Consider the Unintended Consequences of Privatization

By Charlene LaVoie, Community Lawyer

Privatization of services has become the battle cry for some citizens and government officials. Privatization means contracting with private businesses to deliver publicly funded services. There is an assumed but unproved theory that the private sector can perform some of the traditional functions of government more efficiently and economically.

Privatization of services may be a solution to some government problems. But it is certainly not the solution. Some private markets function well, others do not (the savings and loan industry, for example). Some public institutions function well, others do not. The determining factors have to do with the incentives that drive the system, private or public: is there competition to please customers?; is there accountability for results?

The most important issues may not be "private" versus "public," but monopoly versus competition. Private monopolies (defense contractors, for example) are just as inefficient as public monopolies. So are private utilities, which are in fact more expensive than publicly owned utilities. Sometimes, when governments contract with private companies to pick up garbage, they wind up with monopolies, and the costs skyrocket. Bottom line, business is in business to make money, not to provide citizens with efficient services or accountability.

Citizens and elected officials must carefully examine all aspects of this issue, including the unintended consequences of letting private business operate public functions. Several come to mind.

1. When the economy is depressed, private companies offer their services at prices lower than it may cost the government to do the job. But when the economy surges, the greater demand for services drives up the cost private companies charge. Over the long term, privatization may end up costing citizens much more than they bargained for.

2. Today's small business providing a public service is tomorrow's small fish for a monopoly to gobble up. Especially in the garbage business where small, local waste haulers are routinely bought up by giant waste management business. There is no equality in bargaining position between local officials and representatives of a huge industry. Big business is supremely skilled at making deals advantageous to itself but which can pose financial and environmental problems for the community.

There are many examples around the country where communities have entered into agreements with the largest waste management business in the country, Wheelabrator/ Waste Management Inc. and ended up the real losers. (See examples in the accompanying sidebar).

3. When the government provides services, citizens can influence the process by voting in different leadership—this is accountability. Proponents of privatization argue that public accountability does not change when government hires private businesses to provide services. The political leadership remains responsible to the electorate for the quality of services. If the private business does poorly, the political leadership can still be voted out of office.

This argument is only true as far as it goes. Privatization does not afford citizens the same opportunity for public accountability as when government provides the service. A private company is not as likely to be responsive to electoral constituencies, or elected officials since contracts remain in force even after public officials are ousted.

Moreover, we have freedom of information laws to ensure that citizens can obtain information on the operations of government. Private business is not subject to these laws. Citizens cannot obtain records from private companies to evaluate and determine whether the company is making excessive profits from a contract with the government. Nor can citizens obtain internal information which reveals or is critical of the company's methods of operation.

The solution is not necessarily to privatize services. Elected officials and citizens must be more diligent and examine, evaluate and insist upon better operations and services for our tax dollars whether from the public or private sector. Simply giving over the responsibility to provide public services to private business, whose primary objective is to make a profit, is a shortsighted and in the long run a costly decision with far reaching and potentially unintended consequences for citizens and local government.

Check the Fine Print When Private Business Contracts to Do Public Services

Waste Management Inc. is a profit oriented, not community oriented, private enterprise which is notorious for transferring financial risk to communities in slick contracts in which the community has little real ability to negotiate.

The Community of Claremont, N.H. entered into a contract with Wheelabrator and now must supply the Waste Management incinerator with approximately 13,000 tons of garbage per year at a tipping fee over four times the price originally agreed upon. Claremont is stuck paying the exorbitant fees because of contractual obligations agreed to at the beginning of the relationship.

In Bridgeport, CT, officials were criticized for making a bad deal with Wheelabrator. In lieu of taxes Waste Management, Inc. pays Bridgeport $1.5 million dollars annually. If Waste Management Inc. was taxed at the normal rate the city would collect 12 million per year! Who got the better end of that deal?

In addition, Bridgeport is obligated to deliver 100,000 tons of garbage per year and pay the tipping fee which increases regularly. It costs the city over 2 million per year in tipping fees. Bridgeport, in a rush to fix its trash crisis, is losing millions of dollars.