
Ethics and the New Managerialism

H. George Frederickson
University of Kansas

Abstract

Consider some of the primary characteristics of the new public management:

- *First, sharply reduce governmental regulations and red tape;*
- *Then mix this with privatizing and contracting-out many public functions thought heretofore to be primarily governmental;*
- *Now reduce significantly the directly employed governmental workforce;*
- *Do not train a cadre of government employees to be competent contract managers;*
- *Now mix all of this with the widespread application of market logic and particularly the idea of institutional competition;*
- *Finally, stir for a decade in a hot political and social environment.*

Public Ethics and the New Managerialism

What would be the products of this recipe; its texture, flavor, smell? In the long run will the recipe produce greater government efficiency? Will it produce governments more effective in global competition? Will there be fairer government? More honest government? Will this recipe cook a widespread increase in the legitimacy of government in the eyes of the people?

In the following pages I consider the characteristics in the new public management or managerialism project with my eyes firmly fixed on issues of public sector ethics and government corruption. It is popular to take the view that the new managerialism hegemony leaves those of us interested in ethics in the position that we must accept its almost universal

support and use our knowledge to determine how to make government as ethical as possible under the circumstances. (*Gilmour, 1997*) From this position one would argue, for example, that an increased propensity for corruption associated with more contracting out, could be at least partially ameliorated by greater transparency in public affairs. From this practical position one accepts greater contracting out as a political and administrative given and then suggests ways to get the presumed benefits of contracting out while reducing the risks of corruption. This is situational ethics.

Such a position is particularly useful for the ethicist wishing to be part of modern trends and directions while still doing ethics. In this way the ethicist does not spoil the party for the managerialism reformers nor spit into the managerism reform wind. Ethicists, like most others, wish to be associated with the excitement and momentum of reform and dislike being regarded as retrograde defenders of the status quo, or worse, the shrill voice suggesting that we have failed to learn the lessons of history. If, for example, one argues the position that managerialism itself is inherently less ethical and has a greater propensity for corruption regardless of the adoption of "safeguards," it leaves the ethicist defending the status quo, including all of the corruption that is part of it--a particularly vulnerable position to defend.

I shall take that position nonetheless, following the dicta that it is always possible, particularly in the name of administrative reform, to make things worse. Furthermore, there are points at which it is the duty of the ethicist to spit into the wind and I believe this to be one of those points.

Some Defining Assumptions

To consider the characteristics of the new public management project and to evaluate its likely results, I make some defining assumptions upon which the argument rests. This is an axiomatic argument, axioms (generalizations or modalities) that I believe to be both empirically verifiable and deductively demonstrable. All axioms, like all generalizations or modalities, are subject to amelioration, to modification, to adaption; but they are not subject to complete (or usually even significant) retraction, cancellation or repudiation. This is, then, a deterministic argument. It is in many ways a corollary of the deterministic argument that rational self-interested individuals and firms, in competitive markets are more efficient

than bureaucratic hierarchies. Using essentially the same deterministic, axiomatic approach, I set out a model of government ethics: in democratic settings government agencies and their officials in bureaucratic hierarchies are more ethical than self-interested individuals or firms in competitive markets.

Axiom One: Most forms of government corruption--conflicts of interest, bribery, fraud, kickbacks, skimming, trading on the prestige of office--occur at the point of transaction between officials formally representing government authority and the use of public money on the one hand and individuals or organizations seeking money, favor or influence on the other hand. In this assumption the key is the "point of transaction." The point of transaction can be petit, as in the case of the police officer deciding whether to give a ticket, or the licensing officer deciding whether to grant a license. The point of the transaction can be grand, as in the case of the Defense Department procurement officer, or group of officers, deciding which defense contractor will get a multi-billion dollar contract.

Axiom Two: Absent democratic government, laws, rules, social conventions and/or social reciprocity, rational persons and firms will act on the basis of self interest. The latter half of this axiom is an old and venerable part of the public choice perspective and is central to the economic perspective on public policy and administration. Here I accept the rational, utilitarian assumption and argue that it is democratic government, laws, rules and social conventions that cause or influence both individuals and firms to adjust or adapt their behavior in the direction of collective interests.

Axiom Three: Under conditions of democratic government, government institutions are more public-regarding than either non-governmental institutions or public firms. It follows then, that the values of justice, equality and equity are greater in governmental institutions than in non-governmental institutions or private firms.

Axiom Four: Efficiency values are greatest in private firms in perfect markets. As market imperfections increase, efficiency decreases.

Although it is not an axiom, I am making a critical assumption about the ethics of public officials. Ethics is very much more than attempting to

combat corruption, it is also doing good. I accept the Joel Fleishman argument that in an imperfect world with imperfect men and women, government ethics will be found in a selfless public service.

The key is selflessness. The reason we take the proffered advice--frequently painful or difficult in the short run--is that we believed the counselor to have only our long-run interests at heart, not his own, and not that of our adversaries or competitors. If the motives are suspect, so also is the advice. Without selfless public officials, the electorate has no recourse when confronted by the hard and painful choices that democracy must make from time to time--choices that require some to sacrifice and others to gain. Without selfless public officials, the public is bewildered by the task of discerning what is the public interest in situations where their several private interests are adversely affected. We know the public interest may require some private sacrifice, but how do we know that what claims to be the public interest really is? Not everything that demands sacrifice is in the public interest. Selfless officials can be trusted to exercise judgment without suspicion that they have been swayed by those who will be benefited by the sacrifices of the rest of us. (*Fleishman, 1981, p. 82-83*)

The prospects for ethical government are greatest when there are selfless public officials. Those prospects decline when government becomes weak and incompetent, rendering even selfless public officials lacking in capacity. And the prospects for ethical government decline when public officials are more selfish. Both the logic and the effects of the new managerialism move democratic government further away from the prospects for an influential and selfless public service.

