



Restoring Public Control of Public Goods

Conference Report

January 2018

The conference on “Restoring Public Control of Public Goods” sponsored by the Rockefeller Brothers Fund (RBF) and the Global Development And Environment Institute (GDAE) was held on October 5 – 7, 2017 at the Pocantico Conference Center. Participants represented an interdisciplinary group; most came from two types of backgrounds: academia and activist organizations.

This report summarizes the discussions and the outcomes. It also provides notes taken during each conference session.¹

Part I: Conference Summary

Introduction – The War on the Public

Over the past thirty-five years, government in the United States has been vilified and vitiated through a movement designed to de-legitimize government in the eyes of the public, to reduce government’s capacity to operate, and to replace that capacity with private contractors and other forms of privatization.

Some astute observers have written about this phenomenon, among them James Galbraith, Daniel Feldman, Paul Verkuil and John Dilulio. Still, the citizenry has yet to notice or appreciate the extraordinary extent of this transformation. Most people have little sense of its negative impacts on their own well-being, let alone its devastation of the public domain.

We now are left with:

- An increasingly hollowed-out, de-moralized, de-professionalized, and devalued government;
- A hidden and growing “shadow government” of corporate contractors;
- An array of expensive false economies--since, in fact, contracting out regularly costs taxpayers more than direct government provision of services;
- Public goods that are so invisible as to be under-valued, and are therefore underfunded or struck from the budget;
- Counter-productive systems of performance measurement that create further harmful (if sometimes unintended) consequences;
- A citizenry that under-appreciates, or are unaware, of the public goods they receive.

Privatization, adopted from market-centric philosophies and the “competition prescription,” has become widespread throughout federal agencies (as well as state and local). Its ill effects, likewise, have been widespread, from prisons- and policing-for-profit to the replacement of public education with for-profit education, to private collection agencies profiting from the \$1.4 trillion student-loan industry.²

¹ See brief summaries of presentations at http://ase.tufts.edu/gdae/policy_research/PublicGoodsConference2017.html

² See [The Public Goods Post](#) for more examples.

Meanwhile, as the number of contractors has burgeoned and their cost to taxpayers steadily mounted, the professional civil service workforce has been decimated. For decades, we have been farming out to corporations an astonishing variety of roles and responsibilities that are properly those of public servants, that is, people who have taken an oath of office to serve the public interest.

The result, all too predictably, has been one stumble after another in public provisioning (e.g., the rollout of the Affordable Care Act website, which was handled by corporate contractors, and a contractor's failure to detect a break-in at US uranium stockpile facility that they were hired to guard). The unfortunate irony is that these private sector failures are interpreted by government detractors and, increasingly the general public, as more proof of government incompetence. This leads to further calls for privatization, perpetuating the cycle of degradation.

Subjected to messaging that blames "big government" for many of the ills of the society, the public is unaware of the extent to which they daily use and benefit from government services. When they do happen to notice a particular public good being degraded, they rarely realize that corporate contractors are the ones responsible.³ Moreover, the dismantling of the public workforce has meant that there is no longer sufficient government capacity to police incompetent or inattentive contractors; indeed, in some cases the vetting and supervision of contractors has actually been contracted out to other corporations!

In the aftermath of the November 2016 election, the push to rend the fabric of government and to privatize public goods is escalating. With the intensification of the war on the public and the "deconstruction" of the state, there is urgent need for concerted action to defend, restore, and uphold the role of government in assuring the well-being of the polity.

Conference Background and Objectives

The impetus for the conference was the forty-year war on the public and the more recent "deconstruction of the administrative state" being undertaken by the Trump administration. While the headlines may be loud with news of White House tumult, behind the scenes the administration and Congress are working quietly and effectively to disempower those public institutions and administrative processes that undergird Americans' well-being. At the same time that protections are being destroyed and agencies dismantled, remaining governmental capacity is being commandeered in the interests of private business. Public goods are being transformed into profit centers.

The conference objectives were:

- To share information about the nature and extent of the problem of government "deconstruction" and privatization;
- To produce ideas for policies and actions to counteract the deconstruction; and
- To discuss ideas for public messages and messaging in terms of "kitchen table" language that has meaning to ordinary Americans.

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³ See John J. Dilulio, Jr, "Against Federal 'Leviathan by Proxy' and for a Bigger, Better Full-Time Federal Workforce"; *Public Administration Review*, (76)4; July/Aug 2016, pp 535-537. Dilulio refers to "the 2015 list of the 32 federal programs that the Government Accountability Office (GAO) considers 'high-risk' because of waste, fraud, abuse, cost overruns, persistent performance [and] management failures...28 of those 32 high-risk federal programs work through proxy or hyper-proxy administrative arrangements." ["Proxy" means contracted-out].

In addition to the overall conference, there was also a founding meeting of a working group on the public economy and public management, now being called the Public Economy Group. This report contains summaries of both the conference and the working group meeting.

Overview – Outcomes & Highlights

Outcomes: Stage-Setting for 3 Kinds of Actions

In sum, it can be said that the Pocantico meetings resulted in stage-setting for three kinds of actions:

- Furthering the work of the organizing and activist organizations who attended. The conference provided a forum for discussions and for potential collaborations that likely would not have happened otherwise, or at least not as quickly.
- Advancing a new study and theory of the “public economy” in post-secondary education settings and through scholarly networks, including plans for a special journal publication on the public economy.
- Messaging to the public in connection with central concerns of the conference. Ideas were generated and new potential collaborations begun.

In addition, the interdisciplinary quality of the group made for multiple intersections and knowledge-sharing. For example, not all participants were equally familiar with the extent and nature of privatization and contracted-out government. Thus one of the major outcomes of the meeting was awareness-building, along with new insights and knowledge-sharing.

Public Perception vs Research Revelations

One of the starkest revelations that emerged from conference presentations was the contrast between what Americans think about privatization and what research has shown. Americans hold a generally favorable view of privatization (outsourcing) based on its claimed advantages, such as lower costs and greater efficiency. But a substantial body of research -- much of it by participants at this meeting – has shown that those beliefs are largely unfounded. Outsourcing often, perhaps in most cases, costs more, and private contractor corporations are *not* more efficient at delivering public services than government is.

But clearly, the false messages about cost and efficiency have had their desired effect.

The question is – how to counteract the false messages; how to get the truth out?

One communications and messaging study found that framing privatization as the public losing control was an effective way to help ordinary citizens see the downsides and danger of privatization. This reframe makes the public aware of what is being lost, or given away, as opposed to what is supposedly gained in the way of financial savings or smaller government. For example, the long length of many “public-private-partnership” contracts (e.g., 99 years for the Chicago parking meters privatization) is a red flag for people. People care more about what is lost versus supposed gains.

Language matters, and corporate interests are extremely effective at promoting privatization

Private contractors are continuously becoming more creative and sophisticated in marketing and in framing themselves as positive influences on government and the direction the government should

head in the future. While the term “privatization” has been used successfully in campaigns to outsource government to private corporations, it is beginning to lose its luster. Corporate interests and privatization advocates are developing a new “warm and fuzzy” vocabulary. They are using terms like “public private partnerships,” “pay for success”, and “blended financing”. Government contractors don’t call themselves contractors; they call themselves “solutions” and “partners”.

It is difficult to keep up with the communications spin. But it is essential to develop an honest and government-positive vocabulary for communicating with the public.

The group considered terms and phrases. None was a home run. But “**public purpose**” seemed to be a favorite among the group. The term “public purpose” is an updated version of “public service.” Meeting participants felt this term might resonate with some Millennials and other demographics who are yearning for connection to a higher purpose in a materialistic age and who value authentic relationships and experiences over material goods. “**Serving the public purpose**” was also mentioned. This recaptures the concept of “public servants.” That term has been specifically attacked to move public perception to disfavor the public domain.

A Massive Invisible Assault on Our Protections

Contrary to the common assertions that little is being accomplished in Washington under the current administration, significant deconstruction is underway. A tremendous number of regulatory protections are being undone through Congressional and administrative actions -- most of which are invisible to the public at large.

One of the chief tools is the Congressional Review Act (CRA), which gives lawmakers 60 legislative days to overturn major new regulations issued by federal agencies. Passed in 1995 as part of the Gingrich Congress “Contract With America,” the CRA had been used only one time prior to this past year. But in 2017, Congress passed 14 joint resolutions during the first five months of the Trump Administration. These resolutions overturned federal regulations promulgated during the final days of the Obama Administration that were designed to protect consumers, investors, workers, mothers, students, the environment, and potential victims of gun violence. (For examples see the summary of Dr. Thomas McGarity’s presentation, below). Other forms of regulatory dismantlement have also been utilized this past year: there have been at least 80 major regulatory actions that the Administration prevented from going into effect as it considers their repeal or replacement

A “Private Government” that Operates Behind a Shield of Secrecy

Corporate contractors are now so ingrained in the operation of the federal government that they have taken over responsibilities of public servants and are performing “inherently governmental functions.” The problem with this is that their incentive is, necessarily, private profit rather than public interest. But today these businesses operate behind legal shields of secrecy -- for example *de facto* exemption from the Freedom of Information Act. (See details below).

Participants considered potential remedies but there was not a consensus on any one solution. While corporate contractors were the main focus of the discussion, one speaker noted that “in a world where private companies already provide many essential services affecting the marginalized, such as prisons and welfare, and increasingly provide essential services affecting all echelons of society, such as

air traffic control, education, infrastructure, and other tasks formerly thought of as primarily public, the problem of ‘private government’ transparency only grows.”

Take-Aways

At the end of the conference, participants expressed their “take-aways” in a Round-Robin. Salient examples include:

- We can’t be just be anti-privatization, we must be pro-public as well. We need to fill the void.
- We are up against a very big lobbying force. It’s David versus Goliath. But this meeting helped me realize that there is a collective who cares about these things.
- In engaging the public, the racial and equity justice piece is key.
- How do we talk to different audiences – what is a central message that works whether you are talking to a group of libertarians, the Cosmos Club, or a Sunday school class in a rural community?
- We need to tap into rhetorical and political traditions, philosophical traditions which have established and maintained a public presence and public foundation for organized life in this country, and we have to express it in a way that can be accessed seriously over time. Anything done too rapidly is likely to burn out. We need to reframe a debate which has been badly handled for 30-40 years by the progressives who have conceded territory they ought not to have given up. They gave away too much ground. We need to redraw the lines.
- In any organizing campaign, it is helpful to add an internal dimension. There is a content challenge of how we talk about all this. There also are organizing questions – how to organize multiple perspectives, across generations, across academics and action oriented groups, etc.
- Never launch a movement around a word that ends in “-ation.”

