

COMPETITIVE BIDDING:

A CUPE POWER TOOL



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INTRODUCTION

The fight against competitive bidding is a fight against concessions. When CUPE's 1997 National Convention passed the policy paper, "Stand Up: CUPE's Action Plan For Jobs and Services," it recognized the inherent danger in competitive bidding:

The power of competitive bidding is that it sets in motion a continuous threat of concessions, even through the life of the collective agreement. Our efforts in collective bargaining are constantly at risk of being undercut by the bidding process.^{i[1]}

CUPE is opposed to services being delivered by the lowest bidder. The drive towards the lowest bid is a "race to the bottom" for public sector workers and the services they provide.

This power tool is designed to help CUPE members fight against competitive bidding and resist this renewed attempt by employers to wring concessions from them.

WHAT IS COMPETITIVE BIDDING?

Competitive bidding (also called competitive contracting or competitive tendering) is a process in which bids, contracts or tenders, to provide public services are solicited, evaluated and awarded by public sector employers. The lowest bidder is often awarded the contract, but other factors may determine the winning bid.

The bids are from private companies, which are increasingly large transnational corporations. The “mom and pop” contractors are quickly disappearing, in large part because the contracts are larger and longer term. Bigger contracts are more attractive to large corporations and make the bidding process more costly for small contractors.

In-house staff, including unionized employees, are increasingly being asked to enter into competitive bidding by submitting bids for service provision. When this happens, unions are placed under pressure to reduce the cost of service by showing “flexibility” around work routines and job descriptions and making concessions on shift schedules, hours of work, overtime pay, use of part-time workers, benefits, wages and staff complement.

WHY IS BIDDING BEING PROMOTED BY EMPLOYERS AND GOVERNMENT?

Many governments and employers claim that competitive bidding will deliver cheaper, more cost-efficient service. Competition between private contractors and the public sector employees keeps downward pressure on public service costs, especially wages and benefits these kinds of measures are attractive to many public sector decision makers, at a time when public service delivery is suffering from downloading and funding cuts,

Contractors usually reduce the wage bill by cutting the number of employees through attrition and layoffs. These kinds of measures are attractive to many public sector decision-makers.

Right-wing, neo-liberal governments are also ideologically committed to having private companies deliver as many services as possible. They also want to use contracting out as a way of weakening the union.

HOW IS COMPETITIVE BIDDING IMPLEMENTED?

Without strong anti-contracting out language, it is entirely legal for employers to call for tenders on public services and implement competitive bidding. It can be done in a number of ways.

- Unsolicited Bids: In some cases, private corporations approach the public sector employer. They offer to provide an existing service more cheaply than is presently done. The employer may enter into discussions with these corporations and subsequently decide either to accept the unsolicited bid or to pursue public tendering.
- Public Tendering: Increasingly, public sector employers publicly tender services rather than “sole source” with a particular corporation. The tendering process may start with an employer requesting “expressions of interest” or “requests for qualifications” as means of assessing whether contractors are available to provide a service. The employer may then issue a “request for proposals” if corporate responses are encouraging. Sometimes employers call for a request for proposals without a “request for qualifications” stage.
- In-House Bids: In many cases, the employer solicits a bid from the in-house staff. This is prepared by management and is based on perceived in-house costs and how they may be reduced. Usually this is done in response to bids, solicited or not, from private companies. The submission of an in-house bid usually requires at least “consultation” with the union. Part of the “consultation” is to test the union on whether it will be flexible on work rules and practices or willing to accept concession

WHAT ROLES DO BENCHMARKING AND BEST PRACTICES PLAY?

Benchmarking is a way of identifying the most cost-efficient service delivery within a given sector or geographical area. The most cost-efficient service is usually considered by employers to be the cheapest service. Therefore, a benchmark is often considered the cheapest way to provide a service. Concerns about quality and accountability are easily swept aside.

Whatever method of service delivery achieves a benchmark or lowest cost service is usually considered a “best practice”. “Best practices” almost always are cheap practices. Benchmarks and “best practices” from both the private and public sectors are used.

Benchmarks and best practices are used as justifications by employers for tendering services. They in turn become temporary standards which employers want replaced with still lower benchmarks and even cheaper “best practices”. This promotes a race to the bottom for public service employees.

WHY IS THERE A PROBLEM WITH INDEPENDENT UNION BIDS?

When an employer asks a union to submit a bid on services already provided by union members, locals should refuse to do so. All forms of bidding undermine the collective bargaining process, but an independent bid by a union presents special problems.

