



**CONTESTABILITY:
The Uncontested Champion of
High-Performance Government**



**ANDREA MROZEK
DON McIVER**

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(Paper #5)

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EXECUTIVE SUMMARY

Municipalities provide a range of expensive services often without knowing whether they are receiving full, efficient value for the public money they spend. Yet, at a time when municipal governments are struggling to make ends meet and to provide acceptable levels of services, the status quo in services provision is no longer an option. Municipal governments need to ascertain whether the cost of a service is justified, and then seek to provide that service at the most efficient price.

One way of providing services more efficiently and at lower cost would be to make them “contestable” — that is, to open up the bidding on services contracts to all interested providers, whether public, private, or a combination of the two (unlike “privatization”, which simply transfers the ownership of public assets into private hands). Contestability would allow municipalities to compare the costs of producing services in-house and of producing them in other ways. Armed with such information, municipal governments would perform better and provide better value for taxpayers as consumers — in short, they would achieve what is often referred to as “high-performance government”.

Adding contestability to the provision of municipal services would require five essential steps:

- identifying whether the service needs to be provided at all, and if it does, whether it needs to be provided by government;
- accurately specifying all the elements of providing the service as well as their true costs;
- receiving properly priced offers from each bidder, inclusive of all true costs;
- selecting the option that provides the best value; and
- monitoring the contract after the best bidder has been chosen to ensure that the service is satisfactorily provided.

Each of these steps is part of a process that improves clarity in decisionmaking and provides powerful incentives for politicians, municipal administrators, municipal employees, and private interests to seek the greatest value for citizens and taxpayers.

Contestability has already been implemented successfully in other countries, where it is reducing costs, improving the quality of services provision, making subject expertise more broadly available, and permitting a growing number of smaller municipalities to offer their residents a greater number of quality services. Often, government legislation is needed to kickstart the process of contestability. In New Zealand, a series of laws enacted in the 1980s and 1990s helped establish the concept of high-performance government at the national and local levels and turn that country’s poor economic performance around.



In Canadian examples, many municipalities have introduced contestability in the provision of waste collection and snow removal services, while the Edmonton public school system has decentralized decisionmaking and much of the spending power to individual schools.

A number of myths have grown up around contestability. Critics charge, for example, that the savings achieved are at the cost of replacing well-paid employees with low-cost contract workers, that contestability merely leads to a battle between public and private interests (which the private sector always wins), that it inevitably leads to privatization, and that it is bad for labour relations. A closer examination of the effects of contestability, however, easily dispels such myths. Numerous studies reveal that municipalities have obtained savings, not through lower wages, but through the application of a broad set of managerial initiatives to improve cost performance. With contestability, a municipality becomes the disinterested purchaser of services at the best cost from the most efficient provider, and in practice that can include groups of unionized workers.

The introduction of widespread contestability in Canada faces several obstacles: resistance by organized labour, the competitive advantage of current public service providers, a possible lack of competitive bidders, resistance from local administrators, and worries about the stability of contracts when governments change. Yet, these barriers can be overcome. At a time of intense competition for every scarce tax dollar, wasteful spending in one sector means depriving another of needed services. The politician who is sensitive to that fact should be able to make an effective case for contestability. Provincial governments could help by requiring, for instance, that municipalities open at least some portion of their contracts to competitive bidding, as has been undertaken with success in other countries. Decisionmakers at the municipal and provincial levels need only summon the courage to act.

INTRODUCTION

The idea of providing municipal public services through competitive tendering — or “contestability” — became popular in the 1950s when cities in southern California began to recognize its inherent advantages. Now, Britain routinely uses competitive tendering at the local government level, and it is a successful facet of municipal services delivery in such big US cities as Indianapolis, Philadelphia, and Phoenix. These policies have produced results — the cities using them have experienced significant improvements over traditional methods in the safe and efficient delivery of government services.

Although Canadian municipalities have taken some advantage of the opportunities contestability offers, they are not using this approach to its full potential. In a recent case study for the Atlantic Institute for Market Studies (AIMS), noted Canadian urbanist Robert L. Bish (2004) examines how municipal services are provided in the greater Saint John, New Brunswick, region. He reviews how cooperation among municipalities can create efficiencies while allowing each municipality to retain its distinctive character and identity, and he outlines the superiority of activity-based budgeting over the more traditional line-item approach. This paper is a complement to that project. In it, we set out to

- show how local governments can appropriately and effectively adopt contestability as a consistent practice by looking at the examples of municipalities in Canada and elsewhere that have already done so with great success;
- review the variety of ways in which contestability can be applied; and
- show how municipal governments can change policy to follow through effectively after applying the contestability test.