Part II: Notes from Individual Meeting Sessions

This section presents notes from each of the meeting sessions. These are “raw” notes based on live notetaking during the sessions, as well as some summarization. These raw notes are meant to give the reader a sense of the flavor of the conversations.

Thursday, October 5, 2017

Dinner Keynote Address

Rep. John Sarbanes (D-MD)

Summary:

Rep. Sarbanes keynoted the event on Thursday evening. Congressman Sarbanes is a leader in confronting conflicts of interest in government and advancing reforms that can restore Americans’ faith in our democracy. In his keynote, Congressman Sarbanes talked about “democracy reform” and described his “By the People” package, which “will put people’s interests ahead of special interests.” Rep. Sarbanes also described his work to rein in the indiscriminate outsourcing of government services to the private sector and to ensure that core government services are performed by public employees who take an oath of office to support and defend the Constitution.

Notes:

Rep. Sarbanes spoke of his work and bills that he has introduced in the areas of:

- Ethics and accountability
- Voter empowerment
- Campaign finance reform

Together this can be summed up as “democracy reform.”

The Congressman has introduced the “We the People Act” and has put together a “By the People Package.” The overarching message: “It’s your democracy if you choose to own it.” The question at this time is “Who owns this democracy?”

Profit-motivated corporations began to drive the train several years ago. And now the term “market” has come to mean “not the public”.

There have been three kinds of privatization:

- agencies
- democracy
- Congress’ policy capacity

All three add up to systemic disabling.

There is a need for a common theme and message, for building blocks, to construct an alternative, one that is addressed to the needs of the people.

What is needed is to build core principles and accompanying messaging points. Congressman Sarbanes talked about a “Candidate-ready” vs “Candidate-dependent” approach to preparing to govern. He argues that his party, unfortunately, has for years taken a “candidate-dependent” approach, lacking a core message. The core message needs to be built.

He also talked about the CLEAN-UP Act he had introduced to rein in counterproductive outsourcing and suggested it could be used by conference participants as a reference point.

Friday, October 6, 2017

Welcome

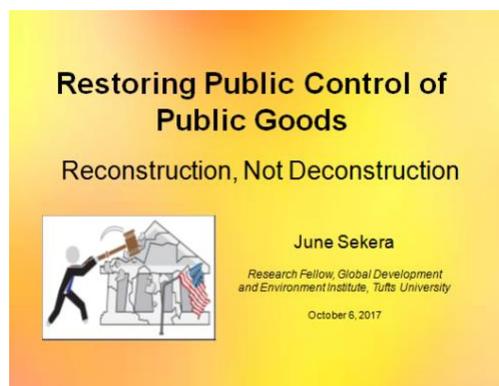
Neva Goodwin, Co-Director, Global Development And Environment Institute, Tufts University

Dr. Neva Goodwin opened the meeting and welcomed the participants to Pocantico.

Plenary 1: The Problem. And Why We're Here.

June Sekera, Research Fellow, Global Development And Environment Institute

See June Sekera's PowerPoint presentation: [https://www.dropbox.com/s/mfk8yyvn1i59lvj/June Sekera Restoring Public Control of PGs 17 10-3 shrt.pptx?dl=0](https://www.dropbox.com/s/mfk8yyvn1i59lvj/June%20Sekera%20Restoring%20Public%20Control%20of%20PGs%2017%20-3%20shrt.pptx?dl=0)



Ms. Sekera summarized the history in recent decades of government “privatization” – the outsourcing of governmental functions to private corporations – and of “marketization” – the imposition of market values and axioms onto those parts of government that haven’t been privatized.

This has created “crisis of public control,” as Paul Verkuil has written about in his book, *Outsourcing Sovereignty*. There has been a widespread effort for decades, and being stepped up now, to constrain and hamstring government-for-the-people and replace it with government for private-profit-making.

June then explained the purposes of the conference: to share information about these phenomena and to discuss ideas for counter-acting them in terms of both policies and public messaging.

Participants at the conference will discuss both the problems and potential counter-actions. One model might be Congressman John Sarbanes CLEAN-UP Act, which was introduced several years ago. Perhaps elements of that approach could be incorporated into new policy to address current needs. Another path would be to consider whether to extend the Freedom of Information Act to contractors, who are now effectively exempt. And lastly, it is critical to find ways to effectively communicate to the public about actions needed to preserve public goods and services that are being dismantled and regulatory protections that are being “deconstructed”.

June referred to two reports produced for this conference:

[Outsourced Government – The Quiet Revolution; Examining the Extent of Government-by-Corporate-Contractor](#), June Sekera, *Global Development and Environment Institute*, September 2017

[Freedom of Information Act \(In\)Applicability to Government Contractors](#), June Sekera, *Global Development and Environment Institute*, September 2017

Plenary 2: Privatization and Public-Private-Partnerships: Public Risk for Private Gain

Dr. David Hall, Professor, Public Service International Unit; University of Greenwich

See the PowerPoint at: <https://www.dropbox.com/s/izlravfk4d93c4a/David%20Hall%20PPPs-Pocantico-2017.pptx?dl=0>.

First Dr. Hall reviewed the history of privatization, focusing on the UK and US in particular. He then discussed findings from international studies he has conducted on privatization and public-private-partnerships (PPPs) under the auspices of his organization: the Public Service International Research



- **On privatised water:** "... Quite why this natural monopoly should not operate through not-for-profit, public interest companies is ever less clear." [Water privatisation looks little more than an organised rip-off](#) FT Sep 10 2017 by Jonathan Ford , City Editor
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- **On PFI/PPP:** ["PFI discredited by cost, complexity and inflexibility"](#) FT Sep 26, 2017 by Chris Giles, Economics Editor (see also [Xmas tree](#))
- **On public ownership:** "For the first time in four decades, an intellectual revolution is taking place in British politics. ...it is the right that risks being left behind. Radical ideas from the hard left ... now have mainstream appeal." [Tories are being swept away by Labour's intellectual revolution](#) FT Sep 28 2017 Sebastian Payne

Unit at the University of Greenwich. His research on comparative efficiency has revealed that there has been no systemic advantage in privatized services in the countries and concerning the privatized services he has studied. David also shared information about the "de-privatization" movement and

successes in the UK. (See the figure above.)

In reviewing the history, David noted that in the 1970's, the rhetoric was that state economic activity threatened democracy. In the 1990s in Eastern Europe, no one was defending state public action. Then the selling point became efficiency.

A 2013 analysis compared performance of all European companies privatised between 1980 and 2009 with that of companies which remained public. The analysis found, with a high level of statistical significance, that privatised companies did *worse* than those that remained public, and continued to do so for a period of 10 years: "the privatization group underperforms the group of sectors remaining public" (Knyezevas and Stiglitz 2013).

David described an example of how a significant and well-planned and implemented messaging campaign can fight privatization. The new country of Slovakia was considering how to organize its health care system. Advocates for the public option invited the Service Employees International Union (SEIU)

from the US to talk about how privatization of health care can have negative impacts (based on the US experience). They also brought in UK representative to talk about the effectiveness and merits of public health care. There was a series of presentations around country over a week. This campaign succeeded in averting privatized health care in Slovakia.

Case study from the UK: The UK Private Financial Initiative (PFI).

This model of privatization took off under Thatcher, but it is now being dropped because it is not working. One big problem is the **high cost of capital faced by the private sector – it is double that for public sector**. Many PFI projects were for refurbishing the London underground. Many contracts were canceled due to excessive expense. A negative effect of privatizing is the crowding out effect of other services that happens when PPPs absorb so much capital in an economy.

The following chart summarizes five key cost factors in capital projects and how PPPs compare to the public sector. On all five factors, PPPs are neutral or negatively compare to the public sector.

PPPs: Value for money assessment of PPPs vs public sector

	Factor	Comparing	Evidence indicates
1	Cost of capital	Debt interest + dividends	PPP more expensive
2	Cost of construction	Comparative costs and completion	PPP more expensive/neutral
3	Cost of operation	Comparative efficiency	Neutral
4	Transaction costs	Procurement + monitoring, management	PPP more expensive
5	Uncertainty	Incomplete contracts, contingent liabilities, impact on service	PPP riskier

In June 2017, the Labour party issued a policy statement that commits to public ownership, in-sourcing public services, bringing utilities back into public ownership. Just in the last few months, things are turning around in the UK. There have been no more PFIs and existing PFIs are being brought back in-house.

The *Financial Times* is running a series on privatization and plans to interview Dr. Hall.

This turn-around is the result of a steady drumbeat against privatization and for public control. For example, the UK **“We Own It”** campaign – a national campaign advocating against privatization -- has been running since 2013. Also, there have been numerous public polling reports on how the public supports public services. There has been an “intellectual revolution.” It was key in this turnaround that Jeremy Corbyn became leader of the Labour Party, combined with a cumulative drip of research results over the years.

Take-aways:

1. There is no evidence of private efficiency advantage. Studies – a meta-analysis of global studies - show that there is no significant difference in efficiency between public and private provision.

Some studies in countries across Europe found that private provision of public goods and services was worse. This holds across sectors – water, waste, electricity, transportation, etc.

2. In the health care sector, there is evidence of efficiency advantages of *public* provision. Private provision results in unnecessary spending, poorer life expectancy, and poorer service quality.

