

## CHAPTER 10

### COMPETITIVE BIDDING AND MUNICIPAL SERVICES

#### I. REDESIGNING GOVERNMENT: A LABOR PERSPECTIVE ON THE INDIANAPOLIS MODEL

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As a candidate for mayor of the city of Indianapolis in 1991, Republican Steve Goldsmith ran on a highly visible, pro-privatization platform. Committed to reducing payroll by 25 percent in his first year, he regularly proclaimed that he could run the entire city with only four controllers.

AFSCME Council 62 represents the blue collar employees throughout the city of Indianapolis. If candidate Goldsmith were true to his word (without reducing police or fire personnel), the ranks of the union would have been decimated. You did not have to be a nuclear physicist to figure out that nearly one-half of the union's members faced job loss within the first year of the Goldsmith administration. This reality was faced within the context of the Indianapolis political structure that the *Wall Street Journal* had referred to as "the last bastion of Republican machine politics in urban American today." Further complicating our future was the lack of a legal basis for public employee collective bargaining in Indiana. In short, we had not had a Democratic mayor or city-county council in more than 25 years, and the union had no legal right to exist.

Against this backdrop, the union faced a strategic decision: whether to seek a compromise position or to mount an all-out fight that we seemed to have virtually no political chance of winning. AFSCME Council 62 chose the latter.

The union took a very aggressive stand in the mayoral election campaign, challenging the candidate at every public opportunity. The media, both print and television, were used; the grass roots

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operation was put in high gear; and resources were committed to the Democratic candidate's campaign. In fact, much of the election day effort was headquartered at the union's office.

The outcome was predictable, and Steve Goldsmith became mayor. The first four to six months were also predictable, given the union's and mayor's introduction to each other. Goldsmith's first effort was to stop construction on a new maintenance garage and to announce his intention to privatize the fleet service operation. The union continued its media attacks, pointing out that the penalty clauses in the construction contract would cost more than completing the process.

Grievances tripled; there was virtually no communication with the employees or the union; rumors ran rampant and morale plummeted.

The mayor's director of transportation, E. Mitchell Roob, contacted the union's executive director, Steve Fantauzzo, in an effort to end the hostilities and find some common ground. His proposal to develop a "level playing field" and allow city teams to compete against private vendors forced AFSCME Council 62 to reconsider its position. For years, the union had argued that its members could do any job more efficiently and effectively than private vendors. In effect, Roob challenged the union to "walk its talk." The city had developed a new accounting procedure—Activity Based Costing (ABC)—that would give us the ability to determine project costs and prepare legitimate proposals. Would we participate?

In effect, the union had been presented with another critical strategic decision. After several lively debates, we decided to participate—if reluctantly. However, as our focus turned to developing a level playing field and determining principles of participation, our response came with several conditions, including:

- The right to participate from the very beginning of the process and to name the employee team members.
- For those participating, advance training provided by the city and the opportunity to submit several practice proposals prior to actually bidding.
- The right to look not only at personnel but all aspects of a job and to redesign it as the team saw fit.
- The administration's assistance in freeing us up from the bureaucracy that stymied our ability to provide services competitively.
- The opportunity to discuss overhead and to have it eliminated where appropriate.

The key element for us was overhead. We knew that our wages were competitive. We believed that if we didn't make a profit; were not paying taxes; could purchase our fuels, equipment, and materials cheaper; and could borrow capital at a better rate, we should be able not only to compete, but to win. If we could not accomplish this, we probably had a problem with the service delivery system or we were carrying too much overhead. We focused on the latter.

Using the administration's new ABC accounting system, it was relatively easy to demonstrate that, in the Department of Transportation, we were top-heavy. We went back to the mayor with a challenge to "walk his talk." We were carrying too many middle and upper managers to compete with the private sector, and we wanted them eliminated from our bid. In effect, we were asking the mayor to lay off members of his political party, the political machine that had just helped put him in office. To our surprise, he did! In the process, he sent the strong message to both his party supporters and union members that it was not going to be government as usual in Indianapolis.

AFSCME Council 62 won, in dramatic fashion, those early bids on *chuck-hole repair*. In fact, our numbers were so much lower than the private vendors that the mayor refused to accept them without a special review by the auditors to verify their legitimacy. Ironically, when the work was done, we not only met our bid, but came in significantly under the estimated price.

Since then, the union has consistently won more than 70 percent of the projects for which it bids and has reduced the costs of those services by almost 25 percent. In general, public employees have been very competitive in public services that are either labor or equipment intensive.

There have been numerous unanticipated changes in the basic relationship between the union and the city and between the union and its members. The process of negotiations has been significantly altered. Traditionally, the parties met in formal negotiations every two to three years to negotiate a successor contract. Those meetings were adversarial in nature and following their conclusion, each side saw its principal responsibility as administering and policing the terms and conditions of the agreement.

