



Oliver Porter

THE CONTRACT CITY

Get out of debt, go high tech,
and take control of your city's future with
the competitive contracting model



THE
ANTIGUA FORUM
A Place of Learning for Reformers

DISRUPTOR SERIES
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Oliver Porter

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Credits

Author
Oliver Porter

Editor
Zachary Caceres

Coordination
Claudia Sosa

Cover design
Tipos D

Design and layout
Miguel Ángel García

Review
Claudia Sosa

Printed in USA

CONTENTS

The Disruptor Series by Antigua Forum	i
Foreword	iii
Acknowledgments	vii
Chapter 1	
Sandy Springs: Before and After	1
Chapter 2	
The Competitive Contracting Model	5
Chapter 3	
The Process	17
Chapter 4	
A Model to Change the World	27
Further Reading	29
About Oliver Porter	31
About Antigua Forum	33

THE DISRUPTOR SERIES BY ANTIGUA FORUM

The Antigua Forum develops publications, videos, and other materials that analyze the lessons learned from specific reform experiences, or that offer insights and tools that can be applied to current or future reform efforts. Our first publications include a case study of the pro-market and pro-consumer reform of telecommunications in Guatemala, and a study of the far-reaching reforms in Georgia that significantly liberalized much of that country's economy.

The e-book series is comprised of publications that are easy to access (online) and easy to read. Some e-books focus on disruptive innovation, providing quick summaries of an important reform experience and offering lessons for reformers. Others focus on strategies needed to advance reform. In all cases, the e-books provide valuable information for those engaged in a variety of reform efforts around the world.

Wayne Leighton
Executive director, Antigua Forum
Universidad Francisco Marroquín

FOREWORD

SANDY SPRINGS: ELEVEN MONTHS TO A STARTUP CITY

The story of Sandy Springs seems impossible. In an age where many cities risk bankruptcy, Sandy Springs, Georgia, has absolutely zero long-term liabilities and no debt. Taxes in Sandy Springs have remained low and flat right through a major recession that pushed many US cities to the brink of fiscal collapse. While many cities around the world can barely make payroll, Sandy Springs has consistently poured 20 percent of its operating budget into capital works to improve public services. Its parks and public works have won national awards for their design and quality. Instead of debt, Sandy Springs has built a reserve of \$35 million.

The founding of Sandy Springs sounds even more unlikely than its performance. Sandy Springs is a new, startup city—incorporated only in December 2005. Previously, it was part of a large and poorly governed county. It was Georgia's first new city in fifty years and, after its founding, became the seventh largest city in the state. The city of ninety thousand was created in only eleven months and its creators had *no budget, no staff, and no authority* to hire employees or sign contracts. The handful of dedicated volunteers that created Sandy Springs was led by a retired business executive with no government experience. This executive, Oliver Porter, had been spending his retirement working as an artist. He put down his paintbrush to lead the intense, eleven-month process of creating a fully functioning city.

The astounding success of Sandy Springs lies in its innovative approach to city services. Porter's model uses a surprisingly simple but powerful method of competitively contracting city services to the private sector. At the time of incorporation, Sandy Springs had the broadest contract for partnerships with the private sector of any city in the United States. Despite inflation, a major recession, and the growth of Sandy Springs, this competitive contracting model has improved services while *lowering* costs every year since incorporation. Reformers, especially mayors, city or county managers, and those who work with municipal finances, have much to learn from Porter's approach.

The model pioneered by Porter has proven its effectiveness far beyond the city's finances. The citizens of Sandy Springs are highly satisfied—and it shows at election time. The lowest vote that any incumbent received four years after the city's founding was 84 percent. Citizens approve of their new contract city.

Despite these cost savings, Sandy Springs has *expanded* key areas of local government, including growing their police force from 12 to 135 officers. Through its partnerships with private industry, Sandy Springs has brought cutting-edge technology to municipal government, including a system that allows citizens to speak immediately to a human operator, twenty-four hours a day. These operators handle nonemergency complaints and concerns, and the city maintains its pledge to offer a resolution within forty-eight hours. Work orders are entered into the system by a call attendant. City officials are copied to enable real-time monitoring of the citizen's issues. The system creates a feedback loop that notifies officials and citizens when the work is completed. In US surveys, Sandy Springs is in the top 10 percent of citizen satisfaction with city government.

Porter never intended to innovate municipal government. But when faced with nearly impossible constraints of time and

money, he brought a new model of city government to life. The model pioneered in Sandy Springs has sparked a continuing revolution in local governments in Georgia and, now, throughout the United States and the world. Porter currently advises numerous governments that are considering a competitive contracting model.

Although the Sandy Springs model was pioneered in the United States, developing nations that struggle with corruption and debt, or lack the financial resources of wealthier cities stand to gain even more from the competitive contract model. The competitive contract model is not just for wealthy nations: it's an innovation in municipal government that can allow cash-strapped cities around the world to achieve first-rate, affordable public services. In this book, the creator and implementer of Sandy Springs's competitive contracting model shows you how it works.

