



Empire Ideas

A reform toolbox for citizens and government leaders

Number 3

Shining a spotlight on local spending details

THE PROBLEM:

New Yorkers pay some of the nation's highest local taxes, but most of the state's counties, municipalities and school districts do, at best, an inadequate job of sharing details on how taxpayer money is spent. Improved financial transparency would serve the public's right to know – and create an added deterrent to wasteful and fraudulent spending practices.

THE SOLUTION:

Advances in computer technology over the past two decades have made the Internet a convenient and accessible platform for sharing public information. Government financial data and records previously buried in voluminous paper files and account books can and should be proactively disclosed online.

Localities should begin sharing the following via the web:

- Complete local payrolls, including names, job titles, salaries, full- or part-time status, and date of hiring, updated at least annually
- Complete copies of all current and proposed tentative collective bargaining agreements, including supplemental memos and "side letters," along with estimates of annual and full-term fiscal impacts
- All contracts with outside vendors, along with actual contract disbursements to date and maximum projected disbursements
- Current and proposed budgets and financial plans
- Expenditures in "checkbook register" form

There is no lack of transparency models for New York's local governments to emulate. Governor Andrew Cuomo has recently committed the state to creating a web portal that local governments could use to share information with their own taxpayers.

Tending towards opaque

New York State's Freedom of Information Law (FOIL) gives the public access to "any information kept, held, filed, produced or reproduced by, with or for" state and local government agencies.¹ Nonetheless, most New York taxpayers lack *ready* access to detailed information on local spending. With the notable exception of New York City, the state's counties, cities, towns, villages and school districts aren't making it easy for the public to dig into their budget numbers.

This is especially true with regard to employee salaries, benefits and pension contributions – which are, by far, the largest element of local expenditures. County, municipal and school budgets generally display totals for personal services and benefits, broken down by department, as well as for contractual services. However, they almost never share information on the average cost of salary or benefits per employee – much less the identity of employees receiving them. Nor do they make available a detailed list of current outstanding contracts with outside entities. Indeed, some sizable localities don't even post their annual budgets online.

The failure to proactively disclose "FOIL-able" public information is compounded by a widespread practice among New York local officials of refusing to divulge crucial details of tentative collective bargaining agreements.

While employee salaries and benefits make up the bulk of their expenditures, local officials almost never pro-actively share details of these "FOIL-able" costs

An "abject lack of transparency" on employee salaries and benefits, as found among Long Island school districts by a Suffolk County grand jury a few years ago, is fairly common throughout New York State. It's not unusual for local government officials to keep secret some of the most important aspects of tentative deals with their unions – including long-term fiscal impacts – until after contracts have been ratified. Indeed, the vast majority of local governments and school districts don't share labor contracts on the internet even after they are ratified, even though those agreements have a crucial impact on the quality of public services and the level of public spending.

An egregious example of the syndrome at its worst could be seen a few years ago in the upstate city of Utica.

In 2008, the Utica City School District reached a tentative four-year contract agreement with its teachers' union. However, the school district's superintendent refused to disclose contract terms until after the Board of Education approved the deal -- eight days later. In defending the secrecy, a school board member explained: "If it's released, the *O-D* [Utica *Observer-Dispatch*] could write an editorial on what is right or wrong with the contract and influence board members' votes."²

It would be more than a year before Utica taxpayers learned that new retiree healthcare obligations included in the 2008 contract would significantly raise the city school district's unfunded actuarial liability for retiree health coverage, to a sum of more than \$180 million.³

A more recent example came in August 2012, when Suffolk County Executive Steve Bellone announced he had reached a 10-year tentative agreement with members of the county's Police Benevolent Association (PBA). Within days, details were being shared with PBA members – but not with county legislators or taxpayers. It would be more than a month before the full contract and fiscal impacts were made public, by which time Bellone and the union had agreed to scale back the term to eight years and limit guaranteed wage increases.⁴

In both the Utica and Suffolk cases, it's impossible to say whether more public scrutiny would have made a difference in the final contract terms and costs. At the very least, in these cases and in others like them, up-front disclosure of tentative contract details would have promoted greater accountability among elected officials.