The goals of contestability are twofold: lower costs and higher efficiency. By adopting contestability, municipalities can compare, in a fair and balanced way, the costs of producing services in-house and of producing them in other ways, which would lead to better performance by government and better value for taxpayers as consumers. Canadian municipal governments would benefit from the careful and thorough adoption and application of this principle.

Clarifying Terminology

Contestability is often confused with privatization but should not be. *Contestability* refers to the introduction of competition into a government monopoly, irrespective of whether the competition comes from the public or the private sector. *Privatization* refers to the transfer of ownership of physical assets from public to private hands, and privatized organizations may or may not operate in a



competitive environment. Thus, privatization is essentially independent from the promotion of competition (Domberger and Jensen 1997).

The continuum of possible services delivery arrangements has, at one extreme, direct government delivery, and at the other, complete privatization, and along the continuum are such options as contracting out and public private partnerships (PPPs).¹ Under contracting out, or outsourcing, a government purchases services but remains accountable for them. Under a PPP, a government and another party sign a formal services production agreement that commits both sides to contribute resources, share risks and rewards, and take responsibility for the outcome. Unlike contracting out, a PPP involves the pooling of the financial resources of both the public and the private sector (Hrab 2004, 5). With competitive tendering, the in-house public sector services provider competes with outside contractors by submitting a tender. Contracting out, in contrast, restricts competition to outside providers (Domberger and Jensen 1997, 3).

In this paper, we use contestability to refer to contracting in a general sense, whereby municipal governments open the provision of municipal services to any competition beyond the traditional provision by government monopoly.

1 The continuum of alternative service arrangements can be seen in Crowley, Messenger, and Faraday-Smith (1999, 11).

LAYING THE GROUNDWORK FOR CONTESTABILITY

High levels of government debt and low levels of efficiency mean that the status quo in the provision of public services is no longer an option. Governments at all levels are now searching for new ways to provide services more efficiently and at lower cost (see Guttman 2003, 86). What should a general framework for the provision of better, more efficient, and less costly government services look like?

First, a government in search of such a reform needs to determine which programs must remain in the public sector and which could be provided by alternative means or have simply outlived their usefulness. The government must then concentrate on delivering its core programs and services more efficiently and effectively, and hand the rest over to agencies and organizations better suited to delivering them. The result is often referred to as “high-performance government”. To achieve high performance, a government needs to subject all existing services to four tests — of neutrality, transparency, competition, and separation — to determine which of them should be delivered publicly and whether they are currently being delivered effectively and efficiently.²

The *neutrality* test asks the government to shift its role from producer of services to that of purchasing agent, charged with “buying” services from the most effective supplier regardless of whether the supplier is in-house or from the commercial or voluntary sector.

The *transparency* test calls on the government to establish full-cost accounting techniques in order to establish a level playing field and to allow for objective comparisons between in-house and alternative services delivery. This step is crucial to establishing a framework in which services providers can bid fairly and effectively and in which the government can establish necessary levels of services. This process exposes unnecessary overhead costs and other inefficiencies, and can reduce middle management and streamline internal processes — all of which make services delivery more effective and competitive.

The *competition* test comes when neutrality and transparency create the environment that allows competitive forces to thrive and in which the government can choose among alternative delivery options.

The *separation* test challenges the government to make the roles of elected officials and management separate and distinct in order to clarify responsibilities. Using the analogy of government as an “organization”, elected officials are its board of directors and should not be involved directly in administrative activities.

2 See Crowley, Messenger, and Faraday-Smith (1999, 5–8), on which the discussion here is based; see also Holle 1999.



Achieving High-Performance Government through Contestability

Many of the steps necessary for governments to establish contestability in services provision are the same as those that allow them to meet these four principles of effective, high-performance government. As Crowley, Messenger, and Faraday-Smith (1999, 6) note, “Effective application of these principles means the difference between mere good intentions and a truly effective program review”.

