



## **Transparency in HRM: Room for Improvement**

### **Introduction<sup>1</sup>**

A century ago, Louis Brandeis, a famous American jurist argued for greater transparency and openness by noting that sunlight is the best disinfectant. Today, virtually every democratic government acknowledges the importance of a right of access to information. A strong right to information is essential to fostering democratic participation, by allowing the electorate to inform themselves about key matters of public import. It also helps to build trust between public bodies and their constituents, and promotes honesty and integrity in the public processes. A strong right to information can also deliver tangible financial benefits, such as by increasing the efficiency and integrity of contracting processes and promoting a positive economic climate for investment.

But while it is easy for politicians to extol the virtues of transparency, actually delivering a robust right to information can be a challenge. Different governments have adopted varying approaches, which have different strengths and weaknesses. This Note looks at the openness policies of the Halifax Regional Municipality (HRM), and compares them with other jurisdictions, in Canada and globally, in order to establish a set of recommendations for improving transparency. It is worth noting that the vast majority of these recommendations would cost little or nothing to implement, and would deliver significant benefits to the city's management.

### **Contracting and Tendering Information**

Monitoring how tax dollars are spent is among the most important functions of a strong right to information system. As a major vehicle for public spending, it is particularly important to make procurement processes open and easily accessible. This includes publishing clear reasons why a

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particular submission was chosen above others, and specific details about why and how this bid compares with the competition.

Currently, HRM only publishes the date that the tender was awarded, the amount paid to the contractor thus far, a quote as to how much will be paid to the contractor, and contact information for city officials involved with the contract.<sup>2</sup> This compares poorly with other jurisdictions examined as part of our research. In Richmond, Virginia, for instance, it is standard practice to publish details associated with every bid received, including a vendor-supplied breakdown of costs.<sup>3</sup> For example, in the case of an awarded tender for tree removal, the city website includes a breakdown of how much each applying vendor estimated for the hourly wages of foremen and labourers. This is published in an easy to understand spreadsheet, allowing the public to get a clear picture of the costs and options the city has. Moreover, giving alternative companies the opportunity to examine price structures in the winning bid allows them to refine and improve their proposals for the next cycle, building stronger competition and ultimately more efficiency into the system.

Eugene, Oregon publishes a “Bid Tabulation” spreadsheet on its website which allows for a side-by-side comparison of the costs that each vendor estimated for different aspects of their bid.<sup>4</sup> The website also includes a copy of a letter that they sent out to all the contractors that submitted bids, which states which vendor has been awarded the contract, and provides contact information for any losing vendors that may have questions about the bid selection process. Bidders in Eugene are also required to submit information about who they will be bringing onto their projects as subcontractors, information which is also published online.

Another positive example is Sydney, Australia, which publishes detailed qualitative criteria to explain why particular bids were selected.<sup>5</sup> For every awarded contract over \$150,000 AUS, the city publishes a PDF file that includes a section for “Evaluation Criteria”, which typically lists roughly ten different criteria used in assessing the competing bids. This is especially useful in cases where the city selected a bid that was not the cheapest offering. For example, the decision-makers may value a vendor’s previous record on workplace safety so highly that it is worth selecting them even if they are moderately pricier than their closest competitors. Absent this ability to understand the thinking that underlies decisions, it is impossible to for the public to properly assess whether or not they agree with the city’s approach. Publishing detailed criteria builds stronger accountability into the process.

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<sup>2</sup> Filter by Awarded Tenders and Halifax Regional Municipality, available at: <http://www.novascotia.ca/tenders/tenders/ns-tenders.aspx>.

<sup>3</sup> Filter by Recent Awards, available at: <https://vendor.epro.cgipdc.com/webapp/VSSAPPX/Advantage>.

<sup>4</sup> Filter by Closing Date, available at: <http://www.eugeneor.gov/Bids.aspx?CatID=showStatus&txtSort=Date&showAllBids=&Status=open>.

<sup>5</sup> See Contracts Awarded, available at: <http://www.cityofsydney.nsw.gov.au/business/tenders/contracts-awarded>.

## The Procurement and Tendering Database

Among the most useful tools for understanding a government's contracting situation is through a procurement and tendering database, which publishes information on open tenders to prospective bidders and keeps a record of previously awarded tenders. HRM's tendering information is currently published on a procurement database managed by the province, as mandated by the *Nova Scotia Public Procurement Act*.<sup>6</sup> However, although the database is a valuable resource, the extent of the record-keeping is inconsistent between the different tenders. While some records include information about all submitted bids and the specific buyer at the city, others only list the winning vendor and the price.