The deterrent effect

But accountability isn't the only goal. A formal policy of *proactive* disclosure and transparency could also play a role in deterring outright fraud or misuse of funds.

Consider, for example, the scandal that erupted several years ago in Long Island's Roslyn School District, where top officials were found to have stolen \$11.2 million from taxpayers to pay for everything from mortgages and second homes to trips and new luxury cars.⁵ Would they have gotten away with it – or even dared to try--if the school district's books were constantly open to public view?

Or, more recently, take the theft of \$500,000 by a former fire district treasurer in the small upstate town of Charlton – accomplished by using the district's credit cards to pay for personal expenses including plastic surgery, laptop computers, printers, a washer-dryer, digital cameras, and a refrigerator.⁶ Or even, on a much smaller and non-criminal scale, the case of the former clerk in the nearby town of Argyle, who improperly used a town credit card to pay \$8,000 in personal expenses (which the clerk ultimately paid herself, plus late fees and finance charges).⁷

In any case, local officials sufficiently determined to defraud the public, or simply to cut corners, could still cover their tracks by falsifying records. But the added requirement to disclose transactions could provide an important degree of added deterrence.

Twenty years ago, raising such concerns would have run up against a formidable practical challenge: local governments simply had no vehicle for disseminating real-time data, financial records or contracts to the general public. The only option was for taxpayers to inspect the documents in a local clerk's office, or to pay to have the documents photocopied.

The Internet has changed all that. Virtually all of New York's local governments, even the smallest rural towns, are capable of easily generating budgets, labor contracts or financial records in electronic formats. Uploading these documents to a website requires basically the same skill a typical teenager uses to post a photo on Facebook.

Uploading government documents and spreadsheets to the Internet requires basically the same skills a teenager uses to post a photo on Facebook.

It's time, then, for local governments to move transparency into the 21st century.

Templates for transparency

As noted, personnel costs are the largest element in most local budgets – and these numbers, of course, are ultimately the product of salaries and benefits for tens, hundreds or thousands of individual employees.

While addresses and other personal information are properly treated as strictly confidential under FOIL, the names and salaries of all public employees are public information. In recent years, local public payrolls have posted at newspaper websites in several New York markets. They are also available in searchable database form at SeeThroughNY.net, the Empire Center's transparency website. But these data are derived from state pension records and thus lack job titles and hire dates. It's time local governments made this information available proactively, at least in the form of basic documentary lists or spreadsheets, updated at least on an annual basis.

To provide the public with a clearer understanding of the most important factors driving public-sector compensation, it's crucial for governments to post more information on union collective bargaining agreements. The same Suffolk County grand jury that had cited an "abject lack of transparency" on public school payrolls laid out a template for accomplishing this in its 2006 report on the issue.⁸ The panel recommended that:

copies of all proposed school district collective bargaining agreements, employment contracts or amendments to those contracts be placed on the school district web site, if existing, and within the local public libraries and school district offices, at least one month prior to the board of education's vote upon the contracts or amendments.⁹

The grand jury’s basic contract recommendations for school districts should be followed by counties and municipalities as well. Elected officials committed to transparency should add the following information for tentative labor contracts:

- the net financial impact of all provisions, including annualized and cumulative costs of proposed changes in salary schedules, health benefits, fringe benefits, and work rules, compared to a starting "base year" estimate of expenditures in each category;
- a breakdown of any savings attributed to union concessions or "givebacks," with an explanation of the methodology used to produce these estimates;
- proposed salary increases on an annualized and cumulative percentage basis, with a separate breakdown of average percentage increases including step and longevity increments; and
- an estimate of the projected impact on taxes over the life of the contract— assuming no increase in state or federal aid to cover contract costs.

