The Public Service Ethic in the New Public Personnel Systems

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A “public service ethic” implies more than just ethical behavior on the job; it also entails a dedication to the public interest and a commitment to mission accomplishment. This essay argues that the political need to make the government look smaller has led to more contracting out and analyzes the problem of promoting the principles of merit in private sector contractors. It then takes up the new challenge of public management: how to ensure that the public service ethic permeates all organizations and individuals engaged in executing the laws—not only those directly employed by the government in the traditional public service.

A “public service ethic” implies more than just ethical behavior on the job; it also entails a dedication to the public interest and a commitment to mission accomplishment. Individuals who do the public’s business are no longer necessarily employed directly by the government, but also work for a variety of non-profit and business organizations with numerous personnel systems. The new challenge of public management is how to ensure that the public service ethic permeates all organizations and individuals engaged in executing the laws—not only those directly employed by the government in the traditional public service.

This article will take up some of the pressing issues raised by the new realities in public personnel administration. First addressed will be how the increased political need for the appearance of a small national government has increased the pressure to contract out to accomplish public purposes. Next, the question of whether we can apply the ideals of the merit system to contractors will be examined. Finally, the challenge of instilling the public service ethic in private organizations will be explored.

The Illusion of Smaller Government and its Effect on the Public Service

Despite the delegitimizing of the federal government that politicians engaged in from the 1970s to the 1990s, the reality is that the American public wants and demands the benefits of big government at the same time that it rewards politicians for railing against it.1 The political consensus among Americans who favor the benefits of big government and the rhetoric of small government has had the effect of politicians promising to limit government yet maintain the programs that deliver
benefits. As the National Performance Review put it, the goal is to create a government that "works better and costs less." The solution has been to deliver the appearance of a shrinking government but, at the same time, maintain the ability to provide the goods and services the public demands. This has led to increasing use of the "tools" of contracting, grants, and mandates.

Since the most visible and easily understandable sign of big government is the number of public employees, the easiest way to reduce the visibility of big government and to claim credit for shrinking it is to reduce the number of public employees. There are a number of ways to accomplish this. The federal government (as well as state and local governments) can accomplish public purposes and deliver services in different ways that minimize the number of government employees. Tax breaks can be provided to encourage certain activities, mandates can compel businesses or governments to take certain actions, grants can be provided for the accomplishment of certain tasks, and contracts can be made for the provision of goods and services. The delegitimizing of government over the past few decades has made these options for the provision of government services much more attractive and has increased their use.

To put the activities of the federal government into perspective, only about four percent of federal spending is on public workers directly providing goods and services. The majority of spending goes to payments to individuals (58 percent), interest on the debt (15 percent), contracts with private companies for goods and services (13 percent), grants to state and local governments (5 percent), and the armed forces (5 percent). In 1996 spending on contracts and grants totaled $225 billion and generated 8 million jobs.

A number of good reasons can justify contracting rather than directly providing government services. Specialized expertise may be needed that the government does not have.

A specific project (such as a census) may require a large number of workers who will not be needed once the task is completed. Many goods can be produced more efficiently by private firms than by the government, and the competition of the marketplace may result in lower prices. Private sector companies can operate without many of the procedural rules and constraints that the government must follow, allowing them to stay flexible and save money on personnel practices.

But in addition to the good reasons for turning to the private sector, other incentives to contract out are politically compelling. One is the assumption, encouraged by the business sector and many politicians, that businesses are inherently more efficient and better managed than governments, and that money is much better spent if it goes to the
private sector. Another driving force in the move to contract out is the delegitimizing of the government; it is much easier for politicians to say that money is being spent efficiently in the private sector. A third driver is the political need to make the government look smaller. These three factors have been constants in the Republican Party, particularly with the conservative turn of the country since the 1970s. But the political appeal of such justifications also affected Democrats, especially the “New Democrats” of the Clinton administration.