Those who are unfamiliar with competitive contracting or Sandy Springs should read the chapters in order. Those who want to dive straight in to the nuts and bolts of the model should skip ahead to chapter 2, "The Competitive Contracting Model." As you will see, the competitive contracting model is a powerful reform that can be achieved at surprisingly low cost. You do not need a large budget or an army of staffers to accomplish a contract city reform. Sandy Springs was built by volunteers led by one tenacious reformer. Our hope is that concerned citizens and reformers alike will use this e-book to build more contract cities that improve civic life, empower citizens, and bring good governance around the world.

Zachary Caceres
Startup Cities Institute
Universidad Francisco Marroquín

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Too many enlightened government officials and innovative company employees have contributed to the success of the competitive contracting model to be able to name individuals. I do acknowledge and appreciate their contributions.

Appreciation for support for the creation of this e-book guide to the establishment of new cities, and the conversion of existing governments, must be extended to Giancarlo Ibárgüen, past president of UFM, and Wayne Leighton, executive director of the Antigua Forum.

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Chapter 1

SANDY SPRINGS: BEFORE AND AFTER

Prior to becoming a new city, Sandy Springs was an unincorporated community under a fiscally irresponsible and unresponsive county government. Although Sandy Springs provided much of the county's tax revenue, little of the money went to improving services in the community: traffic lights were missing parts, roads were in disrepair, and the city had almost no public parks.

Even public safety was neglected: sometimes police didn't show up for their patrols, and response time was approaching thirty minutes. Providing poor service might have been a way to save money, but the county was, and continues to be, in significant debt. Although citizens complain about poor service and high cost, there's little accountability. In one case, a 911 emergency operator with a history of poor performance, including drunkenness and sleeping on the job, caused the death of a citizen. Three years later, the negligent operator remains on the county payroll.

The citizens of what would become the city of Sandy Springs had little control over the future of their community. The county held strict command over zoning and permits and cared little for the long-term civic health of Sandy Springs. In fact, when Sandy Springs was incorporated and the city took charge of planning and zoning, we discovered over eight hundred permits where money had been collected by the county but no work had been done to issue them. Citizens were extremely dissatisfied, but most had given up on making their government accountable.

The incorporation of Sandy Springs brought government closer to the people. With our new startup city government, citizens could exercise more control over planning, zoning, public works, safety, and its finances. Indeed, the founding of Sandy Springs was itself a major exercise in democracy: the groups that we worked with were made up entirely of volunteer citizens.

It should also be noted that Sandy Springs has not “withdrawn” from the county or reneged on its duties as a part of a larger political unit. Citizens in Sandy Springs still pay far more taxes to the county than to the city and rely on the county for public health, libraries, courts, and a large regional hospital. But the competitive contracting model has empowered Sandy Springs to bring new fiscal health and quality to its local government.

Some might also imagine that this model might be available only to a rich municipality. Sandy Springs has a wide range of ethnic and economic groups. We have Fortune 500 companies alongside welfare recipients. While the county vociferously objected to the incorporation of Sandy Springs, it had little basis to oppose it. For decades the citizens of the community had paid a substantial portion of the county’s taxes and received little in return. The county was notorious for overstaffing and inefficiency, with the result that its cost per capita was as much as double that of nearby counties. Revealingly, even when the county was no longer responsible for the services of Sandy Springs after incorporation, it did not reduce its work force for over a year. So the claim that the creation of Sandy Springs harmed the remainder of the county is simply false. If there had been any harm, it would have been due to the county’s continued poor management.

Sandy Springs has consistently improved services while lowering costs every single year since its founding. We have actually *saved* a large reserve fund. We annually dedicate approximately 20 percent of the operating budget to capital improvements, but

we remain long-term debt and liability free. We have rapidly outpaced other municipalities of similar size in the adoption of new technology and in citizen satisfaction.

In the following pages, I'll explain how we did it. I believe the competitive contracting model offers a powerful tool for reformers who want to create efficient and responsive governance.

Chapter 2

THE COMPETITIVE CONTRACTING MODEL

The essence of the competitive contracting model is its use of contracts with private industry to provide a wide array of city services. After deciding to commit to a competitive contracting model, a city (either new or existing) issues requests for proposals (RFPs) from private companies for the provision of different city services. These competing proposals are judged using objective, nonpolitical criteria. The best partner is awarded a multiyear contract, subject to annual reviews for renewal. After the contract expires, the proposal process is again opened to competition. Each time the contract is up for bid, a new range of potential partners compete with each other to further lower cost and enhance service.

Once chosen, the partner or partners implement and manage the areas of city service under contract. The scope of services that can be competitively contracted is wider than you might think. We successfully contract with private partners for the following services:

- General administration
- Accounting
- Finance management
- Information technology
- Human resources
- Administrative support of courts and police and fire departments (record keeping and paperwork)
- Parks and recreation
- Community development (zoning, planning, permitting, and enforcement)

- Public works (including storm water control)
- Transportation (including traffic design and control, and road maintenance)
- Solid waste disposal (franchising)
- Emergency 911

In the case of a few services, like libraries, water and waste water, we chose to contract with other governments rather than a private provider. Our city government itself operates police and fire services. It may be possible to competitively contract all or part of these services as well.