Both the state government and New York City have posted complete copies of their collective bargaining agreements on their official websites. Simply by converting electronic versions of their own existing agreements into the open-standard Portable Document Format (PDF), local governments and school districts throughout the state could do the same. Ideally, contracts will be posted as fully digitized, searchable PDFs, which common word processing programs can generate with the stroke of a key.

A snapshot of the State Comptroller’s “OpenBookNY” website, below, shows the first several results of a search of all state Department of Education contracts.

| Vendor Name | Department/Facility | Contract Number | Current Contract Amount | Spending to Date | Contract Start Date | Contract End Date | Contract Description | Contract Type | Original Contract Approved/Filed Date |
|--|--|-------------------------|-------------------------|------------------|---------------------|-------------------|--------------------------------|---------------|---------------------------------------|
| 109 SOUTH UNION STREET LLC | State Education Department | L001150 | \$1,653,240.00 | \$1,525,482.62 | 10/01/2004 | 09/30/2014 | LEASE SPACE FOR ROCHESTER | Lease | 03/19/2004 |
| 1093 GROUP LLC | State Education Department | L001587 | \$1,632,724.00 | \$700,499.83 | 09/01/2008 | 08/31/2018 | 609 EAST CHURCH STREET | Lease | 03/17/2008 |
| 1239 GROUP LLC | State Education Department | L006360 | \$4,826,516.95 | \$4,668,214.46 | 03/01/2002 | 09/30/2013 | 500-518 MAIN STREET | Lease | 05/23/2001 |
| 1411 TRIZECHAHN SWIG LLC | State Education Department | L001760 | \$10,164,478.00 | \$1,486,802.75 | 12/01/2010 | 10/31/2020 | 1411 BROADWAY | Lease | 07/08/2010 |
| 163RD STREET IMPROVEMENT COUNCIL INC | State Education Department | C009503 | \$112,500.00 | \$1,350.00 | 01/01/2009 | 12/31/2013 | UNITED CONTRACT SERVICES (UCS) | Grant | 08/05/2009 |
| 195 MONTAGUE ST LP | State Education Department | L006380 | \$3,319,283.41 | \$3,259,969.89 | 01/01/2002 | 10/31/2012 | LEASE SPACE AT 195 MONTAGUE ST | Lease | 10/19/2001 |
| 2071 CLOVE LLC | State Education Department | L001566 | \$1,094,752.00 | \$421,260.00 | 12/01/2007 | 11/30/2017 | 2071 CLOVE ROAD | Lease | 02/13/2008 |

Contract disclosure should not be limited to agreements with organized labor, however. At a minimum, localities should follow the example of state Comptroller Thomas DiNapoli's office, whose "OpenBookNY" website includes a complete, searchable list of all state contracts (see illustration on previous page).

The local budgets that summarize appropriations of taxpayer funds for all these purposes also should be made available online. And a growing number of local governments and school district appears to be doing this – with some notable holdouts.

One of the state's largest and highest-spending towns, Ramapo in Rockland County, does not post its annual budgets online, and the similarly big town of Babylon in Suffolk County only recently began posting its budget. Localities that only provide budget documents by request are technically in compliance with the FOIL statute, but are thwarting the transparency and accountability the law is designed to promote.

*Incredibly, at least one of the state's largest towns **still** doesn't post its budgets on their own websites—but instead makes electronic copies available by request.*

Cuomo sets an example

The state (like New York City) has been posting complete budgets and financial plans online for well over a decade. And Governor Cuomo has now set another example for locals to follow. At the governor's direction, the Budget Division recently posted detailed budget data at a new website (<http://www.openbudget.ny.gov/>). As the governor explained in announcing the move:

The Open Budget website provides easy, single-stop access to New York's wealth of budget data, including comprehensive machine-readable raw financial data along with tools and charts to make that information more understandable. To support transparency and to encourage participation in government, researchers, citizens, business and the media will now have direct access to high-value data which they can search, explore and download; use for analysis; and use to build their own additional tools that find practical uses for the data for all New Yorkers.¹⁰

Cuomo also recently issued an executive order directing state agencies to review and catalogue data that they collect and take steps to make that data available on another transparency site his office launched this year, OpenNY (<http://www.data.ny.gov>). OpenNY is offered, "as a shared resource to localities across the state, which will give citizens unified access to government data and help local governments cut down costs and improve efficiency in addition to increasing transparency."