By contrast, the city of Richmond's eVA website provides a searchable database of all previously awarded contracts and tenders.<sup>7</sup> Users can search based on specific criteria, such as equipment, services, supplies, and construction. Beyond its ease of use, the eVA system is impressive due to the extent of the information provided on each tender. In addition to basic information about the price and the identity of the tender's recipient, eVA includes a detailed PDF for each bid, including a spreadsheet with a breakdown of costs. Saskatoon, Saskatchewan, also publishes cost breakdowns for some of their awarded tenders and contracts, though without the consistency of the Richmond system.<sup>8</sup>

## Annual Procurement Reports

In addition to being able to access information on a granular level, the public may find it useful to review overall information about the contracting and tendering landscape. The *Nova Scotia Public Procurement Act* requires that HRM develop an annual report setting out the city's procurement budget and goals, as well as addressing larger budgetary trends, within 90 days of the end of the fiscal year.<sup>9</sup> This document allows for a broader analysis of the state of the city's procurement activity, selection processes, departmental efficiency, and ongoing projects.

Many Canadian cities face similar requirements, and often these reports are published as a matter of routine. Vancouver, for example, offers open access to its statements in downloadable PDF files.<sup>10</sup> These statements contain information on savings compared to the previous calendar year, contracts approved by the council and their costs, an analysis of awarded bids and sole source

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<sup>6</sup> *Nova Scotia Public Procurement Act*, s. 12(1)(a), available at: [http://nslegislature.ca/legc/bills/61st\\_3rd/3rd\\_read/b023.htm](http://nslegislature.ca/legc/bills/61st_3rd/3rd_read/b023.htm).

<sup>7</sup> See eVA Vendor Self Service Advanced Search, filter by City of Richmond and Awarded, available at: <https://vendor.eprocgipdc.com/webapp/VSSAPPX/Advantage>.

<sup>8</sup> Filter by City of Saskatoon and Awarded, available at <https://sasktenders.ca/Content/Public/Search.aspx>.

<sup>9</sup> *Nova Scotia Public Procurement Act*, s. 12(1)(K), available at: [http://nslegislature.ca/legc/bills/61st\\_3rd/3rd\\_read/b023.htm](http://nslegislature.ca/legc/bills/61st_3rd/3rd_read/b023.htm).

<sup>10</sup> See Procurement Reports, available at: <http://vancouver.ca/doing-business/annual-statements-of-financial-information.aspx>.

contracts, a discussion of departmental projects (for example, improving efficiency in supply chain management), sustainability initiatives, and more. This level of information, being provided online in an accessible and easy to understand format, allows the public to get a clear overall picture of the city's financial situation. Lethbridge, Alberta, also routinely publishes procurement information, in the form of monthly summary reports of its tendering and contract spending.<sup>11</sup>

Given that HRM is already preparing these reports, putting them online would be a simple yet highly valuable way to increase transparency. Based on the way that these reports are handled elsewhere, we would recommend that they should include an analysis of the procurement budget compared with actual spending. The reports should also include a list of all large contracts, both awarded in that specific calendar year and continuing on from previous years, and an analysis of the year's tenders, both through the bidding process and sole source awards. It should include an explanation and progress report for any departmental projects and initiatives such as sustainability programs, departmental goals for supply chain management, or initiatives to prioritise local vendors whenever possible. These are suggested minimums, based on the information published in comparable cities, though the more information published, the better.

### **Best Practices for Formatting**

In addition to increasing the quantity and quality of information provided, the rise of open data has led to new a new emphasis on the need to provide information in a user friendly format. It is no longer enough to simply put the information out there. Better practice demands that web portals be well organised and easy to navigate, and that the datasets themselves be distributed in a format which allows them to be easily processed and manipulated. HRM has a modern and accessible Open Data program, however, the city's bid and contract information is not included. The information that HRM does publish about its contracts is part of the Nova Scotia Tenders website and comes in the format of either a standard webpage or PDF.