Some may imagine that whatever private partner receives the first service contracts will be locked in for good. This might create the concern that the firm will then abuse its position as the incumbent to squeeze out competition and offer less competitive deals in subsequent bids. In our experience, this has not been a problem. In fact, when Sandy Springs's first round of contracts expired after six years, our initial partner lost the contract to a new firm. The transition between partners was smooth, proving that this process was genuinely competitive and adaptable to change. Costs have also fallen with each annual contract review, suggesting that the fear that a firm may become an abusive monopoly is misplaced.

I can't overstate the importance of competition for the reform and provision of city services. Traditionally, governments might compete among themselves for the provision of a public service. For example, a city government might provide its own road maintenance or it might contract with a county or state to provide it instead. In rare cases, they also might contract with another city for these services. This limited competition may be quite beneficial for the cost and quality of public services, but the use of private industry for service contracts creates a much more competitive environment.

By opening up service provision to private partners, countless companies can bid against existing governments and each other for the service contracts. Prices plummet when faced with vigorous competition, which competitive contracting creates in city services—a market usually dominated by one or only a few potential “bidders.”

Competition has other important benefits, especially for startup cities. *A new city like Sandy Springs needs competition just to establish the likely costs of services.* A new city has no history of prices or costs to determine its budgets. The process of open, competitive bidding shows what’s possible. Private firms reveal their price levels for services, and competition prevents them from inflating the true values.

A similar problem of uncertainty is true for determining performance metrics and levels of a service. A new city may not know how much of each service to purchase. *Competition is a great substitute for knowledge. If you’re not sure how much service you need, put the burden on the private partner to set performance standards.* When contracting for Sandy Springs, we establish the overall service areas and let firms set the performance levels. When we did this, we found that firms without much experience dropped out early—it was just too uncertain for them. This left us with the most experienced companies, who effectively matched our service needs.

Despite possible uncertainties in a new city, competitive contracting is not as risky as it might seem. The private partner is highly motivated to perform. In the service contract, the city reserves the right to terminate all or part of the arrangement if the city is dissatisfied. Contracts can also specify liabilities and establish that the private partner is insured and bonded to protect the city’s interests.

Cities can use any form of contract they like, but I recommend using simple, fixed-cost contracts at first. The private partner then offers a fixed-price to provide a basket of services. This further secures the city against risk. Since the contracts are for a fixed sum, there are no surprises for the city even if the private partner did not estimate their own costs correctly.

I advise against getting drawn into contracts like “cost-plus,” which are infamous in government. In these contracts, the government covers the costs of the partner plus a fixed rate of profit. Although sometimes these may appear to be a lower cost alternative, they are an invitation for firms to inflate their costs, and they increase the uncertainty faced by a new city. Don’t be fooled at the negotiating table by the lower prices projected for these contracts. Keep the contracts fixed until you have some experience and are established as a contract city.

It’s a common confusion, but the competitive contracting model is not the same as privatization. Our model is about using private partners for service contracts, not selling state assets. A new city like Sandy Springs had nothing to privatize. We faced a “drop dead” date—only eleven months after we began planning—to create the city services of Sandy Springs. After that date, we either became a functional city or faced severe legal consequences, possibly even losing our chance to incorporate. We selected our partner company on September 29, and we needed a functional city by December 1. The competitive contracting model was our attempt to cope with our total lack of resources, staff, and time. To call this process privatization is to miss the point. Competitively contracting with the private sector was our only viable option to build a startup city from the ground up. As the phrase goes, we had to “lift ourselves by our bootstraps.” Only after adopting the competitive contracting model did we fully appreciate its possibilities and benefits.

An existing city may face a different situation than a startup. A city that is converting to the competitive contracting model may have some assets that could be sold. But this model is not about selling state assets, although you could certainly do that too. The competitive contracting model is about service contracts, through which a private entity is paid and held responsible for the timely and effective provision of certain community services.

I should also point out that not *all* city services are contracted to partners. As mentioned before, the city remains in charge of public safety like police and fire. One of the great benefits of competitive contracting is that we can use the savings under contracting to focus and improve the areas that the city still manages directly. Under the county, we had an unreliable police force with four of the total twelve officers on duty. Today we have our own city force of 135 officers who use state-of-the-art technology. Our emergency 911 system is top of the line and we have been able to lower its cost by sharing it with two neighboring municipalities.

Developing nations that struggle with security issues should take a serious look at the competitive contracting model. If other areas of public service can be managed by private partners with much greater responsiveness and at lower cost, then resources are freed up for governments to focus on fixing security problems. The safety of citizens is the most fundamental service a government can provide. If a city is unsafe, investment and entrepreneurs flee. Families stay inside rather than participating in community life. People become distrustful and fearful. Every aspect of the municipality's civic and economic health suffers. With competitive contracting, you can untie your hands to focus on the important things.

ADVANTAGES OF COMPETITIVE CONTRACTING WITH PRIVATE PARTNERS

The advantages of the competitive contracting model are immense. In Sandy Springs, our first partner delivered services up to 25 percent cheaper than the city estimated it could provide them itself. Compared to the county, the same services are provided 40 percent cheaper. The model also avoids the usual troubles of bureaucracy and bloated costs that city governments often face. Although costs are low, competitive contracting does not sacrifice quality. As mentioned above, citizen satisfaction with Sandy Springs remains extremely high and we have been able to offer award-winning services and public works far beyond many municipalities of comparable size. We also have fewer problems with employees, since they are disciplined or removed by the private partner if they perform their jobs poorly or treat citizens badly.

