
Contracting and Government: Some Further Thoughts

Edward J. Clynch
Mississippi State University

Abstract

Because Frederickson's discourse on privatization is congruent with my own thoughts, this response is an effort to address two issues not directly covered in his paper: (1) the impact of privatization on the tension between professional administration and politics and (2) the financial implications of privatization for governments and the organizations that compose them. In particular, my comments focus on the major privatization tool, outsourcing or contracting out (Kettl, 1993).

Professor George Frederickson presents an interesting discourse on privatization in his paper entitled, "Public Ethics and the New Managerialism." Since I agree with his insights, this response is an effort to address two issues not directly covered in his paper: (1) the impact of privatization on the tension between professional administration and politics, and (2) the financial implications of privatization for governments and the organizations that compose them. My comments focus on the major privatization tool, outsourcing or contracting out (Kettl, 1993). As Kolderie (1986) points out, in the United States, "privatization means contracting with private producers for services for which government remains responsible and for which government provides the finances to cover costs." Before addressing these issues, let me begin with a few observations about the dynamics of the privatization movement.

The impetus for privatization stems from two streams of thinking. Many advocates see contracting out as a way to reduce the size and scope of government. These individuals make several assertions. Government has strayed from dispensing basic public goods like defense and public safety into dispensing services also furnished by the private sector. Government delivers inferior services, and low income citizens, who depend on government programs like housing and health care, resent their mediocre quality. The middle and upper classes dislike the diversion of income into

activities best left to the private sector. In their view government programs begin as responses to client groups, but they soon are seen by the recipients as entitlements (*Kolderie, 1986*).

A second stream of thinking argues that efficient and effective services require assigning service production to the private sector. Private firms operate with flexibility while rigid rules and procedures make it difficult for government to deliver quality services at a reasonable price. Private contractors operate with limited fringe benefits. In response to public employee pressure, governments provide hefty fringe benefit packages. Private firms may hire and fire with relative ease and provide bonuses and incentives to outstanding employees. Government organizations are limited by rigid work rules and pay scales. Private firms use flexible buying practices while government units operate within cumbersome purchasing rules (*Kettl, 1993*).

As Professor Frederickson observes, public-private partnerships have existed for decades. In the 1960s contracting moved beyond capital projects such as interstate highways into social programs like Model Cities and Social Security Title XX activities. Local government contracting tripled in the 1970s and spread into a diversity of services. Today more than 50 percent of state and local social services are furnished by contractors. In some instances, such as the Job Training Partnerships, governments contract with for-profits, non-profits, and other public units for service delivery (*Kettl, 1993*).

Tension Between Politics and Professional Administration

A major theme in public administration literature concerns the conflict between administration based on political considerations and administration predicated on professional criteria. Political considerations lead to administrative decisions responsive to the partisan needs of elected officials. Professional criteria advance administrative decisions based on knowledge and expertise. Patronage hiring decisions and purchases from political supporters reflect politics. Civil service systems and open and competitive purchases from the lowest bidder reflect professional administration. Pollution regulations denote politics when they help supporters of elected officials. Conversely, pollution regulations exhibit professional administration when they are predicated on scientific knowledge. Beginning with the progressive movement, formalized

procedures were adopted in the areas of human resources and purchasing to ensure merit decisions rather than political decisions. Civil service hiring also limits pollution regulator positions to qualified professionals, and tenure provisions give them the freedom to develop guidelines guided by scientific criteria. As Professor Frederickson pointed out, standards of professionalism are not without costs. Human resource and purchasing protections may create inefficiency and delays. The independence of professional administrators may reduce responsiveness to elected officials.

Professor Frederickson and many others correctly highlight critical linkage between government and contractors through well-drawn and adequately monitored contracts. The use of private firms instead of government employees makes it more difficult for elected officials to retain control of services and to respond to constituent complaints. I want to focus on another aspect of the linkage B the political dimension. The normative model calls for the awarding of contracts to the lowest responsible bidder. The awarding of many contracts does not fit this model. Instead many service providers operate in the political arena. Evidence suggests that political influence rather than pure economic arguments influence decisions of elected officials to contract-out or stay in-house. Potential contractors make the case both in open hearings and behind the scenes that they will guarantee the required level of service at less cost (*Halachmi and Boydston, 1994*).

One cost saving issue involves competitiveness among contractors. Without competition government trades a monopoly private supplier for a monopoly public organization (*Kolderie, 1986*). In fact some local governments have approached potential bidders and even helped potential contractors organize in order to create a bidder (*DeHoog, 1990*). Contract renewal also results in an interesting situation. Both government and service recipients may show little interest in disruption. Thus, the existing contractor may gain leverage in efforts to retain the contract. Overall, the literature indicates that many single source contractors exist, and this situation raises questions about the maximization of governmental cost savings.