Today, the parties take a much more expansive view of negotiations, and the efforts are grounded in furthering our common interest. Although formal negotiations continue, and remain adversarial in some necessary areas, the process also serves to further clarify and resolve issues related to bidding. Training,

cross-training, upgrades, hiring of additional employees, eliminating bureaucratic barriers, notification, and completing/repairing the work of contractors, as well as daily problem solving, all take on added importance.

“Negotiations” now take on a broader role and occur regularly throughout the bidding process. It is no longer sufficient to meet once every couple of years to negotiate. The parties are constantly meeting to discuss and come to terms on new and changing aspects of the competitive process. What components of a request for proposal (RFP) will facilitate the process and minimize employee concerns? What will be considered overhead, and how will it be inputted into the bid process? Will monitoring/compliance functions of the city be added to the private contractors’ estimate? How will employees be compensated for improved skills and added functions? What about training? As work is redesigned and new job titles created, how will they fit into the existing system? These are but a few of the questions that require constant interaction between the parties. Meetings and discussion are initiated by either party, and decisions are made by mutual agreement.

After several years of actual experience, both the city and union have found it useful to meet regularly to discuss “second generation issues” that arise from competing. These are concepts, problems, or opportunities that have resulted from the natural growth of the system and that were unanticipated when we entered this “brave new world.” Included are such issues as:

- A moratorium on bidding of work at which the employees have been overwhelmingly successful. Such moratorium is set for a specified period of time after which it is reviewed for continuation.
- A gainsharing program for employees in addition to negotiated wage increases.
- New and additional training programs.
- The process of equipment choice/purchase and employee involvement.
- The opportunity to grow our core businesses beyond the confines of the city’s current structure.
- The opportunity to identify new opportunities for bargaining unit work.

Competitive bidding as developed in Indianapolis has meant change. There have been several disagreements that have tested the will of the parties and their commitment to the effort. Change

has brought with it both positive and negative aspects from the viewpoint of the worker.

On the positive side, the effort has meant job security and additional income for employees. No union member has been laid off and all employees participating in the process have received gainsharing payments, above and beyond their negotiated wage increase. Despite this, both the city's payroll and personnel positions continue to decline. The parties have agreed to cross-training and melded job titles, which have resulted in upgrades for the employees involved. The union has succeeded in returning previously contracted work to the public sector, and we have begun to dispel the myths of lazy public sector workers and private sector efficiency.

More important, the union is seen as an active, equal partner in redesigning government. Employees are empowered to change their work; lines of communication with upper management are open; and there is a realization that the process fails without the commitment of rank and file employees or their representatives.

The gains have not come without a price. While employees work smarter, they also work differently, and this leads to membership criticism. The process is very time consuming, and we don't win every bid, which again leads to skepticism. We have had to look at all aspects of the job, including long-standing work rules and controversial work systems. We continue to develop a system without an outside model or comparable experiences to draw upon. At times, we feel we create two problems for every one we solve.

Partnership has meant accountability for the union and its officers. It is no longer sufficient to criticize a failure. If there is a problem, we are part of the problem and must accept some responsibility for its existence.

Many of our traditional allies criticize this effort and question the union's support for a mayor intent on downsizing government. The program has led to strained relationships and has tested the strength of our coalition efforts.

Over the last several years, competitive bidding has also forced the union to refocus and reinvent itself. That effort has led to a clearer view of the principles that must guide our effort and to which we must aspire. For the short term, we have achieved our goals of protecting jobs, empowering workers, and improving their economic well being. In the long view, I hope that our efforts lead to the opportunity to make government more responsive and to

change the way management and labor view their respective roles in the workplace.

For now, I'm often reminded of the Chinese curse, "May you live in interesting times."

## II. COMPETITION AND PRIVATIZATION OF MUNICIPAL SERVICES

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### Introduction

The city of Indianapolis and its Mayor Stephen Goldsmith have developed a reputation as cutting-edge drivers of competition and privatization of municipal services. For the audience to understand the Indianapolis experience and how subcontracting of municipal services has been affected, some background is in order.

Stephen Goldsmith was first elected Mayor of the city of Indianapolis in November 1991. He had a vision for privatization and competition that would demand that government be run more like a business. To do that, government needed to focus on outcomes and results such as service quality rather than on simply output. Government has traditionally been seen as concerned about spending and budgets, but not always about final results.

Since the mayor took office in January 1992, the city has engaged in more than 65 competitions with the private sector for municipal services. As our discussion today will show, some of these competitions have led to private sector solutions; however, many of the competitions have resulted in the union maintaining the work in-house. Regardless of whether the competitions have resulted in privatization or in-house solutions, the city has experienced an historic savings in excess of 25 percent in nearly every competition. In total, this competitive philosophy has resulted in a demonstrable savings of more than \$250 million to the taxpayers of Indianapolis.