The National Performance Review proponents in the Clinton Administration argued for a government that works better and costs less. They “delivered” on part of their promise by cutting the size of the federal civil service by more than 330,000 between 1993 and 1998, with most cuts coming from reductions in the civilian workforce in the Defense Department. This reduction in the federal civilian workforce (excluding the Postal Service) of 15.4 percent brought the number of federal government employees to the lowest level since the Kennedy administration. But the reality is that these cuts have contributed to a government that appears smaller but continues to deliver the level of services that Americans demand.

In *The True Size of Government*, Paul Light has challenged the claim that the government is smaller in the 1990s than it has been since the 1960s by calculating what he calls the “shadow government” of those whose jobs are based on grants, contracts, and mandates. He calculates that the $200 billion that the federal government spends on contracts each year creates 5.6 million jobs and that the $55 billion in grants creates 2.4 million jobs. He also argues that federal mandates entail another 4.6 million jobs in state and local governments. His point is, that despite the decrease in the number of employees on the roles of the federal government, the reality is that millions of workers not on the federal government payroll are needed to deliver the goods and services that the federal government provides.

The cuts in numbers of employees without significant cuts in the programs of the government imply that the contracting out trend has continued during the Clinton administration (aside from significant cuts in defense procurement), in line with NPR objectives and administration policy. Light’s data also make the interesting point that the purposes of contracting have been shifting from the production of goods and products to the provision of services. According to Light, in 1984 one half of contract jobs produced products, whereas in 1996 only one fifth of them were for goods and 80 percent were for services.
The Ideal of Merit in the World of Contracting

The result of these trends is that recent decades have brought about profound changes in the nature of governance in the United States, the relationship between the role of government and the public service, and the relationship between people who do the public’s work and the government. This section will examine the ideals of the merit system and question whether the ideals of merit can be achieved in private sector contractors through the imposition of the rules and regulations of traditional merit system enforcement.

The merit system, as established by the Pendleton Act of 1883, was based on the foundation of three principles: 1) entry to the system by way of competitive examination, 2) promotion and penalty based on performance, and 3) protection from actions based on partisan political pressure. In the years since its establishment, many refinements and additions have been overlaid on the merit system.

- Equal opportunity and affirmative action regulations have been included to ensure that entry and promotion are based on merit rather than prejudice.
- Hatch Act (1939 and 1993) regulations have been added to ensure that partisan political activity cannot be coerced.
- Classification systems have been added to facilitate equal pay for similar work across the government.
- Veterans preferences have been added by law as reward for previous service.
- Agreements have been made with unions in collective bargaining agreements.

The carrying out of merit principles also came to mean that, after a worker had successfully passed the probationary period, the employee had in effect a guarantee of career-long employment with the government during reasonable performance. The only exceptions were a difficult separation action or a reduction in force. But beginning in the Nixon Administration and especially in the Reagan and Clinton Administrations, the “guarantee” of career long tenure was undermined by political pressures to cut the civil service through removing “dead wood,” cutting government programs, and contracting government functions to the private sector.

The essence of merit is the evaluation of individuals based on their qualifications and performance and the protection from partisan political abuse, that is non-partisan (or neutral) competence. We ought not to expect public servants, or political appointees for that matter, to be
neutral with respect to program. We expect that since they have committed a portion of their careers to the carrying out of public purposes that they will be advocates for the accomplishment of those purposes. This expectation of legitimate advocacy does not, however, justify fanaticism, zealotry, or unethical practices in the protection of their “turf.” We still expect that they will render their best judgment to political superiors in the executive branch and members of Congress and abide by authoritative policy decisions.