Our cost savings have also allowed us to maintain a highly competitive tax environment in our city. We have maintained a flat 0.47 percent property tax rate through the entire recession, while the county surrounding us proposes to raise its current rate from 10.5 percent to over 12.5 percent. We continue to attract new citizens and businesses because of our efficient tax policies.

Another major benefit to our city government is the model's total absence of debt and long-term liabilities for pensions and other benefits. While many cities are sinking beneath immense pension or insurance burdens, we have ZERO. Since our private partners manage their own employees, they also structure their own compensation. We avoid entirely the politically charged and messy long-term labor contracts that weigh down many cities.

When an existing city converts to the competitive contracting model, it can often eliminate many long-term liabilities, particularly pensions. The potential savings for liability-laden cities can

reach the hundreds of millions of dollars. The details of this depend on the state. We will talk more about this in the following chapters, but I encourage anyone interested in this prospect to contact me.

Many of the advantages of the competitive contracting model come from its use of private partners. Private industry moves with an agility and efficiency rarely matched by governments. Governments are slow to change, but our private partners face a strong incentive to bring as much innovation as possible to their work. With our fixed-price contracts, any savings they can create with innovation and technology mean more profit for them. We don't mind the firm making a profit, because this is precisely the incentive it needs to provide excellent service.

The competitive contracting model allowed us to leapfrog to the leading edge of technology. For example, almost instantly we went from having malfunctioning traffic lights with missing parts to the most advanced traffic management system in the state, and perhaps even the nation for a city of our size. We can manage everything from a central control. For instance, if we need to dispatch emergency units, we can control the traffic signals to give them green lights all the way. Innovations like these have brought our emergency response time down from thirty minutes under the county to four minutes under our contract city.

Our private partners also brought us full-service software that manages citizen complaints, work orders, and government issues throughout the entire municipality. For our roads, they brought a high-tech system that uses laser-mounted cameras to help us objectively grade the quality of our roads for repaving. The laser readings are compiled into an index that allows us to prioritize road repair in an efficient and nonpolitical fashion. This protects against lobbying and inequality in road maintenance, since we can rely on the index—rather than politics—to guide our decisions.

Our private partners also bring costs down through cost sharing. Instead of leaving crews idle throughout much of the day, our private partners maximize the use of their labor and equipment by moving crews from city to city, or even to private contracts. In fact, their work trucks use magnetic signs. When they're done with a job in one part of the city, they switch their sign, and become the work crew for another city. This allows maximum utilization of manpower and equipment. The contract cities we work with own no heavy equipment or buildings. So we don't need any maintenance facilities or warehouses.

Private partners are also more flexible than traditional government. When we rolled out many technologies in the early days of the city, such as our new traffic management system, the private partner hired temporary experts to help. When unexpected problems arose in different areas of city government they hired temporary help. For example, we inherited a load of eight hundred unprocessed permits from the county, but we only had the staff to handle a small fraction of that per month. So our contractor hired temporary help to plow through the permit pile. Then our regular staff took over for the expected lower load. The city didn't have to hire costly, long-term, and highly skilled employees to handle these issues.

Another example of flexibility was in the establishment of our information technology. We needed highly skilled technical expertise. Again, the company brought in experts from around the globe to initiate the system and, once their work was completed, they were gone. All the costs of the extra help were taken care of by the fixed-cost contract—we didn't pay a penny more.

Private partners also tend to have higher employee morale than traditional city governments. Since bureaucracies are so rigid and slow moving, many employees lose their creativity and enthusiasm for their jobs. But private partners are open and interested

in employees' ideas, because anything that saved them money was profit for the firm. Aside from making our city services more innovative and open, employees that feel good about their jobs are more productive and treat citizens better. The high quality of Sandy Springs services reflects the good employee morale of our private partners.

FIGHT CORRUPTION WITH COMPETITIVE CONTRACTING

The competitive contracting model also fights corruption. Developing nations that face corruption can clean up their municipalities by allowing them to become contract cities.

For example, many municipalities suffer from corrupt hiring practices. Friends, relatives, political cronies, and others who may not be best suited for public service are given jobs in exchange for support. The whole city suffers. In a contract city, the private partner is in charge of hiring and firing decisions for all contracted services.

A private firm could certainly use political favoritism in its hiring decisions, but each person that raises costs and lowers quality makes the company less competitive and erodes profits. If a private firm becomes weighed down by corrupt hiring practices, it will likely lose to a more honest firm that can offer a more attractive service contract during bidding. The competitive contract model isolates the hiring and firing decisions for city services from politics. Even an extremely corrupt official couldn't dole out jobs to his friends under this model, so it helps prevent a large special-interest civil service from forming in the local government.

Another area often plagued by corruption is in public purchasing or subcontracting for city goods and services. Officials or bureaucrats will purchase services from cronies or friends far

above a competitive price. A large purchase of equipment may be used as a payoff for political support by a particular crony. As with hiring, the purchase of equipment and any subcontracting is handled by the private partner. A private partner could buy at high prices, but at the expense of its profits. Since the partner has a fixed contract with the city, the costs of corrupt purchasing would never be borne by the city. The partner would suffer a loss of profits and lower its competitiveness in subsequent bidding.

