

Checklist for monitoring privatization threats in localities and states as a result of the Covid-19 crisis

There is increasing concern about the outsourcing and privatization of public services and infrastructure during and after the Covid-19 crisis, especially given the significant budgetary distress most governmental entities are now facing. This is a checklist of information and actions to look out for in your locality or state.

Identifying drivers of privatization

It is important to understand the financial position of your locality or state and how it is impacting the public sector workforce and provision of public services. Research and anecdotal evidence show that these are key conditions that may make outsourcing and privatization attractive to decision makers who are uninformed about the dangers of privatization and/or are ideologically open to the idea of privatization.

1) Budgetary distress

- a. What is your locality's or state's projected financial position?
 - i. Has your locality or state released projections of the Covid-19 impact on its budget?
 - ii. Was your locality or state in budgetary distress before the crisis?
 - iii. Does your locality or state have access to surplus/rainy day funds?
- b. What types of revenue does your state or locality primarily rely on and how has the health crisis impacted that? For example, some localities heavily rely on taxes related to tourism, income taxes, property taxes, etc.

2) Erosion of public-sector workforce

- a. Has your locality or state furloughed or laid off public sector workers as a result of the Covid-19 crisis?
- b. If so, how many workers have been furloughed or laid off?
- c. What departments and/or types of workers have been affected by the layoffs or furloughs? Were any of these workers part-time or temporary workers? Understanding which groups of workers have been laid off or furloughed can provide insight into what types of services may be vulnerable to privatization.

3) Cuts in public services

- a. Has your locality or state cut public services as a result of the Covid-19 crisis?
- b. Which departments or types of services have been impacted?
- c. How will the lack of these types of public services impact residents?

Emergency actions that may pave the road for privatization

In addition to the key drivers of privatization discussed above, there may be emergency actions, powers, or suspension of rules that could make it easier for corporations to gain a foothold into a locality or state and ultimately secure lucrative and potentially long-term contracts.

- 1) **In response to the crisis, has your locality or state suspended normal procurement rules?** In our initial review, we found that these suspensions were often contained in resolutions pertaining to emergency powers or measures related to Covid-19.

- a. If so, what are the terms of the resolution to suspend normal procurement rules?
 - i. How long does the suspension last?
 - ii. What types of rules are suspended? For example, are competitive bidding requirements or public notification requirements suspended?
 - iii. Are there explicit limits on the length of time for these contracts? In other words, can the locality or state sign multi-year contracts under the suspended rules?
 - iv. What types of contracts does the suspension apply to?
 - v. Who is responsible for negotiating these contracts?
 - vi. How will the locality or state oversee these contracts?
 - b. Have contracts been signed since the resolution to suspend normal procurement rules went into effect?
 - i. What types of goods and/or services are these contracts for?
 - ii. What companies are party to these contracts?
 - iii. How long do these contracts last?
 - iv. Are you able to get copies of these contracts?
- 2) In response to the crisis, has the governor, mayor, county executive, etc., usurped or been granted emergency powers by the legislature, city council, or other governing body?**
- a. If so, what types of powers have been given? For example, do these emergency powers allow for increased decision-making authority in matters related to public sector workforce, public service levels, contracting decisions, etc.?
 - b. How long do the emergency powers last?
- 3) In response to the crisis, has your locality or state suspended, ignored, or amended union contracts for public sector workers?**
- a. If so, what types of workers and/or what departments are affected?
 - b. What are the terms of the suspension (how long does it last, what types of rules are suspended, what types of contracts does the suspension apply to)?
 - c. If the collective bargaining agreement contains limits on outsourcing, how does this interact with any resolution suspending procurement rules?

Monitoring corporate interest

Corporations may be positioning themselves for current contracting opportunities and/or longer-term and larger-scale privatization efforts. This is especially so in departments where public sector staff and services have been cut and/or areas where federal stimulus money may be used by the locality or state. Alternatively, some corporations or investors may offer an upfront payment to a state or locality for a long-term contract to control public infrastructure. Always remember this quote from a corporate executive in response to a question about privatization opportunities during the 2008 Great Recession, “Desperate government is our best customer.”

- 1) Are companies positioning themselves for current and longer-term privatization opportunities?**
- a. Are companies meeting decision makers to discuss and/or market their services?
 - b. Are industry groups or organizations that represent corporations approaching local or state decision makers to “sell” privatization or certain types of services?
 - c. Are companies that already have contracts with the locality or state approaching the governmental entity to expand the scope or lengthen the term of their contract(s)?

- d. Are companies offering short-term services for free—or other too good to be true deals? Do these deals have long-term contract obligations?
- e. Have companies or investors approached the state or locality about a possible public-private partnership or asset concession deal for existing public infrastructure assets?

Monitoring current and near future government action

Decision makers at some localities and states may already be ideologically open to privatization and see the health crisis as a way to push forward their privatization agenda. While emergency powers and suspension of procurement rules may make this easier even in the absence of increased authority and power, it is important to monitor decision makers' contracting actions.

- 1) Are there decision makers that are predisposed to pushing privatization in your locality or state?**
- 2) Has the locality or state issued any request for proposals (RFP) (or other procurement notices) during the crisis?** Keep in mind that if your locality or state has suspended normal procurement rules, competitive bidding requirements and/or normal public disclosure requirements may no longer be required, in which case these types of documents may be not issued or available for viewing. However, it is worth noting that normally many localities and states post RFPs and other competitive bidding notifications on the appropriate local, state, or departmental website.
 - a. If so, what does the RFP entail?
 - b. What are the deadlines?
 - c. What companies have expressed interest?
- 3) Have new contracts already been signed?** Some localities and states may post copies of contracts online, however, this will vary among jurisdictions. Contracts may need to be requested through public information requests. But some localities and states have delayed or suspended responding to open records requests for the duration of the crisis.
 - a. What is the duration of these contracts?
 - b. What are the terms?
 - c. Are these contracts subject to any oversight mechanisms?