Public-Private Partnerships (PPPs)

1. The IMF (International Monetary Fund) is consistently skeptical of privatization efficiency claims.
2. PPPs are inherently more costly because the cost of capital is higher for private companies than for government.
3. There ARE alternatives to PPPs

Plenary 3: Public Opinion About Privatization

Shar Habibi, Research and Policy Director, In The Public Interest

See Shar Habibi's Powerpoint presentation:

<https://www.dropbox.com/s/hmvquhlyxj7rjnp/Shar%20Habibi%20Privatization%20Messaging%20Presentation%20Oct%206%202017%20sans%20video.pptx?dl=0>

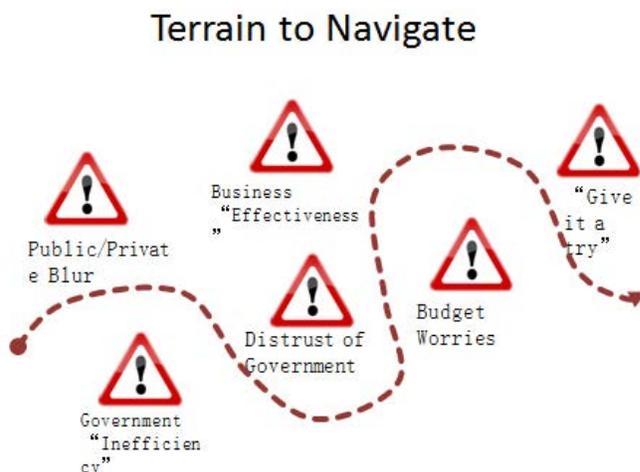
Summary:

Ms. Shar Habibi, Research and Policy Director at In The Public Interest, talked about a communications/messaging study commissioned by her organization which revealed that much of the public supports "privatization" in concept, but that when people understand how the public loses control, their support decreases. Ms. Habibi described the research findings as well as effective approaches to counteract false messages.

Recap notes:

Shar reported on a study of American's opinion about privatization.

The research, conducted in 2011, gathered data from focus groups and "talkback testing" sessions. The researchers found that most Americans are conditioned to be supportive of privatization. Americans have default orientations or default patterns of thinking that support privatization.



The prevailing perspective is that privatization is a sensible option in many cases. This open attitude – which includes the assumption that mistakes can easily be corrected – makes it difficult to argue categorically against the practice.

While Americans in much of the country tend not to have thought much about the issue beforehand, their open attitude rests on a number of default patterns of thinking that transcend political orientation, including:

Default patterns of thinking:

1. *Lack of a clear distinction between public and private* – many people don't understand the distinction. For example, a woman sitting in a public park did not know that it was created and maintained by the government. She did not even really think about where it came from.
2. *People assume that government is inefficient.*
3. *People assume that business is lean and effective, sharp.* They assume that since private companies have to deal with competition to make a profit, they are efficient and effective.
4. *Once triggered, the contrast between "government inefficiency" and "business efficiency" is nearly impossible to overcome.* People believe government has no incentive to be efficient, innovative, service-oriented, etc. since it does not operate for profit
5. *People distrust government motives,* they distrust politicians, and they confuse politicians and government agencies.
6. ...So, people say "why not?" to privatization.

However, the study also revealed that people are likely to have a skeptical, less favorable, view of privatization when they understand it as a handing over of control to corporations.

The framing that is effective: "Privatization means HANDING OVER CONTROL of [a specific service or public asset] to a private corporation."

Aligning Public with Government: Americans tend strongly to think and talk in third-person terms about anything having to do with government ("they" "them" etc.). The reframe has an impressive ability to align people *with* government – positioning "they" (business) as running things differently from how "we" (public via government) run "our" assets and services.

In our interest: An emphasis on who controls a particular service or asset proves to be an effective way of raising questions about whose interest the operation will be benefitting. In fact, a focus on **control** is more effective than a direct focus on whose interest companies operate in – or on an explicit contrast between government and businesses.

The genuine value of public structures/institutions: Americans tend not to focus on the genuine value of things we have built together (public goods like airports, schools, etc.). But when they think about why investors are so interested in getting control of these structures, they gain a new appreciation for this value we have created. With this frame, people gain a new appreciation of the value of these publicly-created necessities.

Countering the "just fix the contract" response: Importantly, this approach directly takes on one of the most standard retorts to other messages – i.e. that "we can always keep an eye on things and change course if necessary." If we've handed over control, we are beyond fixing a contract.

A sense of loss: The reframe makes the public aware of what is being lost, or given away, as opposed to what is supposedly gained in the way of financial savings or smaller government. The long length of many PPP contracts, e.g., 99 years for the Chicago parking meters privatization, is a red flag for people. People care more about what is lost versus supposed gains.

There has been active hostility toward the government over the years, built up by lots of actors – private companies, presidents, etc. We have to take on this fundamental point. Even if we win on stopping privatization, and government is delivering for the polity, people will still be hostile to the government and its services because of the negativity toward government. It is important to engender pro-public as well as anti-privatization sentiment.

Workshop 1: Outsourced Government

Janine Wedel, Professor, Shar School of Policy and Government, George Mason University

A giant workforce has invaded our nation's capital. Private contractors have created a shadow government and it is parasitical. Three examples: At the National Security Agency (NSA), the number of contractor facilities approved for classified national intelligence work jumped from 41 in 2002 to 1,265 in 2006. In more than half of 117 contracts let by three big agencies of the Department of Homeland Security (the Coast Guard, the Transportation Security Administration, and the Office of Procurement Operations) and examined by the GAO, the GAO found that contractors did inherently governmental work. In the number of contractors outnumbered military service members in Afghanistan.

The State and private sectors are intertwined in practice. For example, a consultancy firm in DC was started by former SEC regulators. This firm works for the large banks to help them do shadow and registered lobbying. The firm is paid by the banks. Principals have continued access to regulatory agencies--they are "regulation sleuths" who scope out what is in development (obtaining inside information) and are thus able to prepare against the upcoming rules. These firms also write many of the regulations that government issues to regulate banks. The "positionality" of people has changed – they are neither inside the government nor outside...they are positioned in both at the same time.

This is powering the growth of shadow government. There is a desire to make the formal government appear small because so many have attacked and degraded it. Yet people still want government services, like Social Security, toll-free roads and public services, so this gives rise to the shadow government.

The shadow government grew significantly under President Clinton's "Reinventing Government" initiative. Short, small contracts were replaced by much bigger, multi-year contracts. A limited pool of contractors was created by policy. Most contracts are awarded with little or no competition. This is a "free market farce": i.e., little or no actual competition and monopoly power. ("Task Orders" are another vehicle that limits competition among private corporations wanting to capture the public revenue flow.)

What should be done?

1. Government should reclaim inherently governmental functions.
2. Need to reclaim and rebuild within government the information, expertise and skills that running the government requires. Government has been so depleted that simply "insourcing" previously corporatized functions will be hampered by the past hollowing-out of in-house talent and experience.

Scott Amey, J.D., General Counsel, Project on Government Oversight

See Scott's Powerpoint presentation:

<https://www.dropbox.com/s/xzxw80hcnr7xta8/Scott%20Amey%20Bad%20Business%20Presentation%2010%202017.pptx?dl=0>

Summary:

Mr. Scott Amey spoke about his research on outsourcing government functions, which found that, contrary to the claims of privatization advocates, “billions of dollars are wasted on hiring contractors” based on “a misguided assumption” that market practices enable federal contractors to be more cost efficient than public servants. The POGO study, [Bad Business](#), found that contractors cost taxpayers almost twice what it would cost the government workers to do the same job.



Recap Notes:

Federal contract spending in 2005 was \$205 billion; by 2016 it was \$474 billion. Of the 2016 amount, the majority - \$286 billion – was for services, not for purchasing hardware or materials.

POGO's 2011 study of contractors, “Bad Business,” found that contractors cost almost twice as much as government workers performing the same work.

Another study by POGO in 2011 showed that overhead comprised more than half of contractor spending by the Army (\$16.6 billion out of \$31.5 billion).

The “A76 circular” is a key document defining inherent government functions. President Bush revised it to remove a few words, which changed the definition of “inherently government functions” and massively expanded the ability to contract-out government services. Revisiting A76 has been on hold purposefully for several years.

Comparing the employee compensation of the public versus the private markets –

The POGO study, [Bad Business](#), compared three markets: the public sector, private sector, and contractors. The study examined and compared 35 occupations and found that contractors cost taxpayers almost twice what it would cost the government workers to do the same job, and that contractors were also more than 2 times more expensive than the genuine private sector (what firms charge each other). Scott's research showed that contractors are in a market all to their own.

In sum: people think private sector is better on cost, flexibility, innovation, and competition. The facts show differently on all four elements (see the PowerPoint slides for detail).

Aman Banerji, Roosevelt Institute

The Roosevelt Institute (RI) did a survey of young people before the 2016 election. Young people are incredibly concerned about democracy. 80% surveyed said what was more important to them than who won the election is making changes to the way democracy is working.

The RI project, “Re-Public,” works with students across the country at state and local levels on policy to improve the quality of public goods and to reinstate public goods/reduce privatizations.

The project defines public goods as socially and morally constituted of the larger society. They are shared rights and responsibilities; shared commitment to each other, i.e., “I should experience clean water and am committed to providing it to others.” Shared rights change over time, e.g., Google – 100 years ago, no one was thinking about a shared right to a search engine. Today, yes, it can be a shared right. What are the goods of the future we need to think about. Public goods have the potential to dominate our lives. For example, prisons control our freedom, something that is very central to our lives. Private prisons hand this control over to the private sector.

The Roosevelt Institute “Re-Public” project has 4 campaigns:

1. Anti-privatization efforts.
2. Build on accountability and transparency of public goods.
3. Combat the financialization of public institutions, and privates extracting money from publics.
4. Pro-public institution efforts.

Privatization effects are magnified at a local level.

Example: At the University of Tennessee, campus workers found out that the Governor planned to contract out all facilities work to a private company, which the Governor had ties to. This was discovered through a Freedom of Information Act (FOIA) request. The decision-making process for this work had been conducted almost entirely in secret. The Governor defended his decision on “spiritual grounds.” The privatization contract would result in on-campus decisions around basic amenities like heat to be made by the firm's regional/local headquarters miles away from campus rather than directly on campus. As a result, students and campus workers would be disempowered from participating and the process would greatly slow down the resolution of any on campus issues. In this same vein, the new privatization contract at the state level would have prevented individual campuses from negotiating the terms of their facilities management, outsourcing those decisions entirely to the state level. It's a true example of “outsourcing of sovereignty.” The Governor has now allowed each university to opt in or opt out of the state centralized plan.

This is an example of “vested outsourcing,” which is the name of the broader model that's being used in Tennessee to advocate for privatization of facilities management. We are seeing it in more states. Tennessee may be just the first. It undermines competition because it's just one contract negotiated by the state. Previously, there was a great deal of competitive bidding with each campus contracting separately. Centralizing at the state level severely reduced competition.