In protecting the principle of non-partisan competence in the traditional merit system the civil service developed a host of rules, regulations, and laws that did a good, though imperfect, job of protecting merit. But the complex system of regulations also tended to bog down the system in procedural detail that impeded managers from managing effectively. It is these negative effects that have led in part to the reaction against the system and to its fragmentation. Managers could not hire or promote without heavy-handed oversight and second guessing from agency personnel shops or the central personnel authority. Neither could managers discipline or fire poor workers without burdensome and elaborate record-keeping and the threat of long, drawn out legal proceedings.\textsuperscript{11}

Given the new reality of administrative arrangements (in part created to get around the barnacles of the merit system), how can law assure that the essence of merit—non-partisan competence—will be preserved? Many public purposes are now being accomplished through indirect administrative linkages in which the government does not have the personnel authority to enforce the traditional trappings of merit. Of course it might try to ensure merit by imposing requirements in contracts that private and non-profit organizations comply with all of the traditional requirements of the merit system. But that would defeat the purpose of the creation of many of these arrangements in the first place.

What is really needed is the accomplishment of governmental goals, that is, the faithful execution of the law, in an economical, efficient, and effective manner. New institutional arrangements, such as contracts written with private or non profit organizations, do not alter these basic goals. What is needed as the minimum, but sufficient, requirement is that these goals be accomplished without discrimination or partisanship. Thus private contracting organizations need to comply with the broadly accepted non-discrimination principles with which all businesses in the country must comply. And we must take care that the granting of contracts is not based on a partisan basis or the political power of large contractors.

But how closely should the government be concerned with competence beyond non-discrimination? If a business fulfills the requirements of
the contract, should the government care about the internal determination of who is hired or how they are promoted? Imposing procedural requirements on internal hiring and promotion decisions of private sector contractors would be unduly intrusive and self defeating. It would bureaucratize and governmentalize the private sector contractor. Thus, beyond the ensuring of non-discriminatory policies, it does not make sense for the government to impose the requirements of the traditional merit system on governmental contractors. We must allow the market system, with its efficiencies and defects, to operate in the private sector even when carrying out public purposes.

On the other hand, this does not imply that contractors should feel free to make hiring and promotional decisions based on nepotism, cronyism, or arbitrary managerial decisions. These practices, apart from their ethical improprieties, impose heavy costs on any organization. Employees are acutely sensitive to these types of maladministration, and any company or non-profit organization that practices them will sooner or later suffer negative consequences. This hands-off approach implies a willingness to put up with some bad managerial judgments in order to provide the necessary flexibility for private sector managers to use their best judgment in personnel administration.

How can the merit principle of protection from partisan political interference, either to hire or fire government workers, be applied to contractors? Partisan pressure on contractors with respect to personnel decisions, from the executive branch or Congress or political parties, is inappropriate and wrong. But vigilance is also needed that the awarding of contracts for goods and services not be made on partisan grounds. Thus, the oversight of inspectors general in the contract granting departments and agencies is essential to the integrity of the contract process. At the same time, the new flexibilities in contracting achieved in the Clinton administration ought not to be nullified.12

In sum, in considering how to encourage the principles of merit in the new world of contracting out, much of the government’s business ought to focus on essentials and not reimpose all of the burdensome regulations of the traditional merit system. Individuals must be protected from overt discrimination through normal legal processes, and personnel and contracting decisions must not be made on the basis of partisan politics. Beyond that, care is needed that added requirements do not replicate the regulations of the traditional merit system that many of the new forms of administrative arrangements were designed to escape.
The Public Service Ethic and Accountability

The principles of merit as described above are negative in the sense that they are protections from bad management. That is, personnel decisions based on factors other than merit are prohibited. But we really expect more than protections from abuse in the public service; citizens also expect a can-do spirit and a serious commitment to the public interest. Mission accomplishment needs to take precedence over minor inconvenience or monetary concerns. With the admission that the federal government (as in all large organizations) has its share of slackers and those retired in place, citizens expect the kind of dedication to duty that characterizes the best of the postal service, the armed services, the FBI, and the National Institutes of Health.