Cutting Red Tape

The first feature of the new public management project is to sharply reduce governmental regulations--red tape. I shall use as an example the National Performance Review process directed by Vice President Al Gore, which has led the process of slashing and simplifying the regulations in the Federal Register. (*Gore, 1995*) The logic is pure managerialism--results, not rules; or, in the words of the currently popular book *The Death of Common Sense*, "Decision making must be transferred from words on a page to people on the spot." (*Howard, 1994*) In many ways this is very good news for public administration. It conveys a much appreciated trust to maligned

bureaucrats, an indication that they should have the discretion to use their expertise, professionalism and common sense to be good managers and to be ethical. The NPR, in referring to public administrators, assumes "we're honest, not dishonest, intelligent, not stupid." (*June, 1995. p.33*) It also invites bureaucrats to find creative and simplified ways to solve problems and to be effectively regulatory without an excessive build-up of regulation sediment, recognizing that in that sediment are many obsolete regulations and much pointless paperwork. Finally, the NPR process calls for government reinventors to "get rid of bad rules and make good ones easier to understand." (*Gore, 1995. p.29*)

In the enthusiasm for cutting red tape, it is useful to remember the reasons why some of that red tape got there in the first place. I shall deal here with just two.

First, is the matter of due process and fairness. Simply put, the logic of due process and fairness "obliges officials to give people affected by governmental action a fair chance to get their views on official decisions registered so that their interests are not overlooked or arbitrarily overridden by those in power." (*Kaufman, 1977. p.43*) Due process is time consuming, cluttered with paperwork, and often expensive. And the results were not always entirely fair, persons and institutions of power and influence having their usual advantage. "To be sure, were there no Administrative Procedure Act, agencies would not cavalierly trample the rights of their clients; their statutes, judicial precedents, political pressures, and generally accepted standards of equity would keep them in check. But the act unquestionably compelled them to formalize and elaborate their procedures to a greater degree than they otherwise would." (*Kaufman, 1977. p.45*)

In addition, there are special due process protections covering government employees which provide protection from arbitrary dismissal, from political influence and which guarantee fairness in hiring, promotion, assignments and the like.

How far is it possible to go in cutting red tape and streamlining government procedures without harm to our cherished rights and without doing some damage to fairness? At a minimum it is folly to imagine that there is no trade-off between sharply reducing the regulations that guarantee procedural due process and the substance of individual rights and the quality of governmental fairness. Despite the political slogans of those who

are reinventing government, they cannot have it both ways--to reduce procedural due process regulations yet retain individual rights to participate as well as some minimal fairness for individuals and groups protected by regulations.

Second is the matter of compassion and protection. Much of red tape can be traced to the wish to protect citizens in advance of possible harm by, for example, assuring the purity of food, the safety of flight, or the safety of drugs. Much government red tape protects us on the highways (think of air bags, for example) and in the air. Hundreds of agencies at all levels of government are in the business of protecting us in advance, primarily through regulations and their enforcement--red tape. And this regulation is often associated with the "point of transaction" when the citizen buys a product or a service. This regulatory process puts a considerable burden on those who make the products we buy and those who sell the services we use. Because of federalism there is considerable duplication in the regulatory process, a further burden on producers.

There is also a good bit of red tape designed to influence many forms of human association--schools on one hand and students and parents on the other, labor and management, borrowers and lenders, brokers and investors, management and individual workers, researchers and their human subjects, husbands and wives, parents and children and much more. Laws and regulations associated with possible cases of sexual harassment, child abuse and spouse abuse are excellent contemporary examples of red tape which would influence human association.

Red tape is a hand maiden to government programs of compassion, such as food stamps, aid to dependent children, Medicare, Medicaid, and the like; after all, matters of eligibility and fairness are critically important. And, of course there are many subsidy programs to farmers, small business owners, all families which own homes, etc.

There can be little doubt that there has been corruption associated with many of these programs, despite regulations and red tape. It is illogical to assume, however, that there would be less corruption in the absence of regulations and red tape.⁽¹⁾ More important, however, are the bigger policy issues associated with the protection of citizens and compassion toward citizens; is it possible to achieve the results these programs have achieved without regulations and red tape? In the passion for deregulation is it

possible that government will be less fair, the citizens will be less safe, and we will all be less compassionate? Are these not ethical questions?

Even if there was evidence that deregulation does not increase the propensity for government corruption, and there is no such evidence, debating the linkage between regulations and government corruption begs a bigger and more important ethical question. That ethical question is whether government regulations can make citizens safer, and can make life more fair and compassionate? As Axiom One indicates, I think the answer is yes. Public officials may be inclined, by education and disposition, to be compassionate, to protect us, and to be selfless, but laws and regulations codify those responsibilities.