Introducing contestability into the provision of municipal services requires five essential steps. The first step is to identify whether a particular service needs to be provided by government, if at all, a process that applies the *neutrality* test. If it should prove that the service is needed and can be provided more efficiently by an outside source, the role of government should shift from producer of monopoly services to agent buying needed services for its population from competing suppliers.

The second step is to specify accurately all elements of the provision of the service (known as “specification”) and all true costs of providing it, which heightens *transparency* in government. Open accounting methods level the playing field for bidders and decrease the possibility of fraudulent bids. If costs are accounted for appropriately, excessive overheads and waste are also exposed. The calculation of true costs can, however, be complicated. Costs that typically are ignored in such calculations include “the time and money spent on drafting, negotiating and monitoring a contract; the costs to the municipality of training and overseeing the contractor’s employees to ensure productivity; and the costs incurred in laying off municipal employees after their services have been contracted out” (Kitchen 2002, 280).

The third step is to obtain properly priced offers from each bidder, inclusive of all true costs. This lays the groundwork for healthy *competition* through a fair and open bidding process, which must be in place before a government can accept bids.

The fourth step applies the principal of *separation* by having neutral experts, rather than less knowledgeable government bureaucrats, select the option that provides the best value.

The fifth step is to monitor the contract after the best bidder has been chosen to ensure that the government gets the service it asked for. Monitoring contestability after the fact ensures that neutrality, transparency, competition, and separation are followed consistently.

Each of these steps is a move toward achieving the goals of high-performance government. It is a process that results in greater clarity in decisionmaking and provides powerful incentives for politicians, municipal administrators, municipal employees, and private interests to seek the greatest value for local citizens.

REVIEWING THE EVIDENCE: CONTESTABILITY WORKS

In a political climate resistant to contestability, it is useful to note that the concept is neither new nor untried. Indeed, it has had many successes in countries around the world, reducing costs, improving the quality of services provision, making subject expertise more broadly available, and permitting a growing number of smaller municipalities to offer their residents a greater number of quality services.

The New Zealand Example

In many cases, legislation has been responsible for helping to set and maintain the appropriate framework for the successful introduction of contestability alongside high-performance government. The United Kingdom, Australia, and New Zealand have been at the forefront of this public sector change, with legislative changes in the latter country perhaps offering the most interesting examples of how the process can work.

By the 1980s, New Zealand's standard of living had fallen to twenty-fifth in the world from fifth in the early postwar era. Government overspending, as exhibited by net public debt levels of 50 percent of gross domestic product, had become the norm. As public expenditure levels rose, standards and quality of performance in public institutions dropped (Richardson 2004, 1).³ In response, New Zealand embarked on a series of legislative changes intended to improve private sector performance, improve public sector performance, and improve the overall macroeconomic performance of the New Zealand economy.

The *State-Owned Enterprises Act of 1986* established a number of state trading organizations as autonomous state-owned enterprises and obliged them to operate as profitably as companies not owned by the Crown. The intention of the legislation was to separate ministers from the running of trading enterprises. Then, the *State Sector Act of 1988* reorganized the public service and changed the relationship between ministers and heads of departments. It replaced the office of permanent heads of government departments with that of chief executives appointed on a limited term contract with the possibility of renewal (Boston et al. 1996, 58). Finally, the *Public Finance Act of 1989* introduced new financial management procedures into the public service. Accrual accounting replaced

3 One can, in fact, draw parallels between New Zealand's experience and that of some Canadian provincial governments. For example, excessive overspending, borrowing, and government growth is responsible for the high debt and low efficiency of Nova Scotia's provincial government.



cash accounting, and a system of financial reporting was imposed on government departments. Emphasis in the financial management system shifted from input controls to output and outcome measures (Boston et al. 1996, 58).

According to Ruth Richardson, New Zealand's Minister of Finance from 1990 to 1993, the *Public Finance Act* established a true government balance sheet (Richardson 2004, 2), and all three pieces of legislation helped lay the groundwork for the *Fiscal Responsibility Act of 1994* and the creation of high-performance government in New Zealand. Together, these legislative measures helped to ensure accountability and transparency, and established a long-term, bipartisan trend in public policy setting. Moreover, although these changes occurred at the national level, many similar steps were undertaken at the local level (see Boston et al. 1996, 370).