- Union bids place a great burden on local union resources. Gathering the necessary information and tendering a bid takes a lot of time and work. It can also be expensive if outside resources are needed.

- Most importantly, union bids place the local in an ambiguous position, perhaps one that is legally compromising. CUPE's legal opinion on this issue is that if a union becomes a successful bidder, it effectively becomes an employer. This conflicts with its role as the bargaining agent for the employees.
- An independent bid by a local is problematic because the unionized work force provides only part, even if a large part, of the total service under tender. Supervisors, managers and other non-union staff also provide part of the service.
- In-house bids should only be initiated, developed and submitted by management. Unions can support these bids as a way of fighting contracting out, but be careful it does not undermine the collective agreement or erode the employment security, wages and benefits of union members.

WHAT IF AN EMPLOYER ASKS A UNION TO BID ON A CONTRACT?

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| <ul style="list-style-type: none"> • The local union should refuse to submit a bid of its own. • Insist that management cancel the bidding process. • If the employer is continuing with a bidding process and wants an in-house bid, insist that management prepare it with union consultation. • Make it clear that the union will not make concessions as a way of making an in-house bid more competitive. • All CUPE members know of ways to reduce waste and make services less costly, without hurting their fellow employees. Indicate to management that the union is willing to discuss these as a means of fighting contracting-out. • Use the consultative process as an opportunity to obtain as much financial information as possible. Insist that management share all relevant information with the union as a condition of consultation and support for the in-house bid. • Educate union members and the public about the dangers of contracting-out and pressure the employer to reject the bids by private corporations. |
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WHAT ABOUT THE INDIANAPOLIS “MODEL” OF BIDDING?

The Indianapolis experiment is being followed by Canadian CAO's and politicians, but most of them have several misconceptions about it.

Despite not having the right to strike, the unionized work force represented by AFSCME obtained a number of concessions from the employer (City of Indianapolis) before agreeing to participate in competitive bidding. **These concessions make the Indianapolis situation a very unique one and unlikely to be duplicated elsewhere.**

First, the City agreed to dismiss a number of managers so as to create a level playing field for the in-house staff. This was a means of making the in-house bid competitive with those from the private sector.

Second, the union received assurances that employees would not lose their jobs because of bidding. If a contractor won a bid, they would either retain the public employees under the terms of the collective agreement or they would be transferred to other departments or duties. Despite this, the workforce was reduced more than 40% by attrition over five years.

Third, the employer had to disclose financial and other information to the union and agree to provide consultants, which the union could use in helping to prepare bids.

Despite these concessions to the union, the bidding system still remains one which places downward pressure on the wages, benefits and working conditions of employees.

Instead of involving itself in collective bargaining, grievance and arbitration work, AFSCME has been drawn into working on in-house bids, which consume enormous time and resources. In a sense, the union is involved in year-round bargaining.

The workforce has had to become much more flexible around work rules and work practices. Work-place re-engineering and redesign went through a hand in hand with competitive bidding.

AFSCME is now pushing for a moratorium on services, which went through a tendering process and remained in-house.

DOES THE EXPERIENCE IN OTHER COUNTRIES SHOW PROBLEMS WITH COMPETITIVE BIDDING?

Recent evidence from other countries shows that competitive bidding leads to a number of serious problems for public sector workers and the services they provide. The problems are especially evident in Britain and the Australian state of Victoria where Compulsory Competitive Tendering (CCT) was implemented in the late 1980's and in the United States where the Indianapolis and Phoenix "models" were developed by local politicians and managers.

Governmental agencies are now beginning to rethink the value of competitive bidding. For example, in Britain, the newly elected labour government is moving to end compulsory competitive bidding because of concerns about service quality and the higher than expected costs of CCT. ^[2]

An Australian tripartite committee concluded that flexibility and efficiency could be more effectively achieved through a reform process "from within" than through competitive tendering ^[3]. Australia's industry commission recommended that compulsory competitive bidding not be implemented in the rest of Australia as it had been in the state of Victoria. ^[4]

Despite the hype around the Indianapolis model, it has not achieved widespread acceptance and success in the United States. Most public sector employers are pursuing work redesign and work-place reengineering instead of competitive bidding, although they sometimes do both.