Finally, I turn to Herbert Kaufman for his description of the importance of rules, regulations and other forms of red tape:

The temptations facing the government work force are varied and enormous. They handle hundreds of billions of dollars in revenues (paychecks, retirement benefits, payments for supplies and services, rent, subsidies, tax refunds, etc.) and vast quantities of removable property, from postage stamps and office equipment to vehicles and electronic gear. Without exceedingly high controls, nobody would ever know if one government employee took a little here, and took a little there, and a third pocketed a bit somewhere else. Public moneys would thus be diverted from their intended use to the enrichment of dishonest public servants. Even if no individual defalcation were large, the collective effect could be massive. And, without controls, unfortunately, the scale of the average offense could doubtless be substantial. . . .(I)t is sometimes said the prevention costs more than the ailment. But, our attitude toward public property is typified by the comments of a famous economist ordinarily inclined to reject costs that exceed benefits in dollar terms: "The office of management and budget should spend \$20 to prevent the theft of \$1 of public funds." (*Okun, 1975, p.60*) Not only are public property and public discretion held to have a special moral status; they occupy a special political position because abusing them eats away at the foundations of representative

government. So we are willing to put up with a bit to safeguard their integrity. (*Kaufman, 1977, pp. 50-53*)

Laws, regulations, and red tape set out the rules of behavior at "the point of transaction." That these regulations are a drag on government efficiency is acknowledged. That these regulations can be duplicative, confusing, and too tightly drawn is also acknowledged. It is unquestionably helpful to administration to deregulate, particularly if effective administration is defined as efficiency. But regulations have always had more to do with ethics than with efficiency.

Increase Privatization and Contracting-Out

In government, few subjects are as politically fashionable as contracting-out and privatization, indeed there is virtual privatization hegemony. In view of the widely shared perception that contracting-out and privatization is good public administration, it is not surprising that there have been few voices raised regarding the matter of ethics.(2)

In the United States privatization is almost always achieved by contracting-out, traditionally for capitol projects such as buildings and roads and for goods such as defense machinery and weaponry. Contracting-out in this form is the virtual definition of the logic of point of transaction as determining ethics. The long history of the private construction of buildings, roads, prisons, military airplanes and the like for government by contract all yield about the same set of conclusions. To insure quality and to guarantee against kickbacks, skimming and fraud it is essential to have very tightly drawn contracts and careful, close oversight, preferably by experienced government contract managers (*Kettl, 1993*). This is the so called "smart buyer" argument. When the government is not a smart buyer it will get either a shoddy product or be open to corruption. Given their long experience with construction companies and with vendors, most state and local governments are smart buyers most of the time. In some states and localities, however, there are long traditions of graft and kick-backs associated with contracting-out. Indeed when former Vice President Spiro Agnew was the elected executive of Baltimore County and later Governor of Maryland, he engaged in so called "sand and gravel politics," a long-

standing contracting kick-back scheme. This was discovered after he was elected Vice President and he was forced to resign.

In the 1970's and 1980's many cities and counties developed autonomous economic development authorities freed of restrictions and regulations in their relationship with vendors and contractors. Several have been exposed as particularly corrupt (*Henriques, 1986*).

It is particularly fashionable these days to contract for social services at the state and local level. After reviewing a host of such contract arrangements, Kettl writes: Thus it is no exaggeration to say that state and local governments tend not to know what results their social service contracts are buying. Because competition is low, they have little opportunity to test the market to see what alternatives they have. Few resources are spent to look past what the contractors themselves report. The political system has few incentives for digging deeper and many more incentives to maintain the status quo. In fact, without effective monitoring, contracts "may degenerate into what are effective monopolies for the private vendors."⁵⁵ The problems with oversight underline earlier observations: whatever advantages contracting out for social services might produce, greater efficiency through market-tested competition is not one of them. State and local governments are engaging in the equivalent of a shopping trip while blindfolded, with little effort spent to squeeze the tomatoes or thump the watermelons. (*1993, p.175*)

In the 1980's there were three huge corruption scandals in the U. S. National Government. The biggest and most expensive was the savings and loan scandal, directly associated with a combination of deregulation, a diminished oversight capacity, and a promise of federal dollars to back-up investments (savings) in savings and loan banks, should they fail. Fail they did, and in very large numbers at a cost of thousands of dollars to every American taxpaying family (*Thompson, 1993; Steinback, 1989; Rom, 1996*).

The largest single defense scandal in American history also occurred in the 1980's. In his When the Pentagon Was for Sale, a history of the so-called "ill winds" scandal, Andy Pasztor found that many of America's most respected defense corporations were systematically engaged in making payoffs to Defense Department procurement officers, setting up slush funds, rigging bids and giving bribes (1995). This entire scandal had to do, in one way or another, with contracting-out and with a lack of oversight.

To drive the point home, however, nothing can match the HUD scandal. HUD, in the early Reagan Administration, was directed by Samuel Pierce and was led by a group of young political appointees from the private sector with little experience in housing.(3)

One of these was Deborah Gore Dean from a wealthy family with connections to former Attorney General, and long time Richard Nixon confidant, John Mitchell. Ms. Dean was a 28 year old short-time staff member in the Reagan campaign, her only other experience being tending bar. (*Johnson, 1991, p.182; McAllister and Spalm, 1989, p. A-1*)

Several things happened at HUD over the first few years of the Reagan Administration, primarily as a result of the President's stated goal of getting the national government out of housing. From 1980 to 1986 the HUD budget was reduced by more than fifty percent and the staff declined from 16,000 to 11,000. The section of HUD charged with project oversight and field effectiveness (the Office of Organization Management and Information) was entirely eliminated. The HUD bureaucracy was increasingly centralized.