These legislative changes, together with other reforms, have led to the establishment of high-performance government in New Zealand, which now boasts one of the lowest inflation rates and one of the highest growth rates of the member countries of the Organisation for Economic Co-operation and Development, and its once-high unemployment rate is also falling (Richardson 2004 2).

Contestability in North America

Despite the hesitance of many North American municipalities to work toward creating a competitive environment for services provision, those that have made the change report overwhelmingly that it was a positive one.

US Examples

In a 1995 survey of the 66 largest US cities, 82 percent reported they were satisfied or very satisfied with their experience of shifting from a government monopoly on services provision to a competitive environment; the remaining 18 percent were neutral (Gansler 2003). The survey also found that the change was responsible for both improved performance and cost savings of up to 60 percent, although most estimates of the impact of contestability suggest savings of 10 to 40 percent.

In California, a concept known as “contract cities” arose in the mid-1950s, whereby more than 50 smaller cities would pool their resources to provide services, resulting in cost savings as high as 50 percent. The California Contract Cities Association was established to oversee the process, ensuring, for example, that equitable contracting systems were created and that services such as fire and public safety were contracted to other cities or to regional boards (Olivito 2001). It is important to note that these cost savings and improvements were obtained, not through amalgamation, but through using resources more efficiently and giving smaller cities access to resources that they might not otherwise have been able to afford.

Box 1: *The Public-Private Continuum:****A Canadian Success Story in Greater Saint John***

The choice between public and private provision of local services is not always a straightforward one. Sometimes, the best and most innovative outcomes can result from contractual partnerships between public and private providers.

A Canadian success story of public-private partnerships is found in greater Saint John New Brunswick. There, the Rothesay Regional Police Force, formed in 1984 and owned and operated by the Rothesay Regional Joint Board of Police Commissioners, serves the two Saint John suburbs of Rothesay and Quispamsis. The Rothesay Regional Fire Department, a composite force that includes both paid and volunteer fire fighters, is owned and operated by the Rothesay Regional Joint Board of Fire Commissioners and also serves both Rothesay and Quispamsis (see Bish 2004; see also website: <<http://www.town.rothesay.nb.ca>>).

Public-private partnerships also extend to water and sewage, where Rothesay residents use a combination of municipal water and sanitary systems and private wells and septic tanks, and to solid waste collection, where the municipality provides services for single-family residences and also contracts with local haulers.

Public-public partnerships — that is, partnerships between different municipalities or between different levels of government — are another creative way to provide services.

Contestability can help awaken staid governments, as the experience of Milwaukee, Wisconsin, shows. In the 1990s, then-mayor John Norquist, decrying what he now calls “gotcha government” — a rules-based system that required bureaucrats to defend line-by-line budget inputs and gave them an incentive to appear busy while accomplishing as little as possible — introduced procedures that focus on outputs, rather than inputs. He also rewarded his managers for considering the bigger picture by absolving them of the tedious bombardment of paperwork and minutiae (Norquist 2003).

Canadian Examples

Contestability has been successfully implemented in Canada as well. For example, many municipalities now rely wholly on contracted services for waste removal, while others combine a mixture of public and private providers. In Atlantic Canada, Fredericton does emergency snow clearance through a mixture of permanent staff augmented by contract employees. The city also has a flexible plan that enables staff and equipment to be conscripted from other functions. Rothesay and Quispamsis, two suburbs of Saint John, contract out their fire and police services to regional departments they jointly own (see Box 1).

A study comparing private versus public sector providers of recycling services found that they had almost identical net costs per tonne, except where they competed directly, in which case private producers reported substantial cost savings (McDavid and Laliberté 1999).



In 2001, a survey of Canadian municipalities found that solid waste collection cost more when undertaken by the public sector than when contracted out to private firms. Furthermore, in municipalities where collection was split between private and public, private providers cost less than public ones, but both had lower costs than the national average. Finally, municipalities that sought competitive bids for their solid waste collection contract enjoyed significantly lower costs per household (McDavid 2001).

Nearly a decade ago, the town of Clinton, in southwestern Ontario, decided to institute a \$2 dollar charge per bag for garbage disposal. Later, one of the town's residents announced he could provide the service for \$1 dollar per bag, in the face of which the town lowered its charge to that amount. In 2000, Clinton cancelled municipal garbage collection and told its residents to make other arrangements. Subsequently, several different private sector garbage collection services emerged, offering prices as low as 80 cents per bag (Kitchen 2002, 292).