Under the model, the city also reserves the right to terminate all or part of the contract at any time if the partner is negligent. Terminating the contract with a private partner is much easier than trying to reform a giant, corrupt bureaucracy in a traditional city.

Finally, the adoption of the competitive contracting model could be paired with requirements for transparency. As with much of the new technology used in Sandy Springs, a private partner in an area that struggles with corruption could bring in modern anticorruption and transparency software to monitor behavior of partners and officials.

For obvious reasons, selection of the private partner is of major importance. The selection and contract approval process must be open and above reproach. The process should be included in the request for proposals (RFP), so that everyone understands in advance how the decision will be made. In Sandy Springs, and subsequent cities with minor variations, we provided the method of evaluation, including a point schedule.

Chapter 3 presents a brief outline of the process we followed. Similar variations of this method have been used in other cities. (For more details, see my book *Creating the New City of Sandy Springs*, appendix C, page 238.)

In Sandy Springs, the selection committee was composed of business and community leaders with extensive experience in contracting. No potential city officials (who would ultimately approve the contract) were allowed to be members of the committee to avoid even the appearance of corruption.

With regard to future contracts that may be offered by new or existing cities, such as for capital improvements, the model also serves to limit the opportunity for corruption. Elected officials are prohibited from being involved in day-to-day operations such as the bidding of contracts or hiring of employees. These administrative processes are a function of the private partner. This partner issues RFPs, manages the selection process, and makes recommendations to the city manager and city officials. The profit motive, not cronyism, drives the company's choices.

The role of elected officials is to provide the final approval (or not) of the contracts. Thus the officials can't propose or interfere with contracts or hiring decisions. The city manager serves as an extra level of contract review to prohibit any improper influence.

STARTUPS VERSUS CONVERSIONS

The competitive contracting model applies to two different situations: the creation of a new city and the conversion of an existing one. Each of these has its own challenges and advantages.

Starting a new city has a unique set of challenges, but may avoid some of the difficulties faced by converting existing cities. A new city is typically formed from another larger political unit. In our case, Sandy Springs grew out of Fulton County, Georgia. Other nations will need to consult their own government structure to see what possibilities exist to create new local governments. Nations with decentralized, federalist systems are likely to have an advantage.

The conversion of existing cities is a new frontier for the competitive contracting model. After Sandy Springs, I worked with other municipalities to successfully convert them to the new model. I'm currently working on several more, including some outside the United States. It should be noted that although we are speaking of city governments, the competitive contracting model applies just as readily to other local governments like counties, districts, boroughs, etc.

Converting an existing city has some clear benefits over starting a new one. An existing city does not face the same budget and time constraints of a new city. Feasibility studies and other important work (see chapter 3, "The Process") could be done by paid staff and financed from city coffers, though Sandy Springs proves that they don't need to be.

Existing cities also have clear budgets (or I would hope anyway!) that can be used in the bidding process. Cost projections and other important materials for competitive contracting are much easier with a long budgetary history, rather than relying on the educated guesses that must be made in the case of a new city. Existing cities also enjoy the authority to carry out the competitive contracting process from start to finish. This significantly reduces the risk that private partners face, which will result in much lower prices.

An additional benefit of the model to existing cities is in the budgeting process. In traditional governments, departments are under constant pressure to increase services, so the tendency is to ask for more funds. This normally results in a total budget request that exceeds the city's capacity. In the Sandy Springs model, the profit motive causes the company to require its departments to find more efficient methods to keep their costs in line.

Chapter 3

THE PROCESS

So with all these benefits, how does a city adopt the competitive contracting model? What can a reformer or concerned citizen do to start this process? In this section I'll cover the basics of starting a contract city as well as converting an existing city to the competitive contracting model. This is only a primer—those interested in greater detail should contact me using the information provided at the end of this book.

When faced with the idea of such a significant change in their city, many people assume that this model is difficult and costly to implement. It isn't. With little previous experience, I was able to create this model using a network of citizen volunteers and occasional pro bono legal help. We did not have a formal budget, staff, or offices. But by cooperating, we built a functional city in eleven months.

Make no mistake—there will be plenty of hard work to do a good job building the new model. But you do *not* need a big budget, a big staff, or years of preparation to create a contract city. The competitive contracting model is a high-impact reform at relatively low cost, making it an ideal project for concerned citizens or reformers who are new to politics, or not in positions of great power. It's also an excellent project for a reformer in a developing nation who may not have access to many resources.

The ideal candidate city for the competitive contracting model has a population of 10,000 to 250,000. This does not mean that the model couldn't work on smaller or larger cities. Unfortunately,

cities smaller than 10,000 typically do not create a contract big enough to interest a private firm—that is, costs per capita will rise as the partner will probably charge a large premium to operate in the small area. In cities larger than 250,000, politics and complexity begin to take over and make the model difficult to execute. It may be possible to use this model in larger units if the city is divided into smaller areas for administration (like boroughs, districts, or zones).