Gradually it became clear that HUD funding for local housing projects, customarily awarded on a competitive basis, were being awarded primarily on the basis of political favoritism. In Secretary Pierce's absence Deborah Gore Dean became "the ward healer. . .the political expediter." (*McAllister and Spolar, 1989, p.A-10*) She kept a list of favored cities and favored contractors and would regularly announce the lists of 30 communities. "As Dean would announce what projects were to be funded, the aides would leaf through the notebooks, hoping to find an application from the community included. If no letter could be found, the aides would call the communities the following day and urge them to submit an application." (*p. A-10*) She even used Secretary Pierce's autopen to sign contracts.

Early in the Reagan administration HUD executives abandoned the agencies mission and replaced it with a program to award agency money as a reward to developers who contributed funds to the President's campaign, to other powerful Republicans in the Administration and in Congress and even to themselves. (*Kobrak, 1996*) Later, Deborah Gore Dean said that HUD at that time "was set up and designed to be a political reward program. . . I would have to say we ran it in a political manner." (*Pound and Bacon, 1989, p.A-1*)

From a rather early point in the HUD Scandal it was widely known that there was widespread corruption at HUD. Several General Accounting Office reports were strongly critical of HUD during this period (*Kilpatrick, 1989, p. A-25*) HUD's own Inspectors General during this period criticized the agency, but softly, or as James Kilpatrick put it in "pianissimo." (*Kilpatrick, 1989 p. A-25*)

If the HUD Scandal was generally known, why did the ordinary systems of oversight fail?

First, the HUD career civil service was evidently reluctant to blow the whistle. Some claim that they did not know what was going on. (*McAllister and Spolar, 1989, p. A-10*) Others wished not to rock the boat or believed there was little they could do about the corruption. And some had careerist excuses, worrying that they would lose their jobs. (*A-10*) Whatever the rationale, it was not a shining moment for upper level HUD civil servants.

Second, the Office of Management and Budget failed to act because it "was preoccupied with trying to terminating some of the programs of HUD rather than trying to police it." (*1989, p. A-10*)

The Democratically controlled Congress had direct institutional responsibility for oversight. Hearings would only come after the Reagan Administration ended, evidently because there was little political capital in hearings on HUD. (*Kobrak, 1996*) Key legislators claimed to have no knowledge of the corruption at HUD, despite the CAO and HUD IG reports. Congress was under little external pressure from local mayors, from developers, or from mortgage bankers, the traditional sources of HUD support, in part because much of the "money had dried up." (*1989, p. A-10*)

Putting the HUD Scandal in perspective, Peter Kobrak describes a pervasive pattern of cozy politics. It must be understood that privatization via contracting-out is particularly vulnerable to cozy politics.

It is not difficult for political actors and for contractors to turn privatization to their own purposes. In cozy politics the contractor wins the contract, or retains the contract through politics. It is very often the case that there is no real competition for contracts, particularly after one organization has secured continuing contract for some time. Contractors, following Smith and Lipsky (1993, p. 171) become "players in the political process" rather than "sellers of services."

Kobrak concludes with these observations: "Such pervasive corruption over an extended period underscores how difficult it is to insure that privatization does, indeed, meet its objectives even while protecting the public sector from the dangers of cozy politics. The bureaucracy as well as the involved elected officials and civil servants, suffer substantial damage from a scandal of this magnitude (though the private sector interestingly does not seem to suffer comparable public condemnation for its role)." (p.20)

In his splendid treatment of privatization and contracting-out, Donald F. Kettl reminds us that there are "common problems (which) afflict all contracting relationships between buyers and sellers, in both public and private sectors. Conflicts of interest and monitoring problems are endemic to all transactions between principals and agents. The basic model underlying the competition prescription itself suggests that agents (contractors) will have many goals besides those of the principal (government) and that principals will have difficulty detecting which missions their agents are carrying out." (1993, p. 201)

At the close of his Presidency, Dwight Eisenhower warned against the cozy politics of his day, the power of what he called the military-industrial complex. Now we have many similar cozy relationships between government and private companies or non-profits, particularly as contracting-out has moved into the service side of government. There is the American county--mental health and drug rehabilitation non-profit complex (Milward, Provan, and Else, 1991); the U.S. cabinet department-beltway-bandit complex; the large American city-sports team owner demanding a new stadium to be paid for by the taxpayers (Rosentraub, 1997), and many

more. Corruption such as fraud and kickbacks have always been a problem in privatization by contracting-out, but these days it may be the growing political influence of contractors that is the larger ethical question.

Downsizing

We turn now to the most politically popular characteristic of the new managerialism project--downsizing. Like deregulation and privatization, downsizing the bureaucracy is almost universally understood to be desirable. In the U.S. Federal Government's reinvention program, the directly employed civilian civil services has been reduced from more than three million to 2.7 million, or more than ten percent, in less than six years. It must be stated that bureaucratic downsizing is part of a more general move in the direction of smaller government. It turns out that downsizing bureaucracy is very much easier than simply cutting government. While both are politically popular, cutting government programs brings one to the problem of which programs to cut. Kettl and DiIulio put it this way:

There can be absolutely no question that the general idea of cutting government is deeply popular with the American people and hence politically irresistible. But as congressional Republicans are now beginning to learn the hard way, that general support begins to evaporate as soon as cutting government means cutting specific middle-class entitlements and constituency-based programs. For example, when asked which federal programs "should be cut back in order to reduce the federal budget deficit," solid majorities of Americans say no to cuts in unemployment insurance (64 percent), environmental spending (67 percent), Medicaid (73 percent), Social Security (86 percent), and, last but by no means least, Medicare (88percent). Likewise, while 65 percent of Americans favor cutting government and reducing the deficit if that means cutting welfare programs, majorities would vote to prevent cuts in federal programs that aid farmers (52 percent), provide loans to college students (65 percent), put more cops on the streets (68 percent), and fund school lunches (77 percent). (*Kettl and DiIulio, 1995.*)

By comparison, downsizing the bureaucracy appears to be much easier and the results appear to be clearer. In addition, cuts can be made across the bureaucracy, leaving programs in place but with fewer staff.