Commitment to the Public Interest

Many of the most talented and dedicated public employees join the public service in order to contribute to the public good. The best career executives have lucrative options in the private sector where they can make more money; but, many chose the public service because of the challenge, the nature of the work, and the chance to make a difference in the lives of others. How can we preserve the best of this public service ethic—a commitment to the public interest and a willingness to sacrifice in order to accomplish the mission—when much of the public’s work is being carried out by non-governmental organizations?

Incentive systems in the private sector are oriented to the bottom line. Business managers have commitments to stockholders and the future profitability of the company, and there may be times when these obligations take precedence over accepting public obligations. But, the decision to serve stockholders rather than the public interest should be made when the firm decides what business to pursue and which products to produce, not whether to fulfill the requirements of a contract, how well to do a job, or whether to accomplish the mission.

The difficulties of accurately evaluating the trade-off between public and private provision of government services are evident in the Office of Personnel Management’s decision to privatize its investigative service during the Clinton Administration and create the new United States Investigations Service, which is owned by its employees. Presumably the newly privatized employees would be motivated by earning a profit. The assumption of the Clinton administration and the NPR was that the new firm would be more efficient than the same workers were on OPM’s payroll.

Citizens as taxpayers might have two concerns about this privatizing decision. The first concern is whether the new arrangement will in fact...
save the government money. This can be calculated only by comparing actual expenditures of all agencies contracting for investigative services and comparing them with the cost of maintaining the capacity within OPM. The presumption was that private sector market competition will help hold down prices, though competition would kick in only after the five year sole source agreement expires.14

But even if the total cost to the government for investigations is less than when the capacity was within the government, the question of quality control remains. In the interest of quoting the lowest price and winning the contract from the government, will corners be cut in quality of personnel or thoroughness of investigations? It is difficult for government agencies to monitor whether an investigative job has been done thoroughly, even if the paper work has been completed. Direct supervision of employees under contract is not possible. Writing tight contracts is possible, but tight oversight is not feasible. We are left to depend on the professionalism of the investigators (good professionals are not cheap) and the public service ethic.15

We cannot turn back the clock, and widespread contracting will be the reality in the government for the foreseeable future. But, citizens have the right to expect the spirit of public service to prevail in private sector organizations that carry out public purposes. Private sector investigators ought to be concerned about national security and not willing to compromise it merely to make a few bucks. Contractors who collect refuse ought to be as concerned about public health as are government employees. Private manufacturers of jet fighters ought to be just as careful about quality control as the military maintenance mechanics who service them. Drug manufacturers ought to be just as committed to public health and quality control as the Food and Drug Administration is about ensuring that they are safe and effective. One already sees much of this commitment in the private sector companies that carry out public programs. For example the engineers at Morton Thiokol were just as much, or more, concerned with the safety of the Challenger shuttle as the decision makers at NASA.16

The commitment of workers ought to be determined by the mission to be accomplished, not who signs their pay check. The challenge is how to engender the public service ethic and commitment to mission accomplishment in organizations that carry out public purposes, regardless of the legal arrangements of their organization (public, business, non-profit). The answer is the instillation of public service values through effective leadership, informed management, and good recruitment.17
Organizational Accountability

In seeking to instill the public service ethic in workers who carry out governmental policy, it is essential to take a broad, inclusive view of public administration. In The Spirit of Public Administration George Frederickson argues that "...governance comprehends the full range of public activity—governmental, quasi-governmental, and nongovernmental." This fits with his definition of public administration: "Public administration includes the state; indeed, it is rooted in the state. But it is—and should be—more broadly defined to include the administration or implementation aspects of all forms and manifestations of collective public activity." Paul Light is right when he argues that "...anyone who delivers public goods on behalf of the federal government...becomes part of the public service, with all that means for protecting the public trust."

It is this broad perspective on the public service that should inform the study of the new public personnel administration. Since government is not likely to return to the size sufficient to deliver the capacity to deliver all of the benefits that citizens demand, the public administration community ought to focus on how to engender a public spirit ethic in private businesses doing contract work for the government.