SPECIFIC PROBLEMS THAT HAVE EMERGED FROM COMPETITIVE BIDDING IN OTHER COUNTRIES

- A deterioration in the level and quality of service.
- A weakening of the accountability structures that enable the public to access and demand quality service.
- A threat to public sector employment.
- An attack on the wages and benefits of unionized public sector workers.
- An increase in the cost of service provision due to profit maximization by private corporations.
- High administrative supervisory and legal costs associated with the implementation of competitive bidding.
- The tendency toward monopolization of service provision by large corporations which use low-ball, loss-leader bids to establish a virtual private monopoly of service delivery.
- A danger of collusion, if not outright corruption between public sector administrators/politicians and corporate contractors.

In summary, competitive bidding presents a threat to the quality and accessibility of services now enjoyed by Canadians and it pulls public sector workers into a “race to the bottom” in terms of wages, benefits and job security provisions.

Let's take a look at the evidence from the United States, Britain and Australia.

The Savings from Competitive Bidding are Minimal if Any

The British Government claimed that competitive bidding resulted in saving between 25 and 30%. However an Equal Opportunity Commission report concluded that competitive tendering produced average real savings of only 7%.^[5] A British government review found that savings from competitive contracting were only half those previously estimated and some services were more expensive after contracting out.^[6]

Also, any savings in one area could be countered by greater costs in another part of the budget. For example, the cost of the managers' payroll in Britain's National Health System (NHS) rose in real terms from £26 million in 1988 to £500 million in 1994. This occurred as the system claimed reduced costs in service delivery.^[7]

Australia's Industry Commission found that savings from tendering services declined over time when measured against in-house cost of service provision. It found that publicly owned and operated facilities could be more cost-efficient than contracted ones and provide better service.^[8] For example, the Stockholm, Sweden water supply is publicly managed and provides better value at less cost than the privately owned and managed systems in cities such as Manchester and Bristol, England.^[9]

The report by The Utility Workers Union of America on contracting out in the water industry states that the union could "offer immediate and practical recommendations for reducing non-labour costs by 10-20% in most departments, making privatization or contracting out unnecessary."^[10]

Most consultants would argue that unless a real saving of 10% to 20% can be achieved through outsourcing, then contracting out is not a wise decision given the possible impact on service quality, accountability and in-house service capability.

The Savings are Minimal if Any, but the Profits are Huge

Any move toward competitive bidding will make corporations and their CEO's richer. The market for public service delivery is a multi-billion dollar prize over which corporations are competing. This is true of every sector. For example:

- In 1995 the long-term health care company, Extendicare, made profits of over \$26 million in Canada and over \$82 million worldwide while its CEO made almost \$800,000 in 1994.^[11]
- The food services giant, Versa, made profits of over \$10 million in 1993 while its CEO made over \$1.5 million in 1996.^[12]
- The waste management conglomerate, BFI, made profit of over \$273 million in 1996 while its CEO made over \$600,000 plus stock options that year.^[13]
- Lyonnaise des Eaux made profits of approximately \$1 billion in the water and wastewater sector in 1995.^[14]
- In the facilities Management sector Serco made profits of over \$40 million in 1996 while its CEO received a salary of almost \$700,000 the year before.^[15]
- Consultancy companies such as KPMG are making millions off the privatization of public services. Global Finance magazine reported that in 1996 KPMG had deals valued at over \$16 billion related to privatization efforts. KPMG is second only to Coopers and Lybrand, in the magnitude and scope of its public-to-private endeavour.^[16]
- A recent study by the London Business School shows that the purchaser of 11 privatization stocks in Britain between 1981 and 1987 would have earned a return of 166%, a performance two times better than the stock market as a whole. Managers of privatized companies saw their salaries rise by an average of 74% in the year after privatization.^[17]

Quality of Service Declines

The British government's Efficiency Unit on competitive tendering found that one third of users reported a decline in service after contracting out. These included complaints about not enough staff, lack of knowledge by the providers, slower service, inflexibility, poor morale, poor communications and a lack of resources.^[18]

Of 8,000 contracts (including in-house) listed on the Public Services Privatization Research Unit (PSPRU) database, a staggering 72% of those having problems were awarded to private contractors.^[19]

One of the criteria for measuring deterioration in the quality of services is the number of contract failures; instances where contractors either fail to deliver a specified level of service or they withdraw service completely due to financial failure or inadequate return on investment. For example, Andersen consulting gave only two weeks notice of withdrawal to the National Health Service (NHS) trusts in Yorkshire, stating that the company would no longer operate the NHS payroll and administration system because it was unprofitable to do so.^[20]

A British study found that contractors have many more failures than do in-house service providers and the latter have a better record on maintaining national and international standards.^[21] In the refuse sector, five of the leading nine contractors were having financial problems in 1993, raising concerns about their ability to guarantee service.^[22]

A report of the Public Sector Research Centre on the New South Wales bidding experience shows that municipal councils believed that some deterioration of service was likely as a result of private contractors cutting costs in order to maximize profit. Many of them saw the need to retain services in-house in order to avoid quality-related problems.^[23]

Not an Employment Creator

The claim that the private sector will create jobs is shown to be completely false when the experience with competitive bidding is examined. Despite some protection for workers under the CCT, major contractors still attempt to cut jobs and suppress wages and benefits.