The search for efficiencies in the public sector in Canada has not been limited to trash collection and snow removal, but has spread to other aspects of municipal public administration and even to the education system. Edmonton, for example, has seen considerable streamlining of services and moves toward contestability in its public schools. As Angus McBeath, Superintendent of Edmonton Public Schools, related in a talk sponsored by AIMS, among many measures to revitalize public education, the city has decentralized decisionmaking and much of the spending power to individual schools, leaving it to them to decide what services they wish to purchase and from where (see McBeath 2003).

DISPELLING MYTHS ABOUT CONTESTABILITY

That contestability delivers cost savings for municipal governments is difficult to dispute. Misinformation, however, surrounds how it works and is the basis for many myths, some of which we review and respond to below.

Myth #1: Savings achieved through contestability are gained by replacing well-paid employees with low-cost contract workers.

If cost savings from the introduction of contestability came at the expense of workers — through lower salaries, less permanency, and fewer financial benefits — it would indeed be worth abandoning the concept and looking at options more beneficial to all parties. There are, however, three main reasons such an outcome is a myth.

First, although the introduction of competition leads to an overall streamlining of resources and administrative procedures, the elimination of excessive management overhead that often plays a large part in overall savings has little effect on workers at other levels.

Second, under true costing, salaries are but one element in a long list of expenditures, and reducing costs simply by lowering wages succeeds only at the expense of good employee performance (Gansler 2003).

Third, experience shows that private sector contractors tend to use better and newer capital equipment, which contributes to improved labour productivity. For example, a major Canadian study of solid waste management (McDavid and Laliberté 1998), revealed that private firms used larger trucks and were substantially more efficient than municipal service providers.

A survey of more than 200 separate studies on experiences with contracting out reveals that savings of 10 to 30 percent were common and, crucially, that the savings were driven, not by lower wages, but by a broad set of managerial initiatives to improve cost performance (Domberger and Jensen 1997).

Myth #2: Contestability represents a battle between public and private interests.

In fact, a key attribute of a genuinely contestable regime should be neutrality: positioning the municipality as the disinterested purchaser of services for its residents from whatever source gives the best results. Stephen Goldsmith — who, as mayor, introduced competitive contracting in Indianapolis two decades ago — says: “There is no great value in and of itself for privatization, as contrasted to the competitiveness process” (Lavery 1999, 126).



Contestability depends for its success on fair competition, not only between public and private interests, but also between two public entities or a mixture of public and private partnerships. Through competition, governments increase efficiencies, irrespective of who is competing.

A 1998 survey by the US Council of State Governments (Seader 2002) that asked respondents why they had turned to public-private partnerships revealed they had chosen contestability for a variety of reasons that included the lack of in-house personnel and expertise, lack of political leadership, the desire for more flexibility, less red tape, and a higher quality of service.⁴ Moving toward contestability should be seen as creating, not a battleground for public and private interests, but a partnership to build on existing strengths and fill gaps.

Myth #3: The private sector will always be chosen over the public sector.

In fact, coexistence is a key advantage of open competitive contracting between the two sectors. If the service provider, whether public or private, is aware that another party is anxious to take its place at contract renewal time, it has a compelling motive to operate efficiently. One cannot assume that the private sector enjoys a natural competitive advantage over the public sector in the delivery of public goods — private sector organizations are not necessarily better managed than public sector ones (Boston et al. 1996, 39). Furthermore, public sector competitors often win contracts — for example, government entities won 60 percent of US defence contracts from 1995 to 1999 at a cost savings of 39 percent (Gansler 2003).

Myth #4: The introduction of contestability is tantamount to privatization.

Contestability provides the opportunity for private and public suppliers to offer services on an equal footing. The outcome may indeed be privatization — but only after all parties, both public and private, have demonstrated their interest and capabilities to supply goods and services — in the context of true costing. Contestability and privatization differ substantially in both theory and practice. Privatization, where the private company merely holds monopoly status, does not produce the benefits that contestability has proven to do.

Myth #5: Labour relations suffer under contestability.