Connections to elected officials also allow private providers to influence the contents of the contract. Provisions may be added, subtracted, or changed to meet their needs even if the accommodations are not in the best interests of the targeted clients (*Kettl, 1993*).

Kolderie (1986) makes a distinction between the provision and the production of public services. Provision occurs in the political realm and involves decisions about what services to provide, who will pay for the services, taxpayers or users, and who will produce the service. Production consists of providing the service to clients. Government may assign production to government organizations or to the private sector. Furthermore, government may contract with more than one producer to supply the service. The provision/production division assumes the existence of the politics/administration dichotomy with political officials allocating values and administrators using their expertise to implement these values. Do contracts impact the tension between politics and professional administration? In some cases yes, although some writings on privatization might lead one to believe otherwise.

The reality of contracting out may find a breakdown in the provision/production dichotomy just as studies of public sector administrators do not find a complete wall of separation between politics and administration. Hospital administrators who operate a community= public hospital under a long-term lease will make provision decisions such as which new medical services to add and which ones to delete. While the key to successful privatization may be long term stability and a well-written contract, situations will change over time and private producers will make Aprovision@ decisions out of necessity. Contractors also may find themselves subject to lawsuits for policy and managerial decisions. The inability of aggrieved parties to impact changes through the executive and legislative branches can result in the use of the courts as an alternative route for responsiveness (Moe, 1987).

At the same time public sector administrators may grant political favors that cause inefficiency and ineffectiveness, but private producers who operate under a contract follow the Aletter of the law,@ and thus maintain efficiency and effectiveness. For example, a city refuse department may respond to requests from elected officials to pick-up large items normally left to private haulers. A private contractor would decline and cite that the contract limits the size of items. In essence, the contract gives the private firm the best of both worlds. Contractors possess the independence to ignore demands for political favors and enjoy the ability to produce services guided by professional standards. Private firms operate without burdensome due process rules.

On the other side of the coin, contractors may find government penetration into their operations. Contracts may extend reporting requirements, accounting standards, and wage levels to private producers. The Davis-Bacon wage feature for federal projects provides one example of this kind of penetration (*Kettl, 1993*). In essence, governments demand responsiveness, and they structure requirements that limit contractor flexibility and may reduce efficiency. For the same reason, government agencies find their efficiency curtailed.

The shift in power from professional administrators to both private providers and elected officials represents another impact on the tension between politics and professional administration. This direct linkage may make contract management more difficult since contractors may intervene through elected officials. In essence, the potential exists for a return to administrative decisions based on responsiveness rather than the judgment of professionals. For instance, elected officials may override professionals about the level of service delivery when a contractor argues for a lower and less costly level.

Budgets and Contracting

Saving money functions as the major drawing card for replacing in-house service delivery with a non governmental provider. During the budget process privatization brings actors to the table who exert influence over budget decisions (*Halachmi and Boydston, 1994*). Private social service deliverers hold a stake in program continuation and often work within the political arena to keep the money flowing (*Kettl, 1993*). Many public sector critics argue that agencies operate as budget maximizers who fight to retain programs. It seems clear that transferring program administration to the private sector does not necessarily remove pressure to continue the money flow.

Contractors may reduce labor costs with lower wages, limited fringe benefits, simpler rules concerning hiring and firing, and assigning workers to several undertakings (*Kettl, 1993*). At the same time, governments may not possess information that allows meaningful per-unit cost comparisons. Furthermore, public entities must make sure that apples are not being compared to oranges. Will the contractor provide the same level of benefits or will hard-to-serve clients fall through the cracks? For instance, would a

counseling agency limit time with difficult cases in the name of efficiency (Halachmi and Boydston, 1994)?

The financial spillover effects on other aspects of the governmental organization may not be considered during decisions to contract-out or stay in-house. Fee-for-service operations may operate as cash cows for other aspects of government. In addition, for administrative units contracting may reduce revenues and increase demands. For instance, operating units may provide a percentage of their budgets to central administrative functions such as accounting and personnel. Keeping these administrative infrastructures functioning may require an increase in assessments on remaining units. Furthermore, government may be faced with the need to pay the new expense of contract management.

Conclusion

The new managerialism described by Professor Frederickson may be with us for the foreseeable future. Government has not heeded Ronald Moore's (1987) call for drawing a line in the sand between true public sector functions and secondary activities. Most persons view housing our increasing prison population as a primary function. At the same time, the lack of private prison accountability may cause public unease. How long will problems in these facilities exist before demands surface to rethink contracting this service? Several studies also raise questions about cost savings. Will the public wonder about the worth of tradeoffs if costs for privatized services continue to escalate? While privatization will remain, public perspectives may cause some flows back to government service production.

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