

# A Best Practices Review: Privatization of Local Government Services - December 1996

## Summary

Provisions contained in 1995 Wisconsin Act 27, the 1995-97 biennial budget, direct that the State Auditor periodically review local government operations to identify cost-effective techniques, or "best practices." In contrast to typical audits, which identify problems or weaknesses in government operations, best practices reviews seek to assist local officials by publicizing successful approaches to solving problems faced by local governments. With the assistance of a five-member advisory council, efforts to privatize local government services was selected as the subject of Wisconsin's first best practices review.

While privatization refers to various approaches that incorporate private-sector market incentives into the delivery of public services, such as discontinuing government services that can be purchased from the private sector or replicating market features in the design of government agencies, the most common form of privatization involves contracts between local governments and private vendors. Services for which local officials commonly reported contracting include solid waste collection, recycling, building maintenance, building inspection, and road and street repair services. Therefore, we identified issues for local governments to consider when assessing whether to contract for public services, as well as the best contracting practices to follow.

To determine whether contracting will be cost-effective, best practices require that contracting decisions be based on a detailed comparison of costs for government service delivery and contracting costs. Costs for government service delivery include both direct costs, such as staff salaries, materials, and equipment, and indirect costs associated with management and administrative support functions. Contracting costs include the fees paid to or revenues retained by the contractor, as well as costs for selecting a vendor, converting to privately provided services, and contract administration. In addition, cost comparisons must consider the extent to which future costs will change.

The best contracting practices of local governments also balance efforts to reduce government costs with efforts to ensure service needs and other policy objectives, such as service quality, control, and service stability, are also met. An awareness of market conditions and the willingness of private vendors to compete for a government contract may influence comparisons of costs and of the advantages and disadvantages of service alternatives in meeting other policy objectives. Because federal and state laws and other legal obligations may limit the service delivery options available, a review of such requirements will assist local officials in identifying practical service delivery options.

If local officials determine that contracting is the best option for delivering public services, following the best contracting practices will help ensure success. Summaries of the best practices used by Wisconsin counties and municipalities for selecting a vendor, developing a contract, and monitoring contract implementation follow. The body of the report discusses the experiences of several local governments to illustrate these best practices.

### **Best Practices for Selecting a Vendor**

#### **Develop Service Specifications**

Develop detailed written descriptions of:

- service tasks to be performed and the tangible products to be delivered;

- responsibility for maintaining equipment or facilities; and
- the standards by which performance will be measured.

### **Recruit Vendors**

Design a request for proposals or bid request that provides potential vendors the information necessary to develop realistic proposals and identifies the information vendors must provide, such as:

- a description of how the vendor intends to perform the required services as specified;
- an estimate of the cost of providing the required services in the format requested;
- an inventory of equipment that will be used to provide the service, if applicable;
- evidence of financial viability; and
- evidence of professional qualifications and experience, including references from entities for which the vendor has supplied similar services.

### **Evaluate Potential Vendors**

Objectively evaluate vendor proposals based on established criteria, ensuring:

- that the persons charged with evaluating proposals have a clear understanding of service needs and policy objectives;
- that cost objectives are balanced with the need to meet minimum levels of service and quality; and
- that final approval from elected officials or a designated government manager is required.

## **Best Practices for Developing a Contract**

### **Describe Service Expectations**

Include detailed descriptions of the service a vendor is expected to provide, as well as the standards against which quality will be measured.

### **Describe Administrative Requirements**

Include a detailed description of administrative expectations and responsibilities, such as:

- the contract period and the conditions under which the contract may be extended;
- the procedures for calculating and making compensation, including limits on total compensation and the services to be delivered before compensation is received;

- insurance requirements;
- requirements for collecting and reporting information on service quality, as well as provisions specifying access to service-related records and service sites; and
- procedures for the resumption of government-delivered services or the delivery of service by another provider.

### **Enforcement Provisions**

Develop provisions that will protect the public interest if services do not meet expectations or if disputes arise between the vendor and public officials, such as:

- requirements for performance bonds;
- penalties for non-performance, including a description of the conditions under which penalties will be enforced and how penalties will be applied; and
- procedures authorizing contract termination and specifying the conditions under which a contract may be terminated.

## **Best Practices for Monitoring Service Delivery**

### **Methods for Monitoring**

Establish a system for monitoring contract activities and performance on an ongoing basis, including identifying the tools that will be used to measure and assess contract compliance and the process for collecting information, such as routine communication with the vendor and constituents.

### **Responsibility for Oversight**

Assign responsibility for oversight to a specific individual or entity and ensure that those charged with contract oversight have the necessary expertise and authority to assess service quality and enforce contract provisions.

Finally, because service needs and conditions affecting service delivery may change over time, contracting decisions must be re-evaluated periodically to determine whether contracting continues to be cost-effective. New service delivery systems, such as those that require public employees to compete with private vendors for public contracts, are being used with increasing frequency by local governments and may expand the options against which contracting can be compared.

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