Group Discussion:

We need to look at the historic view. The US government privatized regularly before WWI and even after. Defense examples – we hired pirates before we had a Navy. Transportation – privately owned roads and canals were common – paid for by tolls. Prisons – government used to lease out prisoners to

corporations for labor. Even Progressive Movement heroes had no problem contracting out, i.e., Lincoln with land grants to railroads and Roosevelt.

Roosevelt and Truman built war plants in the lead up to WWII...and then sold the plants at bargain basement prices to private defense companies.

Yes, but let's compare this to what's happening in recent past or "living memory" (post-war era) and look at how what's happening today differs from historic privatization. The Digital Age changes everything, such as the methods of privatization, the speed with which it happens, and the lack of transparency.

Moreover, all public goods now provided by government were once provided privately. Education, for example. But, societies over the generations decided that certain things needed to be created and provided collectively through collective decision making and shared costs. Societies felt that certain things, like education, roads, clean air, should be available to all regardless of ability to pay.

We have to explore the reason why the public sector emerged as a necessary element. In the Depression, it emerged because the market model to that point collapsed completely. The quality of products, food, medicine, work safety suffered.

Part of the story is revenue. We still have a gold standard mindset, which is a limiting mindset. Leaders of both parties have austerity insanity. When you have a sovereign currency, money is not short. We need to fight these more basic concepts; otherwise, we will always be behind. Two of the basic concepts are: 1) Shortage of revenue. And 2) Government is bad.

Private companies affect the agencies during rule-making. For example, they write letters to legislators for agencies to send in support of specific companies (strategically target representatives), and they influence OMB (the Office of Management and Budget). They create whole campaigns for one rule-making process. They have a well running machine and process. See the article, "Administrative Law is a Blood Sport," by Tom McGarity.

We are only three states away from a constitutional convention. Could this be addressed there? The Balanced Budget Amendment is the hook to work from.

Look at Fred Aman's study on Indiana privatizing the welfare administration under Governor Mitch Daniels. It was a hugely popular policy. He outsourced it to IBM. The private company locked into a contract and was not flexible in times of emergency need. For example, there were more people on welfare after the Great Recession, but IBM pushed back on the increased caseload because it was a bigger scope of work than in the contract. Also, the state had a major flood, which increased those needing assistance. Again, the private company pushed back, citing not in their contract. We need to move away from locked-in contracts with private companies in order to gain the flexibility needed for times of emergency and fluctuating circumstances.

Fred finds that his students are anti-institution. They are very skeptical of institutions. Can this anti-institutional bias be shifted toward large corporations?

Does privatization make competition problems even worse? Yes, cartels.

Monopoly – people feel the government has a monopoly and want to break it up. The government needs to get more efficient in order to reassure the public.

Paul Light's report with updated numbers on the number of private contractors came out yesterday. There was an article in the *Washington Post*. The article is entitled, "The True Size of Government." It's from the Volker Alliance.

Government is a powerless monopsonist. It has no power to really determine what it pays; the procurement system has been reorganized so that contractors have much greater control than they did decades ago. The "Task Order" system is an example of this – an example of what Janine Wedel has called the "free market farce" of government contracting.

Even if government workers' hands are not specifically tied, they are looking to their post-government work and don't want to alienate any potential employers. There is a revolving door between government and the private sector.

Luncheon Address: The Invisible Assault on our Protections

Thomas McGarity, Professor, School of Law, University of Texas at Austin

<https://www.dropbox.com/s/ija7g9qy9yucgz8/Tom%20McGarity%20lunch%20talk%20Invisible%20Assault%20on%20our%20Protections.docx?dl=0>

Dr. Thomas McGarity spoke about "The Invisible Assault on Our Protections" – the assault that is rolling back and destroying regulations that protect Americans from harm.

Tom spoke of five assaults over the last several decades and the "invisibility" that these actions have enjoyed, particularly in recent years. The First Assault occurred during the Reagan Administration, with successive assaults under the Gingrich Congress in 1995, the George W. Bush Administration, and the Tea Party movement's electoral successes in 2010. We are now in the midst of the Fifth Assault. And it is getting very little attention. The first nine months of the Trump Administration have witnessed many notable victories for the radical anti-regulatory movement.

He then explained the legislative and policy tools that are being used in this Fifth Assault.

One of the principal tools has been the Congressional Review Act (CRA), which was a major achievement of the Gingrich Congress. The CRA enables Congress to destroy any regulation issued, as long as Congress passes a "Joint Resolution" within 60 "session days" after the rule is promulgated. And once the CRA revocation has been invoked, no similar rule can ever be promulgated again.

Prior to this year the CRA had been invoked only one time.

But Congress passed 14 joint resolutions during the first five months of the Trump Administration, overturning federal regulations promulgated during the final days of the Obama Administration that were designed to protect consumers, investors, workers, mothers, students, the environment, and potential victims of gun violence.

Other forms of regulatory dismantlement have also been utilized this past year. Dr. McGarity has thus far tentatively identified over 80 major regulatory actions that the Trump Administration has prevented from going into effect as it considers whether to repeal or replace them.

The short-term agenda for the Trump Administration and the current Congress is to pull back all of the regulatory protections promulgated during the Obama Administration. The long-term goal is to roll back the protections that the federal government has put in place since the Progressive Era.

Workshop 2: FOIA

Alfred Aman, Professor, Maurer School of Law, Indiana University

Dr. Alfred (Fred) Aman discussed government outsourcing -- “government by contract” or “private government” -- explaining that contractors are effectively not covered by the Freedom of Information Act. He then suggested potential categories of solutions to the information problems that result when something once in the public sector is moved to the private sector.

He suggested three approaches, and their variants, to extend FOIA to the private providers -- (1) by legislation, ad hoc or general, conditional and unconditional, (2) by contract negotiation, and (3) by in-sourcing instead of outsourcing.

FOIA was passed in 1966 (signed by President Johnson). It has faced criticism from agencies and open access advocates and continuous academic critique ever since. Still, it has accomplished much good, too, and it sets forth a transparency ethic for us that is worth pursuing especially when what was once public becomes private.

But private providers almost always fall outside of the scope of FOIA, even as they provide public services pursuant to contracts with public agencies. This is because two narrowly-construed statutory terms control whether a private company is subject to FOIA disclosure requirements. These are “agency” and “agency record.”

After explaining why these terms effectively make contractors exempt from FOIA, he described the three approaches to extend FOIA to private providers noted above.

Dr. Aman suggested that there are two overall approaches to consider: “ad-hoc,” meaning industry-by-industry, or “general,” meaning across all industries.

An example of the former is a bill recently introduced by Sen. Cardin (D-MD) – “The Private Prison Information Act of 2017,” which would extend FOIA to privately-operated federal prisons.

Fred noted that there are other forms of privatization other than outsourcing that also need to be considered in terms of exemption from FOIA. An example is the Trump Administration’s announced intention to propose an “infrastructure program” under which publicly-owned assets such as roads and airports would be disposed of by sale/transfer to private entities.

He noted that in a world where private companies already provide many essential services affecting the marginalized, such as prisons and welfare, and increasingly provide essential services affecting all echelons of society, such as air traffic control, education, infrastructure, and other tasks formerly thought of as primarily public, the problem of “private government” transparency only grows.

Dr. Richard Murphy, Professor, Texas Tech University School of Law

<https://www.dropbox.com/s/5map6dk865dhx47/Chip%20Murphy%20Extending%20FOIA%20to%20Contractors%20Oct.%204%202017.pptx?dl=0>

The “Petty Policy”

Years from now, people will look back on today and say, “You mean we privatized the prisons so there’s no profit unless the prison is full?” You’d think someone in kindergarten could figure out how stupid that is.

4

Dr. Richard (Chip) Murphy discussed a number of issues relating to FOIA and contractors.

A House Committee on Oversight and Government Reform pronounced that the “FOIA process is broken.” There are “unnecessary complications, misapplication of the law, and extensive delays.”

Some observations:

- * In FY 2016 there were 788,769 FOIA requests received.
- * Processing is done by notoriously underfunded, under-resourced compliance staffs spread across agencies.
- * Statutory deadlines are short; real-life wait times are long.
- * Most requests are from corporate, profit-seeking entities.

What are the implications of expanding FOIA to government contractors?

The Cardin bill imposes FOIA on private prisons. This is a very attractive place to start. Not only are private prisons morally repulsive, there is a strong case that prisons have a significant impact on us as citizens, so this should be more of a state function rather than a private function.

Reverse FOIA, Trade Secrets Act and FOIA “Exemption 4” --

The Trade Secrets Act and Exemption 4 could bring about reverse FOIA litigation by private contractors. The Trade Secrets Act bars unauthorized disclosure by federal employees of commercial or financial data. Exemption 4 exempts records from FOIA that would not be expected to be produced during litigation. So, if contractors consider something confidential, contractors can be protected from FOIA requests under exemption 4. A government agency can affirmatively say that certain information cannot be FOIA’d because it is confidential (it can’t be requested in litigation).

Group Discussion:

Don’t conflict of interest laws come into play here? These are companies that get 100% of their revenues from tax dollars; they should be subject to FOIA.

⁴The quote in this textbox is by singer Tom Petty in an article in *Rolling Stone* magazine. See the last sentence in the article here: <http://www.rollingstone.com/music/news/tom-petty-on-past-confederate-flag-use-it-was-downright-stupid-20150714>.

Government staff are so under-resourced they are not monitoring and not making agency records to be FOIA'd.

Should we really even bother with FOIA? Or should we spend our time on putting an end to private prisons? We should draw a line: essential public functions should be public. Doing more to regulate private prisons is like saying cigarettes are not harmful as long as they have a filter. Draw a bright line now, with prisons as the starting example. Prisons are a denial of liberty – this is a function that should be up to the state.

The Federal Protection Bureau floated a pilot program that a contractor has 30 days to object to contract materials being posted up on web. Promising?

Are there other additional things we ought to be asking of private contractors? Big banks are invested in private prisons. Investor activism – we should get the shareholders to ask for this information.

Follow the players because they keep popping up in previously unexpected places.

Insourcing and regulation are opposite strategies. What if FOIA'ing private contractors backfires? They could manipulate FOIA and then say that they are all above board, which helps them make the case for privatization.