So, we want it both ways--to have smaller government yet retain all of the programs we cherish. The result has been that few programs have been discontinued. Defense spending and foreign aid have been cut but most domestic programs and entitlements have proved to be very resilient. The issue, then, is not cutting government, but reducing the number of those who work for government. (*Kettl and DiIulio, pp. 42-45*)

The Federal Government had grown thick, particularly in the middle and upper ranks (*Light, 1995*) and it appears that downsizing has reduced some of this thickening. Most of the critiques of Federal bureaucratic downsizing are less positive. It is claimed that downsizing has sharply reduced worker morale, has resulted in a decline in institutional loyalty, and has impaired the institutional memory of many agencies. (*Jones, 1998*)

None of these points are profound or new. What is provocative is the assessment of downsizing as "hiding the bureaucracy." In the hiding the bureaucracy argument it is claimed that the Federal bureaucracy has not been really downsized, it has simply been relocated and hidden. Put differently, the only way bureaucracy could be saved was to hide it.

Although the data are very difficult to find, these estimates are thought to be approximately right. First, the civilian Federal civil service was just above 3 million in 1992 and is now just under 2.7 million, a drop of more than ten percent in six years. But, the funds for the paychecks of approximately 15 million workers can be traced directly to the Federal Government. For every one Federal civil servant there are almost 5 others in the hidden or shadow bureaucracy, working for government but not a part of government. These hidden bureaucrats are in the defense contract companies, the space contract companies, the beltway bandits, and in the non-profit and non-governmental organizations with governmental contracts. We know a very great deal about the Federal civil service. By comparison, we know very little about the hidden bureaucracy, which is five times larger. No agency or organization is charged with keeping track of the hidden bureaucracy. We don't know the size and composition of the hidden bureaucracy. We know little of the hiring practices and the diversity of organizations where these bureaucrats are hidden. What we don't know

and what we suspect is this: that the hidden bureaucracy has grown at about the same rate as the civil service has been downsized. (*Light, 1998*)

In all of the rhetoric and hyperbole of reinventing government, the Contract with America, and the claim that "the era of big government is over" it seems that our political leaders have found a way to save the bureaucracy by hiding it. It can be honestly claimed that the bureaucracy is able to provide more and better services for less, supporting the reinvention slogan of "a government that works better and costs less." Because there is little evidence of government costing less, we suspect that the most of the labors of those who once worked directly for government are now being done by contract in the shadow bureaucracy.

If this is true, the Federal Government has managed to have it both ways--to shrink the formal bureaucracy and at the same time continue the services provided by that bureaucracy. The hidden bureaucracy is exquisitely fragmented into dozens of agencies and thousands of contracts and no agency or organization is keeping track of it. And the hidden bureaucracy is so complex and so far back into the shadows that it is unreasonable to expect the media to make it transparent.

This is a virtual redefinition of public service in America. Traditional public service meant being elected to office or joining the civil service. Traditional public administration really meant government administration. The new public service includes traditional governmental organizations but is also understood to include not only the organizations of the hidden or shadow bureaucracy but institutions and organizations such as electric, gas, telephone utilities, health maintenance organizations, and the like--which have an obvious public purpose. (*Frederickson, 1997*)

Ethics in traditional public service involved codes of ethics, ethics oversight agencies, laws and regulations, transparency and forms of education for public service which required the study of ethics.

For the new public service the central question is one of values. It is clear that government employees are to pursue the public interest, as they see it, following Axiom Three. The value question is how to achieve the public interest when power is shared with organizations that have other interests and values. "There is powerful pressure in contracted-out programs for the contractor's goals to become the government's goals. It is tempting

for the government to buy what the contractor wants to sell. Indeed, the close relationship among contracting experts, both in and out of government, make it even more difficult to make the government's goals paramount." (*Kettl, 1988, p. 42*)

The pursuit of public policy usually means making difficult tradeoffs between competing values such as equality and efficiency. When such policy choices are even partially delegated to or controlled by the hidden bureaucracy, we are face-to-face with the issue of accountability. In the new managerialism project, the answer to this dilemmas is usually better or improved contract management, the subject to which we now turn.

Are we Training a Cadre of Government Employees to be Competent Contract Managers?