A better policy would be for HRM to publish their documents in "machine-processable" formats such as XML for text and CSV for spreadsheets.<sup>12</sup> Structured formats are recommended because they are standardized, so that almost any computer or device can display them. This allows for the highest level of accessibility. Both XML and CSV are supported by a variety of different applications, meaning readers are not confined to a proprietary format or product, such as those offered by Microsoft or Adobe. The size of XML and CSV files is also relatively small, meaning that storage of the files on the city's servers will be kept to a minimum and they can be loaded quickly by users of the city's website.

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<sup>11</sup> See Procurement Summary Reports, available at: <http://www.lethbridge.ca/Doing-Business/Tender-Opportunities/Pages/Procurement-Summary-Reports.aspx>.

<sup>12</sup> See How to Make Data Public, available at: <http://www.sunlightfoundation.com/opendataguidelines/>.

A major advantage of XML and CSV documents is that it allows for the information to be easily extracted and processed, allowing for a greater depth of analysis. For example, users can search and sort the information to extract overall trends, or compare information gathered from different sources.

If the source files are digital, text documents or spreadsheets can easily be converted, often through software that the municipality likely already uses. Most standard office software has a built-in ability to export documents directly as XML and CSV files.

For source information that is in hard copy, it is possible to convert to digital machine-processable formats using optical character recognition (OCR) software to convert the scanned documents into text. Professional-level OCR software does involve an upfront cost to purchase the licence, which would be approximately \$250.

### **In Camera Meetings**

Another important issue is the use of in-camera meetings. A government that respects the right to know should seek to minimise the amount of decision-making which takes place behind closed doors. While there are undoubtedly situations in which confidentiality is essential for both public safety and government efficacy, in-camera sessions can also be used for political purposes.

The overuse of in-camera meetings over the past fifteen years was a major source of criticism for the HRM Regional Council, especially during the mayoralty of Peter Kelly.<sup>13</sup> We believe that things have gotten better since Mike Savage was elected, but that there is scope for further improvement. In particular, we would like to see the HRM Regional Council providing more specific information about their use of in-camera meetings, such as overall statistics about the proportion of time they spend in-camera, and the types of issues that are discussed during these sessions. Another positive change would be to record in-camera meetings, so that the material can be released if and when the content is no longer sensitive (such as where a negotiation under discussion has been finalised). This was among the recommendations of the Open Meeting Law Enforcement Team (OMLET), a branch of the Ontario Ombudsman.<sup>14</sup> Thus far, at least seventeen municipalities across Ontario have implemented this practice, and we recommend that HRM adopt this approach as well.

### **List of Recommendations**

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<sup>13</sup> Richard Woodbury, "Heading in the right direction", *Halifax Magazine*, 28 August 2015. Available at: <http://halifaxmag.com/cover/heading-in-the-right-direction/>.

<sup>14</sup> OMLET Annual Report 2014-2015: <https://ombudsman.on.ca/Files/sitemedia/Documents/OMLET15-Final-EN.pdf>.

1. HRM should expand the information published about contracts and tenders, including information about both successful and unsuccessful bids. This should include, but not be limited to:
  - a. The name of each bidder
  - b. Specific cost breakdowns for each bid received
  - c. The criteria by which bids were assessed
  - d. A short explanation for why a particular bid was selected over others
2. The procurement and tendering database should be improved to include detailed information about each bid received, including a spreadsheet with a breakdown of costs.
3. HRM should make public its annual procurement report, as well as reports from previous years. Going forward, procurement reports should include an analysis of the procurement budget compared with actual spending, a list of all large contracts, both awarded in that specific calendar year and continuing on from previous years, an analysis of the year's tenders, both through the bidding process and sole source awards, and an explanation and progress report for any departmental projects and initiatives as well.
4. HRM should publish information in machine-processable formats.
5. HRM should publish information about the percentage of time spent in-camera. All in-camera meetings should be digitally recorded, and the recordings released to the public when the subject matter is no longer sensitive.

## **Conclusion**

A robust right to information is essential for a strong democracy, so that the voters can make an informed choice about whether their elected representatives are doing a good job, and taxpayers can gain a clear insight into how their money is being spent. Although our research has revealed areas where HRM's performance has improved in recent years, such as in the reduction of in-camera meetings, it also demonstrates that there is significant progress to be made. Our suggested improvements, which could be carried out at a negligible cost, would place the city at the forefront of municipal transparency efforts, and make HRM a leader in responsible and transparent government. We firmly believe that HRM is capable of becoming a model city for the right to information, and we urge the city's elected officials to take concrete measures to improve transparency in the city.