Labour unions fear contestability means losing jobs. It is true that contestability sometimes eliminates jobs, but hardly exclusively in the ranks of labour. Crucially, however, contestability eliminates overlapping and unnecessary management layers, and improves quality of work by introducing better, more satisfying working conditions. Moreover, under contestability, municipal providers are often able to beat out their private sector competitors for contracts because they have been driven to

4 The survey reported that 40.9 percent of respondents cited cost savings as the reason for the policy change 32.5 percent cited lack of in-house personnel and expertise; 30.8 percent, lack of political leadership; 23.8 percent, flexibility and less red tape; 21.4 percent, speedy implementation; 20.4 percent, increased innovations; 18.5 percent, high quality of service; 10.6 percent gave other reasons.

Box 2: *The Indianapolis Example*

Indianapolis is well known for using contestability successfully, and provides a practical and recent example of how to find the true cost of a service.

Shortly after the election of Stephen Goldsmith as mayor in 1992, Indianapolis embarked on a comprehensive program of contracting out — the largest of any major US city (Lavery 1999, 124). One of the new mayor's first innovations was to commission consultants to develop an activity-based costing model for the city in order to identify the actual cost of each service and activity. The new model replaced traditional cost accounting, which makes it difficult to determine the actual costs of activities because many, such as overheads, are not properly assigned to services. In contrast, activity-based costing tries to measure services costs and to allocate overheads in relation to their use by the service. It also includes relevant fixed costs, such as building space and idle equipment. Mayor Goldsmith wanted Indianapolis to use activity-based costing to help compare the costs of in-house provision with those of using private firms. He also wanted to identify opportunities for internal efficiencies by increasing cost transparency and enabling internal comparisons (Lavery 1999, 127).

The move by Indianapolis to contestability did not even strain labour relationships. Stephen Fantauzzo was the director of a union of municipal employees in Indianapolis when the mayor urged for the privatization of city services. Fantauzzo asked that the union be allowed to bid on city contracts. The result? As Fantauzzo told an AIMS conference in 1996:

We have had to look at all aspects of the job, including long-standing work rules, and controversial work systems....Partnership has meant accountability for the union and its members. It is no longer sufficient to criticize failure. If there is a problem, we are part of the problem and have to accept some responsibility for its existence....[C]ompetitive bidding has forced the union to refocus and reinvent itself....For the short term, we have achieved our goals of protecting jobs, empowering workers and improving their economic well-being. In the long view, I hope that our efforts lead to the opportunity to make government more responsive and change the way management and labour view their role in the workplace.

abandon outmoded management and work practices. Streamlining sweeps away the lethargy imposed by an abundance of administrative procedures, clarifies lines of command, and unravels a bureaucratic approval process that dilutes responsibility and increases costs.

In fact, labour can thrive under contestability (see Box 2 for the example of Indianapolis). In 1993, when Massachusetts increased its contracting out of highway maintenance, an alliance of unions successfully bid on three of the seven new contracts. The unions' members remained state employees with full pay and benefits but were bound to fulfill the obligations of their contract just as if they were a private company. The state saved more than US\$7.8 million in reduced workers' compensation claims, as well as gaining numerous operating efficiencies (United States 1996).



OVERCOMING BARRIERS TO CONTESTABILITY IN CANADA

The evidence for the fundamental benefits of full information and unrestricted competition in the provision of local government services seems compelling. Yet, in Canada, although forms of contestability have been introduced in a number of different places and areas of services provision,⁵ contestability has not been widely adopted. No Canadian municipality is blazing a trail for others to follow, as Indianapolis or California's contract cities have done in the United States. Why not? The reason is that contestability faces not only the kinds of myths we discussed above but also a number of structural and technical barriers, beginning with the simple fact that municipalities do not know how much the services they offer cost, which prevents them from taking even the first step toward a more competitive environment (Carr, Bowden, and Storrer 1997, 3). Below, we discuss a number of other barriers to competition and offer concrete policy suggestions to overcome them.

Barrier #1: Resistance by Organized Labour

Despite some collaborative success stories, unions oppose contestability because, as noted above, they fear their members will lose their jobs. Public sector union collective agreements themselves work to thwart competition, with many containing clauses that prohibit contracting out (Carr, Bowden, and Storrer 1997, vii). More generally, unions worry that contestability will undermine them, fragment the workforce, sidestep the provisions of collective agreements, and reduce labour costs, with resultant profit-taking opportunities for businesses (Kitchen 2002, 280). Organizations such as the Canadian Union of Public Employees (CUPE 1985) argue that contestability places public interest secondary to profits. They worry that it replaces well-paid jobs with poorly paid ones, erodes labour standards, and leads to vital public functions being performed by inadequately qualified staff. Even when contracts remain in-house, unions worry that tendering will result in changes in employment practices and in terms and conditions of employment.

