

[Invited Commentary on Brown, Potoski, and Van Slyke's, "Managing Public Service Contracts: Aligning Values, Institutions, and Markets"](#)

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Article:

Since contracting for public services has become a primary tool in the toolkit of elected and administrative officials over the last two decades, it is heartening to see the growth of interest and research on the subject. The Brown, Potoski, and Van Slyke article rightly directs our attention to the key issues and research on contracting that go well beyond the political debates and the guides for practice that were the usual fare in the discussions in the 1980s. The authors make good use of the rich research, some of which is their own, on contracting for services, particularly at the local levels.

They present a comprehensive framework for studying and practicing contract management, clarifying and explaining the values, institutions, and markets that influence how contracting choices are made. This is a worthwhile effort, and I find the research and approach both comprehensive and useful. I especially appreciate the connections they make between the theory and the practice of contracting, which is often the most difficult challenge in this realm of study.

Nonetheless, I would not let the opportunity pass to do some explaining (and complaining) of my own. In this commentary, I do not aim to minimize the authors' approach or dispute the three primary components of their framework. Values, institutions, and markets are the principal components of a contracting system that must be analyzed in a fairly sophisticated way to understand the practices and results. I point out, however, that their effort to present a rational framework for contracting decision making underplays certain political realities in contracting, as well as overlooks certain nuances that practitioners should understand.

As a political scientist and a public administrationist with great sympathy for economic reasoning, I fear that the political approach and research on political decision making have not made much of an impact on the study of contracting out for services. Nor, with few exceptions, have political scientists examined contracting from a broader political framework—one that goes beyond legislator-administrator relationships and program implementation.

While the public choice economists were among the first to promote privatization and contracting out, public administration scholars, many of whom initially resisted the practice and research about it, embraced it in their research agendas in the 1990s, often as part of a New Public Management effort. What has been slower to develop until recently is how contracting out can be understood as part of the shift in the broader political system in the United States and elsewhere to a less hierarchical, often more fluid governance system, with multiple actors playing various roles. In particular, the private sector's roles as political actors, contractors, and interest groups affect contracting choices and performance. Certainly Kettl (1993, 2002), among others, has included these concerns in his work on new governance systems, but too often scholars have downplayed the broader political and governance implications of contracting.

This article by Brown, Potoski, and Van Slyke might encourage students and scholars to understand contracting as merely a management process, in which various choices can be made in a rational and orderly way. (Perhaps this is a potential landmine in any effort to lay out a comprehensive approach that relies on strategic management and economics for its literature base and is directed toward the public administration audience!) But contracting for services in many environments can be a messy, confusing, and conflictual process fraught with opportunism, both political and financial.

While the authors acknowledge the complications, and Van Slyke's prior research in particular (e.g., Van Slyke 2003; Van Slyke and Hammonds 2003) has contributed to the understanding of these political forces and complications, I wouldn't want anyone who reads this piece to be misled into thinking that the pressures and processes are necessarily manageable. Certainly, the key concepts presented in this article would prepare managers for many of these challenges, and suggest ways in which stakeholders and managers deal with political realities. Yet the framework seems just too tidy.

Perhaps my view has become more jaundiced in recent years, with cases of contracting scandals and opportunism becoming almost weekly media fare, from the federal government (e.g., Katrina response and Iraq reconstruction) to state and local government (e.g., North Carolina's affordable housing scandal). How did the values get so skewed, the institutions so limited in managing the process, and competitive service markets so irrelevant? How does opportunistic behavior so often get rewarded? These notorious cases of contracting gone amuck are likely to be only the tip of the iceberg. Yet, they force us to question why contracting systems can lead to such huge financial and management failures in large and professional organizations where competent and ethical public managers were employed.

The three central factors that Brown, Potoski, and Van Slyke rely on for the framework—values, institutions, and markets—require some additional explanation or nuances that may lead us to understand how the political and organizational environments of contracting can complicate or even overwhelm the procedures of a rational contracting process.