Creating a new city and converting an existing one face unique challenges and have particular advantages. However, much of the process is the same. I'll cover the similar parts of the process before we talk about the unique issues.

STEP 1: UNDERSTAND YOUR MUNICIPALITY

First, a reformer must understand his or her legal and political environment. Reformers should get clear answers to the following questions:

- Are there state or other laws that concern contracts with private industry?
- Are there any special bidding requirements by law, for example, the length of contracts?
- Are there any requirements that local or municipal “service contracts” must be put out for bids?
- Can sovereign immunity be extended to a private contractor?
- What is the situation regarding unions and civil service in the area?
- What type of liabilities, such as pension plans, are offered by the relevant area (either the unit within which the new city will exist or in the city that will be converted)?
- How big are those current liabilities and in what direction are they headed?
- For existing cities, what types of equipment, buildings, facilities, vehicles, etc. are owned by the government?

- Is there any legal prohibition regarding the sale or transfer of government assets to a private company?
- Are there any restrictions on transferring people off the payroll, or doing away with government positions entirely? Some states impose a high penalty, for example, two years of severance pay, on the government for downsizing positions. If there are penalties, are there ways to avoid them through negotiation or in exchange for a job with the private contractor?

In an existing city, a reformer's staff can find these answers themselves. Those who do not have a staff or are outside city government, as I was, can turn to volunteer researchers or perhaps university interns. Throughout this process, it helped me tremendously to have the occasional assistance of a pro bono legal team. You want to avoid surprises later on. In Sandy Springs, I found out that service contracts could not be six years long, even though we had already committed to six-year contracts in our requests for proposals. It was a hassle to fix this, so learn from my mistakes and do good research first.

Reformers should also understand the financial situation of their communities. In an existing city, you'll need access to the current budget, balance sheet, and the previous year's actual expenditures. You'll also need to look at any long-term commitments the community has made and what kind of budget exists for capital improvements. In a new city, the single most important factor is the level of revenue that can be expected. Not only is the amount important but also the timing and procedures for obtaining the revenue must be understood.

To get this information you'll need to understand the taxes and fees currently paid by members of the community. What level of government currently provides the services enjoyed by the community? Are these financed by sales taxes, property taxes,

or other sources such as franchise fees, fines, alcoholic beverage taxes etc.? Are you entitled as a new municipality to collect all or a portion of these?

STEP 2: DO A COMPARATIVE STUDY

Once you have some understanding of your situation, your next task is educational. Conduct a comparative study of your local government under the current system versus a competitive contracting model. This is the largest expense of the process. Studies like these usually cost between \$30,000 and \$40,000 or less. Don't pay more than this. My firm completes them for \$25,000.

The study should be conducted by a third party like a university or a consulting firm with a good reputation. Sometimes using your regional university helps, since it keeps the idea local and opens the eyes of some people in the university to the possibilities of the competitive contracting model for your community. An existing city can pay for the study out of their coffers. The expense is justifiable as a project to see if the city could be improved with another model. A new city like Sandy Springs will have to raise the money through donations.

The purpose of this study is to give you intellectual ammunition during your reform. If you need to change laws to allow for the incorporation of a municipality, as we did in Sandy Springs, then you need to be able to state your case clearly, firmly, and objectively. A comparative study from a reputable institution allows you to see if your ideas are feasible, and how much the community would benefit from a contract city.

STEP 3: PREPARE YOUR RFPs!

If your comparative study shows that a contract city would improve your municipality, you're ready to issue requests for proposals (RFPs). First you need to define the areas you may want to contract. I call this "defining the basket of services." In principle,

the basket can be divided into numerous different contracts with different partners. They could be bundled under major categories like “administrative services” (human resources, record keeping), “financial services” (accounting) or “community services” (transportation, waste management). An RFP could be issued for each of these categories, and different companies would bid on each piece. Instead of bundling, the basket of services could also be compiled into a master contract for the entire list.

For those who are building a new city, like we were with Sandy Springs, I recommend the final option. Use a master contract with a single partner to provide the *entire* basket of goods at first. This allows you to work with only one partner. One point of contact massively simplifies the early stages of this process. This does not mean that only one firm will provide your services—private partners subcontract many of their tasks to other capable firms. But the private partner manages this subcontracting, which takes a large administrative and logistical load off of the city government. As your city gains experience managing competitive contracting, you can unbundle and contract with as many partners as you wish.

BEYOND PRICE—CHOOSING A GOOD PARTNER

When contracting, many people are tempted to look only for the lowest-price option. This is a mistake. You should not think of the arrangement between you and your counterpart in private industry as a master/slave relationship, or even as a contractor/contractee relationship. You must think of it as a *partnership* based on trust, mutual respect, and understanding.

After you have issued your RFPs, you must look beyond price when weighing and scoring bids from potential partners. You should look thoroughly into the legal history of the company to find any major law suits against them. A good partner should also have a history of providing (or at least managing) the services that they may provide you.

An easy and low-cost way of handling this is to ask potential partners to self-report their own legal and service history. Then have it double checked by a pro bono legal team. If they're smart and trustworthy, they won't hide anything from you.