Overcoming Barrier #1

Good communication and negotiations with politicians can help assure unions that their members will not necessarily lose jobs and need not perceive the introduction of contestability as a threat.

5 For example, Airdrie, Alberta, has contracted out services for property assessment; Hamilton-Wentworth, Ontario, water and waste water treatment; Peterborough, Ontario, the taxi-bus and paratransit system; St-Hyacinthe and Haut-Richelieu, Quebec, and East Prince Region, Prince Edward Island, waste management; and Paradise, Newfoundland and Labrador, public works (see Skelly 1997).

By the same token, the success of contestability as a means to increase efficiency and decrease costs hinges on open competition. A jobs guarantee, whether given to a unionized or non-unionized services provider, would compromise that success. Some union members may well lose their jobs, and unions likely will not maintain precisely the same status they had prior to the introduction of contestability.

Many of organized labour's concerns may be alleviated by taking steps to ease the transition into an environment of contestability. However, policymakers need to ensure that the costs of transitional efforts to maintain continuity do not cancel the benefits of introducing contestability in the first place. For example, the negotiation of labour agreements that constrain the degree of contracting out or the extension of wage and benefit protections during the transition might help assuage unions' fears, but such measures tend to erode the financial benefits to the municipality.⁶ The fact that some union members might lose their jobs cannot be glossed over, but the sacrifice will yield long-term improvements that benefit union workers as well.

As a further measure, Canada could emulate other countries, such as the United Kingdom, Australia, and New Zealand, that have legislated contestability into being.⁷

Barrier #2: The Competitive Advantages of Incumbent Public Sector Providers

The "corporate memory" of public sector officials may give prior workers an advantage during competitive bidding, and make it more difficult for private sector providers to win contracts.

Overcoming Barrier #2

To overcome this barrier, policymakers must be very clear about their role and objectives, and indicate what service providers should deliver and how. For example, policymakers should ensure that the roles of elected officials and management are made separate and distinct to clarify responsibilities and avoid overlap, and that officials with expertise in the subject exercise the most influence in choosing the appropriate bidder according to objective criteria, fairly and impartially applied. The appropriate separation of elected officials and management will also help to avoid simply choosing as a default provider whoever provided it in the past.

Management's role should be to organize the use of resources, but elected officials should play the part of a board of directors that remains uninvolved in direct administrative activities. Elected offi-

6 Instead, unions should be encouraged to view the change as an opportunity for members to upgrade their skills and gain promotions. Indianapolis, for example, removed roads department bureaucrats from construction sites and assigned their oversight responsibilities to newly created, better-paid supervisory positions on work crews.

7 In New Zealand, for example, policymaking responsibilities of elected municipal councils must be "decoupled" from day-to-day management of the authority (Pallot 1998).



cials should define the service levels and commensurate tax levels, but management should be responsible for considering all alternatives and delivering the services in the most effective manner (Crowley, Messenger, and Faraday-Smith 1999, 11).

Barrier #3: Concerns about Too Few Bidders

Another barrier to the introduction of contestability is the concern of municipal managers that too few bids will be received to ensure real competition for services provision.

Overcoming Barrier #3

One way to mitigate such concerns is to ensure that contracts are not so large as to preclude interest from smaller firms and that the tendering process is transparent and fair. Moreover, the introduction of full-cost-accounting techniques should help to establish a level playing field, thereby attracting more bidders.

In any case, assuming a framework has been put in place that permits the establishment of high-performance government, small numbers of bidders in some instances will not have a negative effect. Although competition for services is an essential part of the contestability framework, it is not the only one. Under contestability, long before service providers compete to win contracts, municipal governments will have identified whether they need to provide the service and specified all the elements and costs of providing it. These benefits alone are sufficient to overcome concerns about a lack of competition in the final stage of deciding who is to provide the service.