When governmental activities are carried out by non-governmental organizations, hierarchies are partially replaced by contracts between governments and contractors. "Instead of a chain of authority from policy to product, there is a negotiated document that separates policy makers from policy output. Top officials cannot give orders to contractors. They can only shape the incentives to which the contractors respond." (*Kettl, 1993, p.22*)

When contracts replace hierarchy the logic of management changes from long understood concepts or principles of administration such as coordination and staffing, to different concepts such as the formulation of requests for proposals or bids, the description and measurement of deliverables, systems of oversight, and the development of incentives and sanctions. Donald F. Kettl suggests that this form of public management has the smart-buyer problem. To deal with the smart-buyer problem it is essential that American government develop the capacity to be a smart-buyer. If it does not it will surrender authority and power to its private partners and "lose its ability to see the big picture and know how the pieces fit together." (*Kettl, 1993, p. 205*)

Is American government developing the capacity to be a smart-buyer? Kettl answers this way:

Unfortunately, as government's reliance on contracting out has increased, so too has its disinvestment in its own capacity. At one time, scholars of public administration celebrated the fact that the government employed world-class experts on virtually every issue: mapmakers, chemists, engineers, attorneys, housing economists, librarians, agricultural analysts, food safety specialists. The government no longer has such a range of in-house expertise. In part, that is because of quantum leaps in the complexity of governmental programs. No organization, public or private, can hope to be master of all of the knowledge that lies behind society's major post-World War II innovations. In part, the government's expertise has dwindled because the demand for expertise has dwindled because the demand for expertise is far greater than the supply of experts, and private employers can almost always outbid the government, leaving the government no choice but to enlist private partners to help it in the day-to-day conduct of its work. In part, the loss of expertise has resulted from the enthusiasm of some elected officials, especially in the Reagan and Bush administrations, for shrinking the government. The bureaucrat-bashing campaign of the late 1970's and 1980's supported that movement. (*Kettl*)

If Kettl's observations about the loss of capacity in the Federal government in the Reagan and Bush years are true, they would be doubly true of the Clinton years.

There is little evidence that the Federal government or American state and local governments are engaged in widespread training of contract managers. We do know that contract management is a growing field of government employment. We know that few college degree programs include course work in contract administration, not even masters degree programs in public administration or public policy, the degrees most closely associated with government administration.

There has been a sharp increase in the number and quality of masters degrees that emphasize nonprofit organization and management. It appears that there is a whole generation of highly educated and motivated young people prepared to work for the organizations that contract with

government organizations. It is important to remember that most nonprofit organizations depend primarily on government funding. It is also likely that engineering, technical, consulting and other firms and organizations that contract with government are stepping up their management competence primarily with persons who have studied engineering or business administration. This is being done at the same time that most governments are losing their management capacity. It appears, therefore that we not only have a smart-buyer problem, we have a smart-seller problem.

Surrendering ever more expertise and influence to contractors is more than merely transferring power from government to private interests. "It risks undermining the accountability of government. Voters elect officials to make policy, and elected officials delegate power to administrators. It is one thing for these administrators to delegate the delivery of goods and services to private partners. It is quite another for those private partners to have such an advantage in expertise over government officials that they, not government, are, in effect, the authors of public policy. In an ever more complex world, government must have an independent, smart-buyer capacity if it is to govern." (*Kettl, 1993, p.204*)

Most available evidence indicates that there has indeed been a shift in influence from government principals to private agents.

Governments and Markets

If there is a fundamental ingredient in the new managerialism recipe it is a belief in the supremacy of markets and competition over bureaucratic hierarchy as the way to organize and manage efficiently. This belief has one primary source in politics, the assumption that businesses are better managed than governments, because businesses must compete in the market place. This belief has another primary source in academics or in theory, the ascendancy of the logic of economics and of the so-called public choice perspective in public policy and administration. There is little doubt that the public choice perspective is now dominant in both the study of public policy and the study of public administration. The popular "reinventing government" movement and its application in the Federal Government, the National Performance Review, are a combination of business oriented politics and public choice theory.

At one level the "competition prescription" argues that government agencies should be operated in business-like ways, with efficiency as their objective. (*Kettl, 1993*) At another level, the "competition prescription" argues that many governmental functions, such as public schools, would be more effective if they were, in fact, actual business.

For three reasons the capacity of market competition to increase efficiency are exaggerated. First, market competition assumes an open and even playing field in which government will buy the best product at the lowest price. In fact, most of the products and services bought by governments are purchased in highly imperfect markets, influenced by politics, the lack of competition and serious information asymmetry favoring sellers. The logic of a genuine market seldom applies to the goods and services government wish to buy. (*Kettl, 1992*) Second, the logic of the market misrepresents the nature of competition even in the private marketplace. "Neither buyers nor sellers in private markets fully welcome competition because the uncertainty it produces complicates their lives. The lesson of complex private markets, Oliver Williamson (*1985*) observed, is that large organizations seek to reduce their uncertainty more than they seek low prices," (*Kettl, 1993, p.200*) There would be no better example than the market antics of Microsoft in the 1990's. Third, and most important to the argument here, is that contracting relationships between buyers and sellers, "in both the public and private sectors," are fraught with conflict of interest and oversight or monitoring problems. (*Kettl, 1993, p. 201*) Buyers, particularly government buyers, simply cannot assume that sellers will have the same goals and values they have.

The biggest ethical issue associated with markets is not fraud, kickbacks, and bribery, although those can be big issues. The biggest issue is fairness. Fairness is not a concept or idea that fits into the logic of either perfect or imperfect markets. But fairness, both procedurally (as in due process) and in outcomes, is often the core issue in government. In the private market the question should be: "is this efficient?" In the public sector the question is often: "for whom is this efficient and for whom is it inefficient?" The private market is designed to be efficient but not to be fair. Democratic self-government is designed to at least try to be fair, and hope to be efficient. As American governments at all levels have embraced market logic they have become less fair. Is this not an ethical issue?