No, responsible contracting is a strategy on the way to reversing privatizing. Raise the bar enough on the responsible contracting side, it could actually discourage privatization.

There are similarities with the health care debate. Instead of going for Medicare for all from the beginning, we did something more gradual.

Maybe we should approach de-privatization sector by sector. In some obvious sectors, like prisons, go full bore – no privatization. In other sectors, choose the strategy of increased regulation.

UK Fair Wages Resolution – all govt contractors have to pay workers the same wage as local government workers receive. In effect 1945 to 1981 – Thatcher had to repeal this law in order to expand privatization because it was severely restricting privatization.

But if we have the political juice to pass something like this law, don't we have the political juice to pass something bigger?

Emanation of the States in Europe provides clear criteria: anything owned by state is emanation of the state. This enables the EU to say that if one EU country does not implement an EU law in full, a citizen of that country can sue under the EU law. Applies to private companies doing public services.

Roundtable Discussion: Vocabulary

Group Discussion

The group had a discussion about terms and communications on two levels: terminology for use among policy specialists and terminology for communicating with the public.

Privatization on the state and local levels has been used to describe many, many things. The corporate side uses the nice sounding term, "public private partnerships" (PPPs) to describe infrastructure

projects, e.g., long-term contracts on brown fields. We are seeing more service contractor organizations starting to call themselves PPPs, too. Sounds warm and fuzzy. What can we do to counter act this PPP warm and fuzzy terminology?

Our challenge is to clearly define terms that we can use both among ourselves and in communicating with the public.

European definition of the term “privatization” - the selling of public assets. POGO uses the term “outsourcing” for describing contracting out. Use of the term “contractors” is a bit problematic because it can refer to benign contractors, like plumbers and electricians. Government contractors don’t call themselves contractors; they call themselves “solutions” and “partners”. Note the communications spin, which is forever evolving, making it hard to keep up with the terminology used by the privates (another tactic in staying one step ahead of us).

“Goods”--what is a public good? This is Samuelson’s term. Old, outdated. “Goods” is a market term. We need our own language that is not a derivative of private market terminology.

“Public purpose” or “social purpose” or “social function.” **“Public purpose”** seemed to be a favorite among the group. Need to signal “commonality,” common concerns, common-wealth.

PPP is even becoming outdated in the development financing area. “Blended financing” is the new term. Also, “private participation.” The language is constantly changing (which is a signal of a scam).

The term “public purpose” is like “public service.” It would be good to bring that term back into popularity. **“Serving the public purpose.”** Recapture the concept of “public servants.” This term was specifically attacked to move public goods to a more market oriented understanding.

“The public economy” is a good term.

“Performing public purpose” - PPP (redefine “PPP”).

We need to pose the question to people: What if you give the power to the private sector and it goes wrong? How do you control it? Public purpose, public servant – belongs to the public and they can be held accountable by the public.

The bridge between control and public purpose is sovereignty. WE the people can do something about this. “People’s sovereignty.” “Popular sovereignty.”

Public servant – we should define the people, not the task.

The other word we need to counter is “bureaucracy.” People see this term only as applied to public; they don’t see it applying to the private sector (as if the private sector is inherently non-bureaucratic).

The title of this conference is compelling; perhaps modify it slightly: **Restoring Public Control of the Public Sector.**

There is a connection to public financing. One person, one vote. Money has become voice. But, public purpose brings back control by the public...benefits members of the public who are being left behind. This connects to Rep. Sarbanes’ agenda on public financing of campaigns.

Neva Goodwin’s terms: 1. The core economy = household and communities. 2. The market economy = private. 3. The public purpose economy = government and nonprofits.

The “customer” language was forced on all government workers in the 1980’s and is still required. E.g., the Clinton administration ordered government regulators to call Savings and Loans “customers.” Same was true in the Department of Labor for workforce development programs – no longer “clients”; they had to be called “customers” instead. And the primary “customer” was employers (not workers). Public servants were demoted to serving customers; they were no longer serving the public purpose. This was demoralizing for Department of Labor staff.

Hot button issue for people is losing control to corporations.

Anti-institutional bias is very widespread. “Public control” is good because it is “public” and not “government.” This is especially important among millennials. Younger people are not anti-corporation; they are, in fact, pro-enterprise. Be careful to distinguish between corporation and enterprise.

For common people, the split is not between public and private. It is between public interest and special interests.

The challenge: how to fight back against people’s acceptance that “public” is negative?

Video Presentation: The Entrepreneurial State: Rethinking Risks and Rewards

Mariana Mazzucato, Professor, Innovation and Public Value, University College London

Summary

Public policy on innovation investment is now dependent on a “market failure” construct. Government’s role is seen merely as “intervention,” to “fix” market system problems. However, if you look at actual practice, as Dr. Mazzucato has done in her research during the last decade, it is clear that government has been an investor of *first resort*, not merely a “fixer” of market system flaws. Financing from the public from – citizens – has supplied the patient, long-term, committed capital that is essential to support the whole of the “innovation chain,” through basic research, applied research and early stage downstream. Yet the rewards for this risk-taking investment are captured by the private sector; the citizens have taken the risk, but the return on investment goes only to private firms. Dr. Mazzucato supplies suggestions for how some of the rewards can be shared by the risk takers – the citizens. These include: pricing agreements for co-financed products such as pharmaceuticals; equity shares through a Public Innovation Fund; and conditions on reinvestment of profits that have been earned through co-creation. These policies could foster not only smart growth but also more inclusive growth.

Recap Notes:

Dr. Mariana Mazzucato’s work has focused on innovation in terms of structural change and transformative change, particularly in regard to the evolution of capitalism in the last 200 years. She has researched and written widely about the limited way we have generally looked at the policy making process and the actions of different types of public agencies in fostering growth, particularly innovation-led growth.

It is important to understand how innovation comes about. Innovation is *collective, uncertain, cumulative*. Understanding innovation is central to understanding the growth process under capitalism. This is discussed in her 2011 book, *The Entrepreneurial State*.

Mariana argues that we need to go beyond seeing the role of public institutions as simply infusing bits of science financing here and there, and understand that the state actively creates and shapes *innovative processes*, actively shapes and creates *markets*; the state does not just fix market failures or system failures.

In economics, public policy is often understood as only required if we can identify some sort of “market failures,” identify negative externalities that need to be dealt with, etc. This is a limited view, with blinders on. In reality, it would be extremely difficult to understand the evolution of capitalism if we only saw the role of government as intervention or fixing a market failure problem or even a system failure problem.

Mariana points to the whole “innovation chain” --

Innovation chain: 3 types --

Basic research....applied research....early stage downstream

This process requires *patient, long term, committed* finance. Different types of investment are required: funding for basic research, then financing of applied research and then early stage downstream financing. In this process, government has not been an investor of last resort but, rather, an investor of first resort.

The role of government is, demonstrably, co-creating, not just “fixing”. This is evident from looking at the histories, and the missions, of investor agencies such as SBIR., DARPA, NIH, and NSF. The histories are important because these agencies are actively shaping, co-creating and taking very high risks.

We need to re-examine the role of the public sector in risk-taking, and must understand that a trial-and-error process is essential. Not every investment pays off. This is assumed, even celebrated, in the private sector, particularly in technology, but this attitude is forbidden for the public sector. The public is never supposed to have failure even though the market celebrates failure.

Public investment has been central to recent technology innovations. If you look at the question of “creating public value” (as many now are) you must look not only the rate but the *direction* of innovation.

So, what does all this mean for how we share risks and rewards?

If it were true that the state was just facilitating – de-risking the risk-takers – then the issue of risks and rewards would not be nearly as important as if you look at what has actually been happening: lots of high-risk investment, very broad and deep investments across the entire innovation chain, not just some patchy instances of financing.

The question, then, is -- how to share the rewards that come from that investment? Thought about this has been limited.

How to not only socialize risks, but also rewards?

Mariana summarized several ideas: pricing agreements for co-financed products such as pharmaceuticals; equity shares through a Public Innovation Fund; conditions on reinvestment of profits that have been earned through co-creation.

Pricing Agreements

This approach addresses the issue of pricing of commercial products that emerge from co-investment. The pharmaceutical industry is a central example.

The Bayh-Dole Act⁵ changed the ground rules relating to inventions that come from government funding. The problem is that the public pays twice – once when it pays for the early stage research and then again when it buys the commercialized product. However, the Act actually says the government can exercise the right to cap drug prices that have been co-financed. But the government has never exercised that right. This lack of confidence in the public sector has led the government not to cap the prices of pharmaceuticals.

Equity Shares

Another way to socialize rewards and not just risks is the idea of “public equity.” Think about recent investments US government has made in the energy landscape. Sometimes the investments have been in the companies themselves.

For example, Elon Musk has received around \$5 billion from the US government for his three companies: SpaceX, Solar Cities and Tesla. But the approach the government took regarding its guaranteed loan to Tesla was the reverse of what it should have been. The government’s agreement was that if Tesla did not pay back the loan the government would get 3 million shares in the company. But why does it make sense to get shares in a company that is unable to pay back a loan? Instead the “deal” should have been that the government would get 3 million shares in the firm if the product was successful. With this type of strategy, the public could reap upside rewards that would defray the inevitable downsides of risk-taking investments, plus accumulate financing to create future innovations.

Agreements on Reinvestment

Another way for rewards, and not just risk, to be socialized is through “Agreements on Reinvestment”. When collective investments are made, profits are generated. The profits have come out of a collective process of wealth co-creation. There should be a better “deal” on what happens to these profits.

In the past the government possessed much more confidence in its approach to this sort of question, with monopolies in particular. Bell Labs is one example. Bell Labs resulted from government action; it was created as a result of the divestiture agreement between AT&T and the federal government in 1982. It resulted in many important innovations. We could be thinking now of similar types of approaches. Public policy – legislation – could specify conditions on re-investment of profits created by co-investment. Conditions on re-investment could be one of the ways the public gets back its return.

In sum, these are suggestions for how we can have not just smart growth but also more inclusive growth.