The city of Albany and Essex, Oneida, Onondaga, and Suffolk counties have begun sharing data on the site, and the governor's office says the state will assist all other localities choosing to use the service.

Checkbook disclosure

A final, natural next step is to frequently and proactively disclose a running record of cash disbursements – essentially a checkbook register – for public examination. In 2012, New York City Comptroller John C. Liu introduced Checkbook NYC 2.0, an online transparency website that allows the public to track City spending, contracts, and payroll in real-time.

While a dynamic and searchable online database such as Checkbook NYC requires expensive software development, the vast majority of local government and school business offices are now capable of generating the equivalent of their checkbook registers in spreadsheet form, which could be easily posted online at the local government's site and OpenNY.

Conclusion

Well-run government has nothing to hide. With the ability to view government disbursements, internal expenditures, and contracts, interested taxpayers can effectively form teams of citizen auditors, finding patterns of questionable expenditures that can occur for years at a time before they are caught or questioned in official audits. Or localities can enhance public trust as taxpayers independently confirm that things are as they should be. Either way, a formal policy of proactive disclosure will help enhance public trust and simply and inexpensively ensure that limited taxpayer dollars are spent in a way that is consistent with taxpayer wishes.

– by **E.J. McMahon**, *Senior Fellow*

Endnotes

¹ Public Officers Law, Article 6, Section 84

² "Skermont refuses to release details of teachers' contract," *Utica Observer-Dispatch*, 17 Sept 2008. Available at: <http://www.uticaod.com/news/x993964834/Skermont-refuses-to-release-details-of-teachers-contract>

³ "Staggering cost of Utica teacher health benefits proves a burden to taxpayers," *Utica Observer-Dispatch*, 22 Jan 2010. Available at: <http://www.uticaod.com/news/x231950137/new-utica-teacher-benefit-to-cost-many-millions>

⁴ "McMahon Op-Ed: Steve Bellone should embrace transparency," McMahon, E.J., *Newsday*, 12 Sept 2012. <http://www.newsday.com/opinion/columnists/e-j-mcmahon/mcmahon-steve-bellone-should-embrace-transparency-1.3994799>

⁵ "Audit Shows Widespread Fraud in Long Island School District," Lambert, Bruce, *The New York Times*, 2 Mar 2005. Available at: <http://www.nytimes.com/2005/03/02/nyregion/02cnd-hevesi.html>

⁶ "DiNapoli and Saratoga DA Murphy: Former Fire District Treasurer Pleads Guilty to Stealing Taxpayer Funds," Press Release, Office of the New York State Comptroller, 12 Mar 2013. Available at: <https://www.osc.state.ny.us/press/releases/mar13/031213c.htm>

⁷ "DiNapoli: Argyle Clerk Rings Up \$8K in Personal Debt on Town Credit Card," Press Release, Office of the New York State Comptroller, 11 Mar 2013. "The former clerk, who did not seek re-election in 2011, paid off the debt and admitted to improperly using the town's credit card," the comptroller's office said. Available at: <https://www.osc.state.ny.us/press/releases/mar13/031113a.htm>

⁸ Suffolk County Court Special Grand Jury, Sept. 19, 2005 Term IE, CPL Section 190.85(1)(C), Grand Jury Report Dated: June 26, 2006, page 188.

⁹ Suffolk County Court Special Grand Jury, Sept. 19, 2005 Term IE, CPL Section 190.85(1)(C), Grand Jury Report Dated: June 26, 2006, page 195.

¹⁰ Governor Cuomo Announces Launch of 'Open Budget' Transparency Portal," press release from governor's office, Jan. 22, 2013, at <http://www.governor.ny.gov/press/01222013-cuomo-annc-launch-openbudget-portal>