Conclusions: The Ethical Consequences of the New Managerialism

To bring together the features of the new managerialism project and to consider their long range ethical consequences, fast forward to the year 2008. It is my prediction that in 2008 this ancient saying will have come to pass: "today's problems are yesterdays solutions." The solutions of our time--deregulation, privatizing, downsizing and market competition--will author the problems of 2008 and those problems will be primarily ethical.

Some evidence is already coming in. It was exactly twenty years ago that the United States Congress voted to abolish the Civil Aeronautics Board which regulated air routes, fares and the like. Within a few years a host of other regulated industries would be deregulated--telephones, banking, trucking, cable television, pharmaceuticals and others. The definitive study of the time concluded that deregulation was universally accepted as to be "espoused more or less automatically, by a wide range of office holders and their critics." (*Derthick and Quirk, 1985*) With the passage of time there have been enough ordinary and ethical disasters to cause a rising cry of reconsideration. These ethical breaches include:

- the 130 billion dollar bail out of the savings and loans, costing each American family thousands of dollars--the direct costs of deregulation and corruption being shifted to taxpayers.
- Individual large airlines virtually controlling travel at several major airports. Long distance fares between major hubs are lower while service to smaller locations is less frequent and more expensive.
- thus far it appears that the primary beneficiary of electric deregulation will be large industrial consumers, very likely at the expense of residential electric rate payers.
- telephone deregulation has resulted in deteriorating service and it is getting more expensive.
- the e-coli outbreaks is evidence that food inspection is woefully inadequate. (*Worth, 1998*)

Incidents and episodes such as this will increase over the coming decade and there will be a step-by-step process of re-regulation. The primary impetus for this will be the issue of fairness. People understood that government cannot always protect their food and their environment. But they have little tolerance for unfairness, and deregulation is resulting in widespread unfairness.

Although there is little evidence thus far, I believe it is a safe prediction that the growth of non-capital contracting will slow and that there will be a combination of mixed results (we are already seeing this in contracts for schooling) and scandals which will cause a drawing back from contracting. The issue here will be accountability. Who will be accountable when contractors fail to perform or when they steal or cheat?

It is also likely that the convenient little lie contained in the political rhetoric of smaller government, when it is evident that government is growing through the use of the contract bureaucracy, will start to unravel as people come to understand the dynamics of the shadow bureaucracy. We are making little progress in developing even a simple understanding of this new form of public service, let alone ethical systems and standards for it. The simple number of transactions between governments, contractors and subcontractors, will multiply the possibilities of corruption to the point that there will almost certainly be both big and little scandals. When that happens the value and usefulness of a qualified professional public service will be appealing to policy makers, as a way to fix the problems of accountability and corruption.

Rewind to the present. If these predictions are accurate, what should be done now? Should we advise our leaders to back away from the new managerialism out of a concern for our ethical future? Yes, at least to the extent that we make it clear to our leaders and to those among us who are so strongly advocating the new managerialism, that it is likely that the efficiencies it buys are being purchased at a dear price in ethics.

Notes

1. There is a literature, particularly in economics, that suggests that regulations and red tape actually foster corruption. (*Slesinger and Isaacs, 1968, p. 55; Rein, 1983, p.9; Jackson and Maughn, 1978, p. 138*) Standard regulatory tools such as licenses, permits, approvals, inspections, systems of oversight, fines and prosecutions are major regulatory instruments. They all involve points of transaction, so it could be logically argued that the more regulation, the more points of transaction and, therefore, the more opportunities for corruption. It appears in some cultures that elaborate regulatory processes are used by bureaucrats to extract bribes. (*Kim, 1997*) It is argued by Anechiarico and Jacobs (1996) that there have been so many cycles of corruption, lawmaking, and regulations in New York City that "the pursuit of absolute integrity," has rendered the city government ineffective. The challenge is to have enough regulations to get the job done and an ethical public service carrying out or enforcing those regulations. Wholesale deregulation in the presence of a culture of administrative corruption will not help.
2. There is no small definition problem associated with privatization and contracting out. In much of the world privatization is understood to mean the selling of government programs (railroads, coal mines, airlines, businesses, utilities) to the private sector, which then owns and operates them for a profit. In the United States there are some examples of privatization of this sort, but not many; the reason being that virtually all of the functions being privatized in Europe and particularly in the states of the former Soviet Union were always private in the United States. There are exceptions, such as some commercially owned electric utilities, the Tennessee Valley Authority, The Colombian Basin Project and the like. There are lively discussions of the possible actual privatization of these and other government functions such as airports, but such privatization is very rare. In the American context, then, privatization usually means contracting-out government activities to private (corporate), non-profit, or non-governmental organizations. Thus it is that the term privatization is used to describe contract prisons, certain welfare-to-work systems, and the management by contract of many

public functions. For a thoughtful consideration of some of these distinctions see (*Kobrak, 1996*)

3. Because of the Civil Service Reform Act of 1978, President Reagan had many more high level political appointees than his predecessors, and used a political litmus test and a selection process primarily based on political support. This has come to be known in American public administration as "high level spoils." (*Newland, 1987*) At a meeting of the top political appointees and civil servants, Pierce pointed to the political appointees and said, "This is the board of directors...We make all the policy decisions...You are to carry out those orders and not ask questions." (*McAllister and Spolar, 1989, p.A-10*)