Barrier #4: Resistance from Municipal Administrators

Resistance to the introduction of contestability could also come from municipal administrators who, rewarded in the past for the size and budget of the inputs they oversee, may not feel the need to achieve efficiencies. Organizations such as governments have “perverse incentives”⁸ to expand in any case, whether or not it is necessary, and municipal expenditures have been increasing steadily over time despite the lack of a clear correlation between increased spending and increased efficiency and outputs (Kitchen 2002, 40).

Overcoming Barrier #4

The introduction of transparency, neutrality, and separation would ensure the elimination of perverse incentives. With changed incentives and new ways of doing business, managers would be rewarded, not for increasing inputs, but for improving outcomes.

8 “Perverse incentives” are a result of trends in government whereby overspending is often the only effective way to ensure an increase in subsequent budgets. This type of perverse incentive is well documented in the health arena — for example, in hospital budgets — and in the education system, among other areas.

Barrier #5: Changes in Government and the Stability of Contracts

Some people are concerned that, under a contestability regime, changes of government could result in new policy directions and pressures to reopen or otherwise alter contracts, resulting in uncertainty for providers, managers, and investors.

Overcoming Barrier #5

To alleviate concerns about the stability of contracts in the event of a change of government, policymakers need to recognize their ongoing responsibility for determining service levels and standards. For example, longer contract periods that bridge electoral cycles would minimize the risk that changing political mandates would change the way services are provided. Legislation ensuring that long-term policy does not change with each electoral cycle is another effective way to allay concerns.

The advantages of contestability will be realized only when every private or public party interested in providing a properly specified public service is given the opportunity to tender its bid — subject to no more constraints than those it would face if it were dealing with an arm's-length private customer.



CONCLUSION

Politicians, like everyone else, care about more than just money. They tread especially gingerly when expanding private sector involvement in the delivery of public services. Politicians know that, although increased efficiency in the public sector is desirable in itself, as this paper has shown, they must weigh many other considerations before taking a decision. At the same time, considerable research clearly demonstrates that most concerns about contestability do not stand up to scrutiny, and that there are considerable benefits to municipal taxpayers and services users. Armed with such research, politicians should be able to make an effective case for contestability — namely, that, at a time of intense competition for every scarce tax dollar, wasteful spending in one sector means depriving another of needed services.

Local politicians could kick off the drive for contestability by insisting that the real costs of providing services under the status quo are explicitly identified and that due diligence is undertaken in the specification and monitoring of contract requirements. At the provincial level, governments could release municipalities from the systemic restraints that currently dominate the landscape of debate and enforce the inefficient status quo. Provinces could require, for instance, that municipalities open at least some portion of their contracts to competitive bidding, as has been done in the United States, the United Kingdom, Australia, and with tremendous success in New Zealand.

The financial rewards of contestability remain, of course, a key incentive. Well-managed cities focus on outcomes, not inputs, and contestability offers them the greatest value by its focus on measuring and rewarding performance — whether by the traditional workforce, in-house business units, or arm's-length contractors. Moreover, contestability promises not just cost savings but more efficient delivery of services and a host of other workforce improvements. Politicians and decisionmakers at the municipal and provincial levels need only summon the courage to implement it.

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“Must” Reading

Governments that are considering opening the provision of local services to private participation have a number of excellent tools to assist them in their decision.

The World Bank produces toolkits detailing the advantages and pitfalls of increased public-private partnerships for specific services such as waste management, water, and concessions, as well as step-by-step “how-to” instructions; see website: <<http://rru.worldbank.org/Toolkits/index.htm>>.

The Australian Industry Commission has produced a comprehensive analysis of the pros and cons of public sector contracting out; see website: <<http://www.pc.gov.au/ic/inquiry/48ctcpsa/finalreport/48ctcpsa.pdf>>.

The US Office of Management and Budget produces detailed guidelines under Circular A76; see website: <<http://www.whitehouse.gov/omb/circulars/a076.pdf>>.

Industry Canada has produced a Canadian guide; see website: <[http://strategis.ic.gc.ca/epic/internet/inpupr-bdpr.nsf/vwapj/guide-e.pdf/\\$FILE/guide-e.pdf](http://strategis.ic.gc.ca/epic/internet/inpupr-bdpr.nsf/vwapj/guide-e.pdf/$FILE/guide-e.pdf)>. The guide includes useful references to provincial policies, such as those of New Brunswick; see website: <<http://www.gov.nb.ca/0158/reports/protocol/protocol.htm>>.

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