Choosing a partner requires a solid rubric that reflects this broader view of a good partner. For Sandy Springs, I created the following evaluation system for scoring bids from potential partners:

400 total points divided into four categories worth 100 points each

- 1) Qualifications and experience (maximum 100 points)
 - a. Financial position of firm
 - b. Overall qualifications for project management and experience
 - c. Legal history of the firm
- 2) Previous experience (maximum 100 points)
 - a. Specific experience in providing each component of the basket of goods. For example, administration (0–10 points), accounting (0–20), human resources (0–10) etc. to a total of 100 points
- 3) Startup and implementation plans (maximum 100 points)
 - a. The quality, detail, and sufficiency of the partner's plan to have all required duties and services ready by the proper time
- 4) Cost/price (maximum 100 points)
 - a. The lowest bidder is awarded 100 points. Higher bids are awarded points based on the following formula:
$$(\text{low bid} / \text{higher bid}) \times 100 = \text{overall cost / price points}$$

As you can see, price was only one of the components—and a relatively small one at that. This rubric is not set in stone. Your own situation will structure it according to your own priorities. But don't forget, your rubric should reflect a commitment to a partnership beyond low cost. You're after greatest value, not lowest price.

Obviously, you can vary the categories, formula, and/or point weights to meet the needs of your city, but the key is to have a published method in advance. This lets the companies know exactly what your priorities are, and serves to avoid future disputes over the bid process.

Once you have received bids from interested partners, you have everything you need. Remember, RFPs don't have to cost you anything—they're just requests for proposals from potential partners. No one has committed to anything. This means that you can issue your RFPs even if you haven't yet guaranteed that you will incorporate or convert your municipality. In fact, it's a major asset to have concrete bids in your hands while convincing people of the merit of your idea. With bids in hand you can say: "Look right here! Partner X is already offering to provide the services we require for 60 percent of what we're currently paying. Why aren't we considering this model?"

STEP 4: IMPLEMENTATION

TIMING IS EVERYTHING—DON'T CHEAT YOURSELF

Assuming you've made it all the way to real bids, you're ready for implementation. This is where the different challenges of a startup versus a city conversion become apparent. A new city usually has a "drop dead" date. Politics is often unforgiving with time constraints. If I could have changed anything about my experience in Sandy Springs, it would have been to give us more time. This may not be a possibility with a new city, but you should still try to give the implementation phase as much time as possible. New issues and complexities emerge to which you and the partner must adapt.

If you're an existing city without a deadline, I recommend leaving *at least a year* between when you issue your RFPs and when services need to be fully operational. In Sandy Springs, we had only a few months. Although it worked, we were biting our nails until midnight on the day before our launch. Don't

cheat yourself. Give yourself plenty of time. You may also need to synchronize with your fiscal year, depending on your region's politics.

IT'S EASIER FOR EXISTING CITIES

Timing is a major benefit that existing cities have. They don't need to rush. But existing cities also have several other advantages that make the competitive contracting model even easier to adopt. I mentioned that the adoption of this model can cut significant liabilities off the city's books. This is a major asset to a city facing debt problems, as so many are. Similarly, a city can sell or lease their equipment to the private partner they choose to work with. The money generated from the sale or lease can be applied directly to debt or to lowering operating costs.

An existing city also can make use of their current staff, buildings, and equipment. Although some cities will want to replace outdated technology or equipment with the materials brought in by the private partner, some of it may still be useful. This means lower cost in your contracts with partners.

Existing cities do face one major disadvantage: the politics surrounding government employment. It's likely that some members of the government civil service and staff will be let go as part of the adoption of the competitive contracting model. This can make for a difficult political fight, but should not discourage the reformer.

In Sandy Springs, our partner hired many people from other governments and with government experience. Partners are looking for people with skills and working knowledge of the municipality, so good members of the civil service shouldn't fear for their jobs. In fact, many employees have remarked to me over the years that they feel much more appreciated, engaged, and productive in their work with the private partner

than during their time in the civil service. Their ideas are honestly taken into account and there are significantly more opportunities for advancement than in a traditional government job.

There are plenty of ways to cope with this. For example, you can mandate in the contract that the private partner offer a job to all or a percentage of government employees. You could also provide job training for those who are taken off the payroll. In one city that I have been advising in Japan, a new industry was moving into the area around the time that they wanted to adopt the competitive contracting model. I recommended that the city train former employees for jobs in the new industry. This would give employees a good opportunity outside the civil service and provide an incentive to the industry to locate in the city. There are many other ways to make sure that adopting the competitive contracting model is a good solution for everyone in the community. Those interested in other strategies should contact me using the information at the end of this book.

As a general rule, I would also caution against making any announcements until you are firmly established in your plans. In the early stages, many things are subject to change. Your opposition will grab onto anything they can to discredit your ideas. Don't feed them. Understand exactly what you're doing before you make announcements. Be careful with your language. Don't say things that are likely to be misinterpreted or turned into a negative sound bite. Keep your head down and do the hard work of a responsible reformer. You will be far more likely to succeed, and your city will thank you.

