghanistan, Cote d'Ivoire, the Democratic Republic of Congo, Liberia, Nepal, Palestine, Sierra Leone, South Sudan and Timor Leste, the Integrity Action builds its work on open contracting by empowering public integrity and engaging citizens in contract monitoring activities.

Affiliated Network for Social Accountability in East Asia and the Pacific

In the Philippines, the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP) worked on the "Open Contracting in the Classroom and Beyond" project, which aimed to strengthen the capacity of the youth as citizen monitors and as advocates of open contracting.

Africa Freedom of Information Centre

Africa Freedom of Information Centre (AFIC) has organized several open contracting forums in different parts of Uganda, which created an avenue for CSO leaders to reflect on their roles in the promotion of open contracting

A Global Community of Open Contracting Practitioners

<http://www.open-contracting.org/>