References

- Anachiarico, Frank and James B. Jacobs. 1996. The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective. Chicago, IL: University of Chicago Press.
- Derthick, Martha and Paul Quirk. 1985. The Politics of Deregulation. Washington, DC: The Brookings Institution
- Fleishman, Joel L. 1981. "Self-Interest and Political Integrity" in Joel L. Fleishman, Lance Lieberman and Mark H. Moore, Public Duties: The Moral Obligations of Government Officials. Cambridge, MA: Harvard University Press, pp. 52-91.
- Frederickson, H. George. 1997. The Spirit of Public Administration. San Francisco, CA: Jossey-Bass.
- Gilman, Stuart. 1997. "Realignment and Public Sector Ethics: The Neglected Management Problem in the New Public Administration," a paper presented at the Symposium on Public Sector Ethics, organization for Economic and Community Development, Paris, France, November.
- Gore, Al. 1995. Common Sense Government: Works Better & Costs Less. Third Report of the National Performance Review, Washington, DC: U.S. Government Printing Office.

-
- Henriques, Diana B. 1986. The Machinery of Greed: Public Authority Abuse and What to Do About It. Lexington, MA: Lexington Books.
 - Howard, Philip K. 1994. The Death of Common Sense: How Law is Suffocating America. New York: Warner Books.
 - Jackson, Donald W. and Ralph B. Maughn. 1978. Introduction to Political Analysis: The Theory and Practice of Allocation. Santa Monica, CA Goodyear Publishing.
 - Johnson, Haynes. 1991. Sleepwalking Through History. New York: Anchor Books.
 - Jones, Vernon Dale. 1998. Downsizing the Federal Government: The Management of Public Sector Workforce Reductions. Armonk, NY: M. E. Sharp.
 - Kaufman, Herbert. 1977. Red Tape: Its Origins, Uses and Abuses. Washington, DC: The Brookings Institution.
 - Kettl, Donald F. 1988. Government by Proxy: (Mis?)Managing Federal Programs. Washington, DC: Congressional Quarterly.
 - Kettl, Donald F. 1993. Sharing Power: Public Governance and Private Markets. Washington, DC: The Brookings Institution.
 - Kettl, Donald F. and John J. DiIulio, Jr. 1995. Cutting Government. A Report of the Center for Public Management, May 22, 1995. Washington, DC: The Brookings Institution.
 - Kilpatrick, James J. 1989. "It's Reagan's Mess at HUD," Washington Post. (August 11) A-25.
 - Kim, Myoung-Soo. 1997. "Regulation and Corruption," in H. George Frederickson and Youn Hyo Cho editors. The White House and The Blue House: Government Reform in the United States and Korea. Lanham, MD: University Press of America. pp. 253-269.
 - Kobrak, Peter, 1996. "Privatization and Cozy Politics," Public Integrity Annual. V. I, 1996, pp. 13-22.

-
- Light, Paul A. 1995. Thickening Government: Federal Hierarchy and the Diffusion of Accountability. Washington, DC: The Brookings Institution.
 - Light, Paul A. 1998. Comments at the Alan K. Campbell Institute Symposium, The Maxwell School of Citizenship and Public Affairs, Syracuse University, May, 19.
 - McAllister, Bill and Chris Spolar. 1989. "The Transformation of HUD: 'Brat Pack' Filled Vacuum at Agency," Washington Post, (August 6), pp. A-1 and A-10.
 - Milward, H. Brinton and Keith G. Provan and Barbara A. Else. "What Does the Hollow State Look Like?" in Barry Bozeman, editor, Public Management. San Francisco: Jossey-Bass, pp. 309-322.
 - Newland, Chester A. 1987. "Public Executives: Imperium, Sacerdotium, Coloquium? Bicentennial Leadership Challenges," Public Administration Review. Volume 47, pp. 45-55.
 - Okun, Arthur M. Equality and Efficiency: The Big Tradeoff. Washington, DC. The Brookings Institution.
 - Pastor, Andy. 1995. When the Pentagon Was For Sale: Inside America's Biggest Defense Scandal. New York: Scribner.
 - Pound, Edward T., and Kenneth H. Bacon. 1989. "Housing Subsidy Plan for the Poor Helped Contributors to GOP," Wall Street Journal (May 25) pp. A-1 and A-12.
 - Rein, Martin. 1983. From Policy to Practice. Armonk, NY: M.E.Sharpe.
 - Rom, Mark Carl. 1996. Public Spirit in the Thrift Tragedy. Pittsburgh, PA: University of Pittsburgh Press.
 - Rosentraub, Mark S. 1997. Major League Losers: The Real Cost of Sports and Who's Paying for It. New York: HarperCollins.
 - Steinbach, Carol. 1989. "Programmed for Plunder," National Journal. (September), pp. 2, 259-2, 262.

-
- Salamon, Lester M., Editor. 1989. Beyond Privatization: The Tools of Government Action. Washington, DC: The Urban Institute Press.
 - Slesinger, Ruben and Asher Isaacs. 1968. Business, Government and Public Policy. Princeton, NJ: D. Von Nostrand.
 - Thompson, Dennis F. 1993. "Mediated Corruption: The Case of the Keating Five," American Political Science Review. Volume 87, No. 2 (June), pp. 369-381.
 - Williamson, Oliver E. 1985. The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting. New York: The Free Press.
 - Worth, Robert. 1998. "Why Deregulation Has Gone Too Far," The Washington Monthly. V. 30, July/August, pp. 10-16.