First, in discussing the values of contracting, the authors mention these: "effectiveness, efficiency, accountability, responsiveness, equality of treatment, and service quality, to name a few." Yet they fail to name some core political values that often are present in discussions about contracting—economy (cut costs and taxes if at all possible), a pro-business philosophy (use private contractors whenever possible), and an election coalition-building value (strengthen opportunities to support powerful business interests or nonprofits).

Unaware practitioners may not detect immediately the subtle or even obvious pressures to contract out or to award contracts to particular organizations. Yet they should be able to identify and then balance these values along with those mentioned, or challenge elected officials to provide a clearer justification for their decisions. Additionally, managers must be aware of the potential for powerful stakeholders and long-term contractors to bypass or subvert the contracting process. They can do so through developing strong relationships with political officials who have the power to overturn or change the normal contracting procedures, whether in award decisions or contract management and auditing. They also should have some legal and procedural tools at their disposal to challenge political and organizational pressures to subvert the normal procedures.

While competition for contracts often is stated as a primary reason for efficiency gains, we do not often hear how political associations or coalitions of contractors also can promote contracting out due to self-interest. Both nonprofit agencies and businesses are certainly more likely to organize effectively with a financial incentive at stake than do clients or the public at large. Nonetheless, these organizations can mobilize clients at times to support their contracts or oppose threats to continuation of the services they provide.

Second, the authors' discussion of institutions (especially public law and organizational arrangements that set the structure and process of contracting) emphasizes the importance of the rules and the types of contractor agencies, from public to nonprofit to for-profit businesses. Generally, the discussion about the distinctions

among these types of vendors is useful. Yet, one point that needs to be stressed is that the nonprofit sector is also a mix of types of agencies, with a range of incentives and accountability measures. Some of these agencies can be opportunistic in their behavior to ensure survival, growth, personal ambition, and even higher income. This can produce innovation, perhaps more often in service delivery methods than in cutting costs. But, as the authors note, it can also result in the triumph of private over public interest.

Another, and more important, point missing in the authors' discussion of institutions are the realities of organizational culture, trans-action costs, and resource constraints. At times, institutions have to use shortcuts and "satisficing" approaches in their contract decision making, as well as in the monitoring and reporting phases. Contracting personnel also may have somewhat conflicting values and goals within the contracting system, choosing expediency and responsiveness to political pressures over thorough, often time-consuming procedures that take advantage of service markets. Moreover, while program managers may have a better sense of the service needs, service delivery methods, and characteristics of quality service delivery, they often do not receive the staff and or have the time to devote to contract administration and monitoring. The process, of course, is unlikely to meet efficiency, effectiveness, and quality goals without adequate resources. These are needed to make initial contracts, work with new contractors, monitor all contractors carefully, and thus impose credible threats of contract termination if performance fails to meet service specifications.

Third, the authors rightly point out that contracting for services may require additional transaction costs to overcome weak markets. However, their point that transaction costs are particularly high in relational contracting may be misleading. Even in strong and somewhat competitive service markets, especially when new contracts are announced, competitive bidding involves significant transaction costs for, among other things, planning the contract specifications, making the announcements, conducting the competitive proposal process, and holding pre-proposal meetings (DeHoog 1990). Relational contracting does have some disadvantages, as the authors suggest, but it can avoid some of the costs encountered in competitive bidding. Moreover, if a particularly reputable and experienced agency is chosen, the process has some significant benefits in weak markets and new service areas (DeHoog 1990).

Conclusion

In summary, the Brown, Potoski, and Van Slyke article on contracting helps to organize and develop a comprehensive framework for looking at contracting for services in ways that are quite valuable to scholars and practitioners. Yet some of the management nuances, as well as the political and governance issues raised by frequent use of contracting, could be expanded to build a more complete and realistic picture.

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