Chapter 4

A MODEL TO CHANGE THE WORLD

We have seen the many benefits of the competitive contracting model. The continued success of Sandy Springs and the growth of contract cities around the world is testament to the possibilities for the future of local government. The citizens of municipalities everywhere deserve better governance than they currently receive. The competitive contracting model can bring good governance around the world only if it has its champions. I believe the concerned citizens, reformers, and entrepreneurs gathered at the Antigua Forum can use this model to change the world for the better.

FURTHER READING



Creating the New City of Sandy Springs
The 21st Century Paradigm: Private Industry
Oliver Porter



Public/Private Partnerships for Local Governments
Oliver Porter

ABOUT OLIVER PORTER

Oliver W. Porter has been called the “incorporation guru,” the “metro maestro,” and the “father of cities” for his work with local governments. A leading proponent of the value of the competitive contracting model, Porter’s involvement with this subject and his development of a new model for providing municipal services began with the community, now city, of Sandy Springs, Georgia.

In January 2005, he accepted the challenge of implementing the first new city in Georgia in fifty years. At its inception, the city would serve ninety thousand citizens, the seventh largest city in the state. The challenge was made even more difficult by the fact that he would not have any funds, staff, or authority prior to the incorporation date for the city.

Working as the volunteer interim city manager, Oliver Porter recruited and organized a team of volunteers to perform the data gathering and analysis necessary to understand the needs and financial capability of the new city. Recognizing that under the constraints with which he dealt, it would not be possible to start the city using traditional methods for providing services, he proposed a new model to the community. After convincing others of the viability of the competitive contracting model, he succeeded in bringing the concept to reality in only a few months.

During that period, Porter also served as chairman of an advisory group, the Governor’s Commission on Sandy Springs. After the successful incorporation of the city, Porter continued

to serve as a transition consultant for four months. During this period he wrote his first book, *Creating the New City of Sandy Springs; The 21st Century Paradigm: Private Industry*. The book has become a useful guide for other new cities. He authored a second book entitled *Public/Private Partnerships for Local Governments* to inform existing cities of the advantages of the competitive contracting model and to guide them in the conversion process.

In the five years following the incorporation of Sandy Springs, five new cities in the United States have followed suit. All five have embraced the model created by Porter, and he has served as the principal adviser to all of them. Porter is currently advising three potential new cities and doing feasibility studies for converting two existing cities and a county. Japan's Ministry of Education and Finance brought his work to that country, where several cities are considering conversion to the competitive contracting model. Porter is also involved in a project to create the first startup city for political and legal reform in Honduras.

Before his involvement in Sandy Springs, Porter had no experience in government, but spent a long career at AT&T where he retired as a vice president in 1989. Porter has been profiled by the *New York Times*, CNN, and the *Freeman*. In 2009 the Reason Foundation named Porter Innovator of the Year. Since then Georgia Tech appointed Porter a Senior Government Fellow.

Aside from his work with cities, Porter is active in charity work and an accomplished athlete and artist.

Contact Oliver Porter at OliverPorter1@comcast.net

ABOUT ANTIGUA FORUM

The Antigua Forum is a project of Universidad Francisco Marroquín (UFM) designed to promote market liberal reform, with the goal of improving human well-being through liberty. It does this by serving as a “place of learning” for those who are committed to advancing market liberal reform and are in a position to do so.

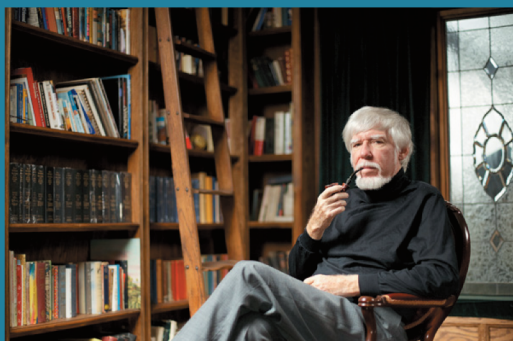
The Antigua Forum gathers political reformers working in the trenches, those operating outside established institutions to affect change, and others with expertise in making change happen. Participants tend to be entrepreneurs in reform who, like entrepreneurs in the market, are constantly looking for ways to improve the lives of others through innovation. The format is geared to making the most of everyone’s time, with a focus on learning the critical how-to aspects of reform and coming up with concrete action plans to make reforms happen.

A Revolutionary Approach to Local Government

In 2005 retired executive Oliver Porter created a functional city government for Sandy Springs, Georgia, in less than a year. He had no budget, no formal authority, and no staff except the volunteers he convinced to join him. Facing overwhelming odds, Porter pioneered a model in which city services are comprehensively contracted out to private firms.

Sandy Springs became one of the most successful cities of its size in the United States, with award-winning city services and public works but no debt or long-term liabilities.

In this book, Porter shows you how your local government can join the growing number of contract cities to get out of debt, adopt new technologies, and take control of your community's future.



About the Author

Called the “metro maestro” and “father of cities,” Oliver Porter developed the contract city model. The first contract city he established enjoys one of the highest citizen-satisfaction rates in the United States. Today he continues to advise other cities around the world. In 2009, Reason Foundation named Porter Innovator of the Year. He has been profiled by the *New York Times*, CNN, and the *Freeman*. He is the author of three other publications on Public-Private Partnerships.



Our mission is to teach and disseminate the ethical, legal and economic principles of a society of free and responsible persons.

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