The UK Equal Opportunities Commission estimated that there were approximately 75,000 jobs lost as a result of competitive bidding, with women being affected more than men. However, the Public Sector Privatization Research Unit puts the estimate at 150,000 jobs.^[24] The City of Indianapolis's workforce declined 42% in a five-year period due to competitive bidding.^[25]

It is also estimated that for every four public sector workers losing a job due to contracting out, one private sector worker also lost a job. Furthermore, the jobs created under CTT tended to be part-time and low paid and indicative of a "contract culture."^[26] The North Bedfordshire Council in Britain rejected the option of "externalizing" or privatizing the entire District Service Organization because it noted that significant wage and job cuts had taken place following outsourcing in the past.^[27]

By 1994, the social costs of competitive tendering in Britain to 1994, including increased unemployment benefits and more housing, health and social benefits for unemployed workers, is estimated at 249.6 million.^[28]

The Hidden Costs are High

A 1993 report on the tendering system in Britain concluded that there were many areas of tension and confusion between contractors and in-house staff.^[29] These lead to higher administrative and supervisory costs.

Competitive bidding is not an inexpensive undertaking. Corporations can spend up to \$1 million dollars in a bid for a large, long term contract. The British government's review of competitive tendering concluded that the initiative was four times costlier than earlier estimates. ^[30]

A study prepared for the Utility Workers Union of America reported that most contracting out in the American water and wastewater treatment industry produced minimal savings when all the hidden costs were taken into account. It concluded that the risk of outsourcing environmental and health-related services was not warranted by the marginal savings that could be anticipated. ^[31]

The loss of tax revenue from unemployed workers and tax breaks for corporate contractors also needs to be calculated as part of the cost of competitive bidding. A study of four services in Britain estimates that every dollar saved by local government through contracting out, costs the public purse another two dollars. ^{32]}

Less Competition, More Private Monopoly

The assertion that competitive bidding will promote greater competition is not true. In 1995, Britain's 1995 Audit Commission concluded that after six years of compulsory tendering there was little effective competition for contracts. Usually local councils received three or fewer bids for a service and one of these was often the council's own in-house workforce. The reason is that individual contracts were often too large for smaller contracting companies and thus discouraged them from participating. ^[33]

Another study showed that CCT contracts valued at over £35.6 million were awarded mainly to 20 large companies, eight of which either made a donation to the British Tory party had a Tory MP as an advisor or company director. ^[34] In the sports and leisure sector, five companies have 62% of contracts. Also, a majority of contracts were not even tendered but rather awarded outright without competition. ^[35]

The Australian Industry Commission report on tendering concluded that“ transferring service provision from a public to a private monopoly may bring no benefits and may even result in higher costs and poor service responsiveness”. It further concludes that a public sector agency or government may find itself in a vulnerable position if it cannot re-enter the market due to loss of public sector skills and assets.^[36]

Corruption Aplenty

It was reported at a recent conference in Germany that corruption around the tendering process is no longer a rare event. In the state of Hesse, 60 companies and consultant offices are currently banned.^[37] In France, representatives of several large water companies were charged with corruption related to bribes of municipal officials, and many others were under investigation.^[38] In England, the Metropolitan Police's anti-corruption unit stated that "the overwhelming majority of corruption cases in Britain are connected to the award of contracts." According to one police source, there has been an "explosion in the number of such deals."^[39]

ALTERNATIVES TO COMPETITIVE BIDDING AND OTHER FORMS OF CONTRACTING OUT

The solution to service delivery problems within the public sector is not more contracting out and privatization. The way to improve services is for governments to provide adequate funding and eliminate waste. The way to create efficiencies in service delivery is for employers to negotiate changes with unions.

The solution is not in turning over service delivery to private corporations who are concerned with profit. That only hurts CUPE members and the rest of the public.

END NOTES

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