A major challenge that has not been fully thought out by the government or the public administration community is the question of accountability. Political accountability is ensuring that the government is doing what the people want it to do and is ensured (more or less) through regular elections. Managerial accountability is achieved through supervision of the work done to assure that policy directives are being faithfully carried out. Traditional managerial accountability has been achieved through the processes of bureaucracy and hierarchy, but as has been pointed out above, the way that the government does business has been changing toward more contracting out. Thus, accountability through hierarchy is being replaced by accountability through contract.

In terms of efficiency, contracting out may save the taxpayers’ money and may relieve the government of maintaining the personnel necessary to do many jobs itself. On the other hand, contracting for work attenuates the level of control that the government has over the provision of goods and services. If quality and quantity of what is contracted for is easy to specify in a contract, the management problem is relatively simple. But much of what the government acquires through contract is not simple to specify in a contract. If changes in the work are necessary, government leaders cannot give orders; they must renegotiate the contract. As Don Kettl argues, these new arrangements call for a new type of government manager.

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One way of understanding accountability is as a principle-agent problem. That is, how can the principle (a government agency) be sure that the agent (the contractor) does what it has agreed to do? For producing widgets that are countable and easy to evaluate for quality, the problem is relatively easy. But most of what the government buys from contractors is not easily countable and is often services rather than products. And, for complicated tasks or services a contract must be written with enough flexibility to allow for unexpected changes or circumstances. Thus negotiation throughout is the reality of government contracting, especially as the size of contracts grow to include more disparate elements.22

In order to assure that firms doing government business have the incentive not merely to make money on the present contract but to accomplish the mission effectively, we need to appeal to more than a tight contract. The incentive to do an outstanding job can be enhanced by the hope for future contracts. In a potentially long term relationship the incentive to perform well is maximized. The expectation that a continuing relationship may provide an incentive for first rate work was part of the reasoning behind the NPR’s revision of contracting regulations.23 Given the desire for a predictable market on the part of the contractor and dependable quality on the part of the government, the incentives provided by market competition are mitigated and the necessity for effective contract management increases.24

In addition to the problematic relationship between government managers and contractors in the era of contracting, there are real dangers of fraud and corruption. The history of U.S. governments at all levels demonstrates that fraud in contracting is a common problem. While most private sector contractors are honest and competent, some will do their best to defraud the taxpayers.25 Thus the government needs a new type of manager who can skillfully write contracts and oversee them for quality and to detect fraud. The dangers of fraud and the government programs at potential risk for abuse are specified by Don Kettl in his book on government contracting, Sharing Power.26

In his analysis of the implications of the new wave of contracting, George Frederickson argues that fraud will again become a major problem. “Hollowing out bureaucracy and eliminating regulations will make the seedbed for corruption and scandal...contracts have always made a tempting environment for kickbacks and fraud.”27 He goes on to predict another wave of reforms. “The reforms that are being adopted may, at the margins, make government more productive, but they will almost certainly result in less ethical government. This being the case, in the years ahead we will eventually see another reform movement emphasizing administrative expertise, a merit-based civil
service insulated from political meddling, and the use of regulations to control corruption.”

Thus, the challenge to public administration in the growing era of contracting includes creating the managerial capacity to write flexible but firm contracts, managing them effectively, and guarding against the ever present threat of fraud and corruption.

**Individuals and the Public Service Ethic**

Managing contracts with nonprofits and business firms is only part of ensuring quality service to the public in contracting. The other part is recruiting individual workers who are motivated by more than personal enrichment and who are committed to mission accomplishment in the public interest.

Frederickson argues that there is a danger in focusing too heavily on merely the efficient delivery of goods and services by private contractors to the neglect of the broader public service dimensions of doing the public’s business. “The most destructive effect of [the] equating public service with commerce has been the devaluation of public service to just another area in which individuals can achieve essentially private ambitions.... This tendency is particularly destructive in public administration, for it attacks the assumption that a special relationship should exist between public servants and citizens in a democracy.... The public expects something more from the bureaucracy, and rightly so.”

