

Open Data review process for commercially confidential and proprietary interests

Date: June 6, 2018

To: Executive Committee

From: Chief Information Officer

Wards: All

SUMMARY

The process for publishing open data to the City's open data catalogue ensures that privacy, security, and legislative obligations are taken into account. Through interviews and exploration of the datasets with the data owners and subject matter experts; including privacy and legal staff where required, a comprehensive understanding of the data and the context around the data is established and captured as part of the Open Data Approval to Publish process. The Open Data Approval to publish process addresses concerns about data or information that are deemed to potentially affect the commercially confidential and proprietary interests of the City. .

Section 10 of MFIPPA addresses matters concerning the disclosure of information which would reveal a confidential trade secret or scientific, technical, commercial, financial or labour relations information of a third-party. Section 11 addresses the issue of the disclosure of information belonging to the City or other institution that has, in itself, potential monetary value, or could reasonably be expected, if disclosed, to prejudice the City's economic interests or competitive position, or to be injurious to the City's financial interests. The consideration of these two sections provide the mechanisms and criteria utilized for evaluation pertaining to the City's commercially confidential and proprietary interests.

The established Open Data Approval to Publish processes enables the City to carry out its commitment to being Open by Default while meeting legislative requirements for privacy, security, and the commercially confidential and proprietary interests of the City.

RECOMMENDATIONS

The Chief Information Officer recommends that:

1. The Executive Committee receive this report for information.

FINANCIAL IMPACT

There are no financial impacts arising from the report.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its April 26, 2017 meeting, City Council directed the Deputy City Manager, Chief Financial Officer and the Chief Information Officer to report to the Executive Committee at its October 24, 2017 meeting with a proposed Open Data Master Plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX24.10>

At its January 31, 2018 and February 1, 2018 meeting, City Council request the Chief Information Officer, in collaboration with the City Solicitor and the Interim Chief Financial Officer, to review the steps required to ensure the publishing of Open Data will protect the City's commercially confidential and proprietary interests and report to the Executive Committee on the approach no later than June 19, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX30.12>

COMMENTS

Open Data is a foundational element that will enable innovation and new opportunities for the delivery of City services to the diverse communities that we as a municipal government serve. [The Open Data Master Plan](#), adopted by City Council in January 2018, provides a strategic framework and roadmap for the City to advance Toronto's vision for open data until 2022. The plan will enable the City to grow as a leader in open data through effective governance, align to the International Open Data Charter, focus on open source development and enhance collaboration alongside a wide range of partners inside and outside the City. The plan also provides visibility into how open data helps meet the needs of Torontonians and how the City plans to unlock its potential.

Publishing Open Data

The City of Toronto began publishing open datasets as part of an open data catalogue (toronto.ca/open) in the fall of 2009. The process for publishing open data to the City's open data catalogue ensures that privacy, security, and legislative obligations are taken into account. The considerations and obligations are standardized for review through a consistent and repeatable workflow and captured within an Open Data Approval to Publish form for each dataset before it is released.

The Open Data team collaborates with Divisions, Agencies, Boards and Commissions to identify datasets that may be available for publishing on the City's open data catalogue and works collaboratively alongside these partners to complete the Open Data Approval to Publish form. Through interviews and exploration of the datasets with the data owners and subject matter experts; including privacy and legal staff where required, a comprehensive understanding of the data and the context around the data is established and captured as part of the Open Data Approval to Publish process.

The Open Data Approval to Publish workflow and form were established to ensure the process:

- is consistent and repeatable
- captures the necessary information required
- reviews data sources and quality of data
- ensures the safeguarding of personal information and other privacy and security considerations
- permits the release of the data under our open data/government licence which provides for unrestricted usage of the data

The Open Data Approval to Publish process also ensures that data released on the open data catalogue meets the City's obligations and entitlements according to the:

- Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)
- Personal Health Information Protection Act (PHIPA)

The Municipal Freedom of Information and Protection of Privacy Act establishes a general right of access to records held by municipal government and local agencies, boards and commissions using these principles:

- any information held by government should, in general, be available to the public
- any exemptions from the right of access to information should be limited and specific
- any decisions relating to access to information can be reviewed by the independent Information and Privacy Commissioner/Ontario
- any person may make a request for information held by a government institution covered by the Act

Section 10 of MFIPPA addresses matters concerning the disclosure of information which would reveal a confidential trade secret or scientific, technical, commercial, financial or labour relations information of a third-party. Section 11 addresses the issue of the disclosure of information belonging to the City or other institution that has, in itself, potential monetary value, or could reasonably be expected, if disclosed, to prejudice the City's economic interests or competitive position, or to be injurious to the City's financial interests. The consideration of these two sections as outlined in the Open Data Approval to Publish process provide the mechanisms and criteria utilized for evaluation pertaining to the City's commercially confidential and proprietary interests.

The concerns with respect to sections 10 and 11 identified by the responsible Division, Agency, Board, or Commission, are reviewed in the context of the selected dataset by the City Clerk's Office. Where a potential that the selected data or information could potentially affect the commercially confidential and proprietary interests of the City, are identified as part of the Open Data Approval to Publish process a further review is conducted, on a case-by-case basis, by the City Clerk's Office seeking assistance from the Legal Services , where required.

City Council's adoption of the Open Data Master Plan and the International Open Data Charter solidify the City's commitment to being Open by Default. The established Open Data Approval to Publish processes enables the City to carry out its commitment to being Open by Default while meeting legislative requirements for privacy, security, and the commercially confidential and proprietary interests of the City.

The Chief Information Officer has consulted with the Deputy City Manager, Internal Corporate Services, City Solicitor, and Interim Chief Financial Officer in the writing of this report.

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SIGNATURE

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