⁵ The key change made by Bayh–Dole was in ownership of inventions made with federal funding. Before the Bayh–Dole Act, federal research funding contracts and grants obligated inventors (wherever they worked) to assign inventions they made using federal funding to the federal government. Bayh–Dole permits a university, small business, or non-profit institution to elect to pursue ownership of an invention in preference to the government. [source: Wikipedia]

Dinner Speakers

Michael A. Bernstein, Provost of Stony Brook University

Dr. Michael Bernstein discussed "Mainstream Economic Reasoning and the 'Demonization' of Government." He explained how economic orthodoxy misleads students and, in its use of ubiquitous "comparative-static" models, wholly mischaracterizes the manner in which markets actually operate. He stressed the importance of challenging prevailing paradigms, methodologies, and approaches to public policy issues.

James Galbraith, Professor, Lyndon B. Johnson School of Public Affairs, University of Texas at Austin

A Public Vision of Common-Wealth: A Historical Perspective

The economic model according to which markets are self-equilibrating rests on a world-view of harmony and stasis that goes back to classical China, and was already fully rejected in all domains of science and also in political economy in the 19th century. Somehow it survives in textbook economics to this day. A new public administration needs to rest on modern scientific habits, recognizing that all biological, mechanical and social systems *require* effective regulation, not to "reduce externalities" but because otherwise they cannot exist at all. Once this is recognized, the task of government is to make regulation and public provision of services work well, minimizing predation, parasitism, force and fraud.

Saturday, October 7, 2017

Mapping Session: Policy Ideas

Note: this session evolved from a discussion of policy ideas for specifically curtailing privatization to a broader discussion of restoring the public sector – ideas, framing, and strategy. Some participants expressed the view that this is not an appropriate group to propose specific policy ideas.

Group Discussion:

One framing for potential policy action is that which stemmed from the conference topics:

1. FOIA
2. Contracting out

But participants felt this was not broad enough.

Another framing was suggested: **How do we establish effective control of the public economy?**

This framing is based on the idea that there are five aspects of the public economy to consider:

1. Information
2. Regulation/law
3. Civil service
4. Contracting-out
5. The public enterprise aspects of the public economy

Another possible framing was suggested by ITPI, which organizes their state and local policy agenda into four areas:

1. Transparency
2. Accountability
3. Shared prosperity (worker issues)
4. Competition

Another possible framing that was suggested: “Private performance of public service shall remain public service.”

The basic question is – what should be done about privatization? [Note: as used here, “privatization” means contracting out.]

Two different, possible, strategies:

1. Curtail/roll back/stop privatization.
2. Reform privatization; strengthen oversight

Some participants felt that these are two very different strategies and it would be best to choose a direction and concentrate efforts. However, others felt that these strategies were not mutually exclusive and that the second could help pave the way for the first i.e., reforming privatization to continuously restrict it could help to curtail/end it. Corporations seeking contracts weigh “political risk” when considering going after a contract; if there is so much political/regulatory baggage with a contract, they will not seek it.

In both cases of 1 and 2, above, there is another dual set of choices is whether to:

- a. Go sector-by-sector? or
- b. Use an across-the-board approach?

A policy idea: use referenda to block or reverse privatization. A UK example was suggested. The basic idea is that privatization of a public good should not happen without explicit public approval. For example, New Orleans was looking to privatize water services. A French company was pushing hard to get the contract. Someone proposed no contract without citizen approval. That was actually enough to drive off the French company. People don’t vote for privatization; it is an internal government decision influenced by private companies.

There is some precedent for this idea. In Texas, a municipal bond cannot be issued without public approval. Why shouldn’t we expect the same treatment for privatizing public services?

Challenge: only about 1/3 of the states have a referenda process. But, in these states, we could propose to require that all privatization contracts must have legislative approval; that might be enough to stop some privatization.

There may be a relevant example in California concerning the privatization of libraries. Citizens in the city of Escondido in southern California who are working to stop the privatization of their public library discovered a California law that appears to require input from a “Board of Library Trustees,” – a step that was not taken by the City Council when it decided to privatize the library. This may point to the basis for rejecting library privatizations in California and other states if they have similar statutes.

But there also may be a limiting factor to be found in the US Constitution, under which cities are chartered corporations of the state. A state can pull a city's charter and over-ride it on issues. States can pre-empt city action. [This relationship is different from the federal-state relationship, in which the Constitution outlines an independent legal framework for states from the federal government.] The Community Environmental Legal Defense Fund is working to strengthen city charters to keep states from forcing municipalities to accept sludge dumping by powerful corporations, or to accept contracts with water companies that extract local water and sell it in bottles, etc. They work in PA, OH, Northeast states.

Perhaps the hot issues to focus on now are: national parks, prisons, and air traffic control (maybe a few others). There seems to be momentum and other related efforts.

Would it be a good idea to establish principles for when it is appropriate to contract-out and which could keep privatization/contracting out in check? Possibly these broad administrative principles:

1. Accountability
2. Transparency
3. Limiting the length of contracts, i.e., should be a requirement of termed contracts, each with an independent sunset review (the contractor has to make the case to continue the contract).
4. Robust cost analysis
5. An efficiency impact statement (like the environmental impact statement required now)
6. Protections and rights for the workforce
7. Public health and safety
8. Tighten and improve the definition of "inherently governmental functions" so that it has teeth.

Bottom line: raise the bar on contracting out.

Perhaps CELDF (Community Environmental Legal Defense Fund) could be an example. They are fighting the privatization of public land.

Coming up with broad administrative principles may be a waste of time as the other side is picking off specific public functions, e.g., prisons, Air Traffic Control, the Veterans Health Administration, primary and secondary education. Argue for more practicality. We need to clearly articulate a strong case for why public goods should be in public hands. But, we should avoid getting wrapped up in the task of creating a list of specific things that should be public purpose. So, it might be good to have an overarching set of principles. Or at least a set of criteria to use when assessing whether privatizing/out-sourcing something is appropriate. (Slide # 4 from David Hall's presentation might offer some ideas.)

The reality is that it is extremely difficult in the current environment to even achieve success on "low-hanging fruit." For example, POGO recommended an inventory of contract services, in which contractors would have to provide information for an inventory or contracts. The Republican Congress flipped the recommendation such that (already over-worked) government staff would have to collect the inventory information and the agency would use the information just for budgeting purposes (not public reporting). Private contractors have really infested every part of government, and can very effectively block any attempts to oust or curtail them.

IN GENERAL – People felt that this conversation has been extremely useful, but it has not coalesced into a group statement or a group going forward. What could be the function of this group? It's a smart, high-level group of people committed to this issue. We are diverse, multi-perspective. It's good to bring

our thinking (from different perspectives) into contact with each other to begin to help define and promote the public economy. We can crystalize and give the public reasons why privatization is harmful and why the public economy is essential.

Workshop 3: Public Messaging

Richard Eskow, Senior Advisor, Social Security Works

<https://www.dropbox.com/s/gasd647p00vzyfm/Richard%20Eskow%20presentation.pptx?dl=0>

Mr. Richard Eskow keyed his presentation to the prior day's discussion. He posed the question: Is this the message? --

“Establishing effective public control of the public economy”

He then discussed ways to think about how to effectively message to the public.

His main points were:

The importance of language/words we use:

Language we use for ourselves (technical)

versus

Language for public messaging.

Be conscious of who you're talking to. Identify your audience:

- General audiences
- Specific demographic groups
- Politically active
- 'Train the advocate'

Realize that receptivity will depend on –

- Assumptions and beliefs (stated, unstated, half-stated)
- Values

Consider what might be entry points/'hot buttons'

Consider approaches: defensive, offensive, inspirational:

- Defensive
 - Know their terms
 - Have counter-terms
 - Call out falsities
- Offensive
- Ideas that inspire – e.g. innovation, public service
 - Ideas that outrage
 - Ideas that educate

Richard shared “random thoughts on language” that came out of yesterday's meeting:

- 'Public Economy' – aka: real economy? Human economy? Productive economy?
- An economy based on fairness and/or justice
 - Corporations are not the government's “customer”; you are.
- Public purpose: Community

- Public purpose: public service
- “Serve the public purpose”

Lastly, consider how to deliver the message --

- Formal media
- Informal media
- Unmediated/Human Interaction
 - Social networks
 - Institutions
 - Informal affiliations
- Language that binds (“sisters and brothers”)
- Language that divides

Michael Lind, Visiting Professor, LBJ School of Public Affairs, University of Texas - Austin

Concepts that sell: FDR’s second bill of rights. Social contract. Have a set of objectives.

How can we achieve a reversal of privatization and pro-privatization bias? Look at historical examples. Example of the libertarians in the 1970s, 80s, and 90s. During this era, newer Libertarians pushed out the old crowd who had been using negative language and framing. Instead, they adopted a new positive, future-looking approach. Innovation was an exciting, new thing; Silicon Valley was new, and it was all growing out of the private sector⁶. They leveraged the exciting concept of innovation, said that we can’t have it in the public sector, and why we should shift toward more privatization. They explained this theme issue-by-issue. They adopted mainstream language. i.e., they showed concern for black kids in the city, public schools failing them, and why we should allow vouchers and charter schools to give them better opportunities. They framed themselves as sharing the liberal objectives, they just had a different approach. Because they went issue-by-issue, they could pick up Democrats on certain issues. Pure libertarianism is foreign to most Americans. So they used tactics that tapped into age old populist drive. And they used shared American values, e.g., self-reliance, to make their case. The libertarian right prevailed by not making a head-on attack. So, a lesson may be that we shouldn’t take on privatization head-on and in general. This makes the case for going issue-by-issue, i.e., health care, prisons, etc.

Ellen Schneider, Executive Director, Active Voice Lab

Ms. Ellen Schneider showcased examples of the private sector co-opting the concept of “the public,” e.g., a privately owned commercial space named the “public market,” as well as privatizing public goods and services, e.g., privatization of public education. She shared examples of various communications efforts to highlight these problems, such as the documentary, “Backpack Full of Cash” about school privatization (narrated by Matt Damon). She also shared examples of how we might use various communications efforts to re-affirm the value of public goods and services. For example, could a popular TV show like “Parks and Recreation” be built upon to more purposefully show the value of public parks and open spaces?