Frederickson decries the “careerism” in which workers evaluate their organizational contributions by how they contribute to their career advancement. He contrasts this self-oriented careerism with the values of the “patriotism of benevolence” in which “the primary duty of public servants is to act as guardians” of our constitutional system and the values of “justice, equality, fairness, and common human dignity.” The implication is that the private sector is dominated by “private inclinations,” and in recent years the public sector has been adapting private oriented values rather than public values of patriotic benevolence.

But in reality, most ambitious professionals are driven by mixed motives. Those who are motivated primarily by personal enrichment are drawn to the private sector where such opportunities are greater. But most often the drive to make money is moderated by the desire to remain within standard legal and ethical boundaries. On the other hand, those who work in the public sector are likely motivated by the challenges and ideals of public service. But their commitment to public service is moderated by a desire to maintain a reasonable standard of living. The challenge for the government is to encourage private sector contractors to recruit workers and managers who, through personal inclination, train-
ing, and on-the-job socialization, are committed to public service, even though they do not work directly for the government.

For well established firms whose primary business is contracting with the government, there is probably some self selection for those individuals who want to be part of large scale challenges that accomplish public goals. In becoming qualified for their jobs, many young professionals undertake education that is oriented toward public management (e.g. MPA programs). But it is also incumbent on the managers of government contractors to properly train and socialize their employees to understand the public nature of their jobs. These workers are not merely making a profit and earning a living, but are also serving the public, and the consequences of success and failure are often much broader than purely private sector jobs. The challenge to those who write contracts for the government is to find firms that have a continuing interest in good performance and who recruit workers who are committed to public service and not merely to personal profit.

**Conclusion**

This article has argued that for the past several decades the federal government has tried to create the impression that government is shrinking at the same time that it has been maintaining government programs through contracting them out to business and nonprofit organizations. Widespread contracting out has raised the issue of how the ideals of the merit system can be maintained in organizations not under direct government control. The conclusion in this analysis is that imposing the negative constraints of the governmental merit system through rules and regulations on business firms with governmental contracts would be self defeating.

A more promising approach to the effective accomplishment of public purposes is encouraging a public service ethic in organizations and individuals who do the public’s work. The spirit of the public interest and mission accomplishment must permeate private contractors as well as nonprofit and public organizations. There are no easy formulas for how to do this. But, if we are to enjoy the efficiencies of the market without sacrificing the benefits of public service commitment, we must find a way to engender the public service ethic in all organizations that carry out the public’s business.

Of course, there are often profound public consequences in business jobs such as designing airplanes, producing nuclear energy, or building communications systems, but this essay is limited to explicitly governmental goals.
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Notes


7 See Light, The True Size of Government, p. 38. Light warns that his estimates involve a certain amount of estimation based on available data. In particular, his estimate of the number of state and local government workers implementing federal mandates is based on extrapolations from the responses of 358 state and local officials from a survey 1,772 of respondents (p. 36).


9 Patricia Ingraham, The Foundation of Merit (Baltimore: Johns Hopkins University Press, 1995), p. 56. A longer list of merit principles can be found in Title 5 (section 2302, b) and are adapted in “The Merit System Principles,” OPM pamphlet MES-97-2 (June 1997).

10 See the list of overlays on the merit system in Ingraham, The Foundation of Merit, p. 57.

11 For an analysis of the reasons why federal managers often do not use the regulations available to remove poor performers, see U.S. Merit Systems Protection Board, Office of Policy and Evaluation, “Removing Poor Performers in the Federal Service,” (September 1995).


15 Another concern in such an operation is the question of citizen privacy. Is the privacy of investigated individuals as easy to protect in a company as in the government where it has direct control over policies, procedures and personnel? Despite the ability to write the contract, the leverage over private firms is much attenuated.


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