Active Voice Lab is launching a new effort, “The Future of Public,” which is a cultural strategy designed to wake people up to the consequences of widespread privatization. They envision working with coalitions in pilot cities, possibly Oakland, Detroit, New York, and Chicago, to imagine how they might customize a menu of cultural content to serve their local needs. Cultural content could include storytelling, public-

⁶ Editor’s note: this was a false claim, as has been documented by Mariana Mazzucato. See notes above on her talk.

facing events, documentary films, journalism, policy forums, social media, comedy, curriculum, music, etc. Ellen shared the story logic model for this effort, which is the theory of change describing the Inputs into Activities and Strategies that will produce Short, Medium, and Long-term Outcomes. Ellen invited collaboration between Active Voice Lab's The Future of Public project and the work of others in the meeting.

Group Discussion:

There is a significant anti-institutional bias (as mentioned in previous discussions, above) not just against government, but against private corporations as well. Is it possible to reverse this and bring about a pro-institutional bias in favor of the "public" sector?

Not everyone has had the same positive experience with government. People's experiences with government affect how they receive messages. For example, one participant at the conference shared an experience in which people had expressed a negative view of government because they'd had adverse experiences with government in the past...from harassment and arrests by the police to the government not protecting their community health to other issues. We need to figure out what the end goal is, such as legislation, and back into the story with appropriate communications and understanding of where people are coming from on the issue.

We will not be effective if we go in with broad academic language; need to be specific and practical examples. But also have game-changing ideas.

Outsourcing to private corporations restricts government's flexibility in times of need, like recession, floods, disasters like Katrina.

The public thinks short term, not long term. Conservatives speak to short-term, pocketbook issues.

It is important to frame the *benefits* of in-sourcing and public goods; that is happening in the UK now, with success.

People feel government is a monopoly...an inefficient one. Can we highlight examples of government efficiencies to overcome this perception?

MUST do some real work in figuring out what is really on people's minds.

Michael Lind offered background facts on average Americans: the average American lives 18 miles from her mother. Only 33% of Americans have a bachelor's degree or higher. Most Americans live in suburbs and have cars and are fine with it...gas prices are the problem, not lack of public transportation (only poor people ride the bus). Most Americans are religious and 72% believe in angels. Only 25% of Americans call themselves progressive, 34% identify as moderates, 36% call themselves conservatives. Progressives are in the minority, so it makes more sense to try to curtail privatization sector-by-sector and pick up non-progressives on some issues (rather than go head-on against privatization as a whole).

We must understand the demographics of our target groups. The "choir" (those most likely to want to curtail privatization) are progressives. The group "just beyond the choir" is women, immigrants, people of color. We should not even try to change the minds of those "way beyond the choir," such as white men who voted for Trump. For example, the [Environmental Health Coalition](#) in Barrio Logan (Mexican neighborhood) in San Diego focuses on taking back government in order to improve community health. This is a positive message of people taking back control. We own it. We're in control. This fits well with Rep. Sarbanes' package of "we the people."

An interesting graphic: – a baby in a room, 4 doors. The ones marked education, housing, and health care were shut, but the one marked prison was open.

Who are the people or organizations who should be drawn into this? Who is going to pick up this message and run with it? Are we talking into a void?

We need a pro-public goods movement. Who should we target as our base?

The Labour example in the UK – it was about a positive message. We need to say “why” better public service is important.

Possible next steps on this set of issues:

1. More research into the public (our targeted segments) – what they value, their assumptions.
2. Going sector by sector to message, need messaging tactics.

Tangible ideas for next steps:

- Journalist training
- Public/social media storytelling

Wrap Up: Looking Ahead and Take-Aways

Next Steps:

Neva Goodwin offered a summary and possible next steps.

Review what resources we have going forward: 1. Us in this room – we have a wide range of knowledge, expertise and experience. 2. The contacts that those of us here have. We know people who can do research, focus groups, etc. and should leverage that. 3. Our writing. 4. Notes from this meeting, which we will share with the group. 5. Feedback on the notes from the meeting. The notes from this meeting will be the launching pad for what’s next. Members of the group should share what they think is next after reflecting on the meeting and notes.

Round Robin – Takeaways:

We facilitated a round robin of the group for each member to say what they took from the meeting or what they will do after this meeting (optional).

This has been an incredibly interesting conversation over the last few days. Very rich discussion, including when we were talking at different levels. We can’t be just be anti-privatization, we must be pro-public as well. We need to fill the void.

I learned a lot from the diversity of the group. The outstanding question is how to figure out how to talk with different audiences to answer the question, “so what can we do?” What are the things (values, biases, experiences, etc.) to tap into? How should I talk to the libertarians, the Cosmos Club, a Sunday school class in a rural community? Big problem, different audiences.

This conversation is starting to rewire how I think about this. The racial and equity justice piece is key. We should envision the world we want to make.

I learned a great deal the past 2 days. Particularly about questions of communication and engagement with the wider public. I remain concerned about messaging.

We are up against a very big lobbying force. David versus Goliath. This meeting has been a pleasure and fun. Helped me realize that there is a collective who cares about these things. Glad we did not start with a white paper and principles – would have just argued about that narrow range. Glad for the broader discussion. Another live example: IRS out-sourcing, Have tried twice over the decades, but failed both times. Government just outsourced IRS debt collection for a 3rd time. How do we get the public to push for change? This is more important to do now than ever.

I will talk to others, particularly my international colleagues. I will describe this meeting as a very interesting experience of a serious attempt by a group of academics working with others outside academia to try and promulgate what kind of ideas and arguments and evidence can help that movement in its diversity...of organizations and political realities. Will talk to other groups to let them know this is happening and encourage others to get in contact. The international connection is helpful – we're not the only ones tackling this. For example, in Mexico – water – amazing collaboration to formulate legislation and engaging with community groups to stop privatization of water.

I'm not focusing anymore on elections – not into politics anymore. Only focusing on movement-building; that's where it's at, at this point in time.

There was good value of my time spent here. Meeting other people – old and new faces. Grappling with hard questions. Questioning the assumptions of those of us on the pro-public side. Looking at the relationship between academic/big ideas versus the on-the-ground campaigns and actions. We talked about both, mixing them together. How do we tighten up the flow of the conversation so we are supporting each and moving forward together?

Never launch a movement around a word that ends in “-ation.”

It's clear that there needs to be further work. Change is with organizations not political parties. Hillary Clinton's statement of “I don't want to change hearts, I want to change laws” was totally off-base. We need to change laws to change hearts. We need to focus on what's practical – need to change what's practical.

The rule of law is essential to the success of NGOs, honest competition in the private sector, and to our mission as government officials. Nobel Prize-winning economist, George Akerlof, has written that the victims of fraud are not just the consumers, but also honest business people. We are not hostile to business. Widespread elite fraud is not just making money; it's also killing people (denied access to health care, community health threats, etc.). And the weakness is not just in the law/legislation; it's also in deregulation, de-supervision by public servants of private contractors (typically the most destructive), and *de facto* criminalization. Even if we win against out-sourcing, we won't have effective change unless we improve supervision.

We need to tap into rhetorical and political traditions, philosophical traditions, which have established and maintained a public presence and public foundation of organized life in this country and we have to express it in a way that can be accessed seriously over time. Anything done too rapidly is likely to burn out. Work on these and people will be acclimated to them. Reframe a debate which has been badly handled for 30-40 years by the democrats and the liberals who have conceded territory they ought not to have given up. They cozied up to the marginal voter and gave away too much ground. We need to redraw the lines.

In any organizing campaign, it is helpful to add an internal dimension. There is a content challenge of how we talk about all this. There also are organizing questions – how to organize multiple perspectives, across generations, across academics and action oriented groups, etc.

Link to All Presentation and Conference Documents:

https://www.dropbox.com/sh/oo5zh64i41p5u21/AAAm7irij_tp4fEwYmCggSpQa?dl=0

Brief summaries of presentations:

http://ase.tufts.edu/gdae/policy_research/PublicGoodsConference2017.html

Papers produced for the conference:

[Outsourced Government – The Quiet Revolution; Examining the Extent of Government-by-Corporate-Contractor](#), June Sekera, *Global Development and Environment Institute*, September 2017

[Freedom of Information Act \(In\)Applicability to Government Contractors](#), June Sekera, *Global Development and Environment Institute*, September 2017

Appendix:

Conference Agenda

Conference Participants list

Working Group Meeting

After the general conference adjourned, a founding meeting of the Working Group on the public economy and public management was held. The attendees were scholars who have done work on matters related to the public economy.

Background of the Working Group meeting

The aims of the conference over the last day-an-a-half had been to discuss the issue of corporate, private-sector dominance of government, and to discuss ideas for policy counter-actions as well as public messaging to educate voters.

The mission of the Working Group is to attack a deeper question, namely the core conceptual foundation of public administration as it is understood, taught and practiced in America today. Government operation has been overwhelmed by the ideology of markets and the maxims of "public choice" economics. Government in practice has become beholden to, and increasingly has been forced to mimic, the norms, values and practices of the market.

The premise of the Working Group is that a new foundation is needed to build a new public administration based on the understanding that governments are *not* market systems. Government operates, and produces goods and services, in a *non-market* environment that neither public administration theory nor contemporary economics recognizes.

Discussion:

The participants in this meeting suggested a number of ideas for collective projects to build a new public economy movement (e.g., The New Public Economy):

1. A collection of essays/analysis.
Possible journals: *Real World Economics Review*; the Journal of Public Management.
2. A collective syllabus for teaching classes in multiple disciplines
 - a. Could be an online course (or possibly a MOOC)
 - b. Could include the following topics:
 - i. Economic and political history
 - ii. Basis of the nonfunctioning of organizations
 - iii. Entities that operate in the space between public and private
 - iv. How this fits into mainstream economic thought
 - v. The demonization of government
3. An online "Library of the Public Economy" - GDAE could perhaps host.
4. Additional ideas --
 - a. Chapters on campuses.
 - b. A new organization.
 - c. A new journal.
 - d. A curriculum.
 - e. Annual conference.
 - f. A "school of new public economics"

Post-meeting follow-up note: The Editor of the *Real World Economics Review* has agreed to publish a special issue of the journal which will be on the subject of the public economy. Members of the working group, now called the "Public Economy Group," will be writing a collection of essays to be published in this special issue of the journal in 2018.



Restoring Public Control of Public Goods

Reconstruction; not “Deconstruction”

October 5-7, 2017

Pocantico Conference Center

Tarrytown, New York

Conference objectives:

- To share information about the nature and extent of the problems of government “deconstruction” and privatization.
- To produce ideas for policy or legislation to counter-act the deconstruction and privatization of government.
- To produce ideas for public messages and messaging: 1) how to explain “deconstruction” and privatization in terms of kitchen table issues that Americans care about; 2) how to identify organizations with the expertise, experience and capabilities to craft effective public messages.
- To develop a plan for moving the policy recommendations and messaging ideas forward.

Thursday, October 5, 2017

5:00 Tour of Kykuit, the John D. Rockefeller Estate (optional)

6:00 Reception (Loggia)

6:30 Dinner (Dining Room)

Welcome:

- Stephen Heintz, President, Rockefeller Brothers Fund
- Neva Goodwin, Co-Director & Founder, Global Development And Environment Institute at Tufts University

Keynote Speaker: the Honorable John Sarbanes (D-MD 3rd District)

Friday, October 6, 2017

7:30 Breakfast (Dining Room)

All sessions are in the Main Conference Room

8:30 – 9:30 Plenary 1

The Problem. And Why We’re Here.

- Neva Goodwin, Co-Director, Global Development And Environment Institute at Tufts University
- June Sekera, Research Fellow, Global Development And Environment Institute, Tufts University
- Vickie Choitz, Research Associate

Over the past three and a half decades, large swaths of the federal government have been contracted-out to private corporations, and what hasn’t been privatized has been marketized – transformed by market values, precepts and practices. The “competition prescription” has been widespread throughout federal

agencies. The ill effects, likewise, have been widespread, from prisons- and policing-for-profit, to the replacement of public education with for-profit education, to private collection agency bounty-hunters profiting off of the \$1.4 trillion student loan industry.

The professional civil service workforce has been decimated, while the number of contractors and the amount of taxpayers' money spent on them, has been swelling. For decades, we have been farming out to corporations roles and responsibilities that are properly those of public servants, i.e., people who have sworn an oath of office, as all federal employees are required to do. The corporatization trend must be reversed if government is to deliver public goods in the public interest, and if Americans are to reclaim their dismantled public goods and prevent further losses.

9:30 – 10:00 Plenary 2

Privatization and Public-Private-Partnerships: Public Risk for Private Gain

- David Hall, Founder, Public Service International Unit, University of Greenwich

Dr. Hall will present the findings of his international research on privatization and public-private-partnerships, as discussed in his 2015 report *Why Public-Private-Partnerships Don't Work*.

10:00 – 10:30 Plenary 3

Public Opinion About Privatization

- Shar Habibi, Research & Policy Director, In The Public Interest.

Research indicates that much of the public favors "privatization" in concept, but when people understand how the public loses control, their opinion reverses. Participants in this session will hear about research on the public's opinion of the privatization concept and approaches to counteract false messages.

10:30 – 10:45 Break

10:45 – 12:15 Workshop 1

Outsourced government – driven by the corporate profit motive and the desire for secrecy. How can we put public purpose back in the driver's seat?

- Shar Habibi, In The Public Interest (moderator)
- Janine Wedel, Professor, George Mason University
- Scott Amey, General Counsel, Project on Government Oversight
- Aman Banerji, Manager, Re-Public Project at the Roosevelt Institute

Corporatization of government is widespread throughout the entire federal governance structure. Within each of the main federal departments, the operations of major portions of agencies, offices, bureaus and, in some cases, virtually whole programs, have been contracted out. Recent research indicates that the ratio of contract workers to federal employees may be 2 to 1, or perhaps higher. No one knows precisely because there is no government-wide reporting of contracted-out government.¹

Additional privatizations are now on the drawing board under the Trump administration. Targeted or at risk are: the Veterans Health Administration system, Air Traffic Control system, infrastructure operation and ownership and the public education system (through vouchers), as well as others.

¹ A website that was created under the Obama administration, USAspending.gov, is woefully incomplete and not of practical use for public information on the issue of government corporatization.

It is fruitless to try to take on each of these privatizations on one-by-one. What is needed is an approach that cuts across all of them through legislation that affects all federal corporate contractors and requires government-wide reporting of all contractors as well as disclosures, transparency and accountability not now possible. Such requirements could not only make public education possible, but also may, in and of itself, reduce the amount of counter-productive contracting.

Speakers will provide an overview of the history of government's privatization and profitization in the United States and will highlight current and planned privatization efforts. Privatization and profitization go by many names: public-private partnerships; pay for success, Social Impact Bonds and more. Regardless of what it's called, a chief problem is supplanting public purpose with market values and the profit motive, and the sidelining of public interest as the driver.

How can we "Keep the People's Work in Public Hands"? Participants will generate and discuss policy ideas to curtail privatization of basic governmental functions, so that the public interest is restored as the central, driving force of public goods production. Rep. Sarbanes' CLEAN-UP Act may be a model.

12:30 – 1:30 Lunch

- **Luncheon Address by Prof. Tom McGarity**, University of Texas at Austin, School of Law
"The Invisible Assault on Our Protections"

1:45 – 3:15 Workshop 2

Accountability for Corporations Doing the Basic Work of Government: Removing FOIA's Shroud of Secrecy for Contractors

- Alfred Aman, Professor, Maurer School of Law, Indiana University
- Richard Murphy, Professor, Texas Tech University School of Law
- June Sekera, moderator

Many parts of privatized government will remain privatized for years and decades to come. Corporate contractors now operate huge swaths of the federal government and, in many cases, perform inherently governmental functions. But today these businesses operate behind legal shields of secrecy. One example: contractors are *de facto* exempt from the Freedom of Information Act (FOIA). And there are other immunities that allow federal contractors to operate secretly in ways that government agencies cannot and do not. The problem promises to worsen under the Trump administration's plans for privatizing much more of the government.

Given this reality, what action can be taken to assure that the public has access to records relating to inherently governmental work that is being done by private contractors? How can these contractors be held accountable for their taxpayer-funded work and decision-making? How can the public be enabled to penetrate the shield of secrecy contractors enjoy?

Speakers will focus on contractors' effective immunity from FOIA under current law and suggest timely remedies for FOIA reform. Participants will consider ways to remove corporate contractors' FOIA immunity and generate policy recommendations.

3:15 – 3:30 Break

3:30 – 4:30 Roundtable Discussion

Getting on the same page: What’s our vocabulary for talking about privatized and marketized government?

There are so many terms in play – privatization, marketization, corporatization, outsourcing, public-private-partnerships – that clear communication is difficult and common understanding is hampered. This is true even for the “policy wonks” who live with these issues in their daily work lives. In this session, participants will explore essential terms for discussing the corporate takeover and market philosophy infusion of our government. We will attempt to come to common understandings of these terms to make our discussions and efforts more effective. This discussion is about communication among policy specialists. Tomorrow’s discussion will focus on messaging to the public.

4:30 – 5:00 Video Presentation

The Entrepreneurial State: Rethinking Risks and Rewards

- Mariana Mazzucato, Professor, University College London; Director, Institute for Innovation and Public Purpose

Dr. Mazzucato will discuss policies that can enable taxpayers to reap benefits from public investments in technological innovation.

6:00 Reception (Loggia)

7:00 – 8:30 Dinner (Dining Room)

- Michael Bernstein, Provost, Stony Brook University
"Mainstream Economic Reasoning and the 'Demonization' of Government"
- James Galbraith, Professor, LBJ School of Public Affairs, University of Texas at Austin
“The Predator State in the Time of Trump”

Saturday October 7, 2017

7:30 Breakfast (Dining Room)

All sessions in the Main Conference Room

8:30 – 8:45 Welcome back and objectives for the day

- Neva Goodwin

8:45 – 10:15 Mapping our Policy Ideas

Distilling the Discussions: What Are Our Policy Ideas?

- Vickie Choitz: Facilitator

In this hands-on, interactive session, we will take the policy discussions we had yesterday and distill them into a concrete set of policy ideas. Session will include small group work and a policy mapping exercise with the whole group. The product will be a concrete set of policy ideas to curtail privatization of government functions and will be a central part of the conference report.

10:15 – 10:30 Break

10:30 – 12:00 Workshop

Public Messaging: How do we translate policy ideas into kitchen-table topics that matter to people?

- Richard Eskow, Senior Advisor to Social Security Works (moderator)
- Michael Lind, Visiting Professor, Lyndon B. Johnson School of Public Affairs, University of Texas, Austin
- Ellen Schneider, President and Founder, Active Voice Lab

The dominant messages that Americans have received for decades are that we have a huge and growing “big government,” and that “privatization” brings efficiencies. Democrats as well as Republicans have broadcast the “big government” narrative and the claim that contracting out serves taxpayers’ interests. But both claims are false. In fact, the federal workforce has not grown for the past 50 years; instead, what has ballooned is the number of contractors and contract workers. And research has shown that contracting out actually costs more than the same work being done by government workers.

Likewise, the public hears almost constantly that government is “broken,” “inefficient,” and “dysfunctional.” Yet, at the same time, it is the very effectiveness of government agencies and operations like the Consumer Finance Protection Bureau, Veterans Health Administration and Air Traffic Control that has made them targets for elimination or privatization.

In some cases, the distortion has been unintentional; few people pay attention to the actual numbers of federal employees or federal agencies’ successes. In other cases, the public is being subjected to mind games. Research has shown that those who are less economically well-off lack information and are more easily manipulated by inaccurate messages, and that consequently voters make choices against their own interests.²

We lack a public messaging approach that conveys the heart of what government does in terms that average, working people care about. We also lack a way of showing that when government is ineffective, that dysfunction has often been caused by contracting out to corporate interests. The outcome of this workshop will be suggestions as to the core message(s) that will most effectively contribute to voter education and enlightenment, and that can rebut and replace the “mind games” that have dominated for so long.

Discussion questions:

- * What makes for an effective public message?
- * What are effective communications strategies?
- * What messages could accompany the key policy or legislative ideas that have been put forward?
- * Is there a core message?
- * Who could deliver the message?
- * How can we identify a professional organization that can transform our ideas into an effective, succinct public message(s)?

12:00 Wrap-up: Looking Ahead

Review plans for producing a Conference Report and next steps.

12:30 Box lunches to take or eat with the group at the Pocantico Center

² Lee Drutman, “America may be in a reinforcing feedback loop of growing inequality and Republican rule; *Vox*, Nov. 4, 2015.

Appendix B: Conference Participant List

Restoring Public Control of Public Goods: Reconstruction not Deconstruction

Participant List

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