Mayor Stephen Goldsmith's philosophy requires government to focus on the core competencies of government. The administration believes that these are mostly limited to public safety and the administration of municipal services. In every other area of government, by injecting competition, government can provide the best

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value to its citizens. Competition leads to better services at a substantially lower cost.

With this background, let us focus on several instructive examples of competition for providing municipal services in which the union vied with private vendors. As you might imagine, these types of massive changes do not come without some pain and suffering. However, you may find that this presentation may not be what you were anticipating, as your job as an arbitrator undoubtedly puts you in an environment where the union and employer are adversarial in almost every circumstance.

### **Examples and Results of Competition**

#### *Advanced Wastewater Treatment*

The largest competition to date in the city of Indianapolis was the competition for the operation and management of Advanced Wastewater Treatment Facility (AWT) plants. The city invited competitive proposals from private companies as well as from the city employees. Some of the top firms in the world submitted proposals. The result was a contract with a private management partnership that provided the city with access to cutting-edge technology while cutting costs by 44 percent. The partnership that won the bid, the White River Environmental Partnership (WREP) is a partnership between the local private sector water company, a local engineering firm, and a French-owned water treatment corporation.

WREP reduced staffing at the plants, which were the two largest privately managed AWT plants in the United States. As part of this deal, AFSCME continued to represent the plant employees. The workers at the plants receive better benefits, higher pay, and more opportunities than they would have had they stayed with the city. Union grievances have fallen from 38 to 1, and employee accidents have been reduced by 70 percent.

Even though WREP reduced the staff, no union employees went without a job opportunity. The Request for Proposal (RFP) required the partnership to offer all current employees the "right of first refusal for all available positions." This accounted for 176 of the employees. Of those workers who were displaced, some chose to retire, others elected other private employers, and the remainder were either placed in other city positions or hired by the partnership for other operations.

### *Solid Waste*

The city opened solid waste trash collection to competitive bid to reduce costs and improve services. The Solid Waste Division of the Department of Public Works (DPW) had traditionally used a patchwork system of collections that divided the county area into 25 districts, which were serviced by four private haulers and DPW's in-house crews. DPW had negotiated franchise agreements with the various trash collectors, thus giving each a monopoly in a service area.

When the time arrived to renew the hauler contracts, the city proposed competition to save money. First, the number of service districts was reduced from 25 to 11. DPW was guaranteed control of one district to ensure that the city retained the capacity to collect trash in the event problems arose. But service in the other 10 districts was put out to bid from private collectors and the in-house union DPW employees.

Competition caused DPW to become more efficient while empowering its workers. For example, DPW employees found new methods of trash collection and realized that they needed to work seven, rather than four, hours a day to be competitive. Through employee decisionmaking, DPW reengineered its methods and increased its productivity. The administration also weeded out more middle managers to lessen overhead expenses for the Solid Waste Division. AFSCME employees won the maximum of three districts in the bidding, actually increasing its market share in the trash-hauling business in Indianapolis from 40 percent to 52 percent. The remainder was awarded to private firms. This competition resulted in savings of \$15 million over five years.

DPW workers have been so productive that they beat their own bid price in the first year of the contracts. At the same time, the number of complaints dropped by 15 percent from 1993. Because of this outstanding performance, in early 1995 the administration awarded the Solid Waste Division incentive pay averaging \$1,750 and totaling 11 percent of the division savings above the bid price.

### *Fleet Maintenance*

Indianapolis opened to competition the management of its Fleet Services (IFS), which is responsible for managing, maintaining, and repairing city vehicles, including everything from snow plows, garbage trucks, and road graters to police cars. The city's



unionized employees won the bid against national competition by streamlining their operation, improving their service, and becoming more productive. In their proposal, the union boldly agreed to forgo a scheduled 2 percent union pay raise in the first year of the agreement in exchange for a plan that gave them an incentive to generate additional savings beyond those in the proposal. Any additional savings achieved by IFS during the three-year agreement would be split between the city and IFS employees. The plan would permit the city to save 75 percent in the first year of the agreement; IFS would get 25 percent. In the final two years, the split would be 70 percent to the city and 30 percent to employees. Pay raises would be strictly tied to performance.

The savings from this new agreement with the union, coupled with the savings that IFS had achieved in the process of making its operation competitive, totalled \$8 million. Thus far, workers have earned more than \$75,000 in bonuses. The incentive pay offered to employees continues to inspire them to remain cost conscious. Recently, when two employees left, the others urged that the workers not be replaced so that they could share the increased cost savings with the city.

#### *The New Paradigm—Sewer Maintenance*

Currently, the city is in negotiations with WREP for private management of the city's storm and wastewater collection systems. WREP's winning proposal will save more than \$13 million. While this competition led to privatization, AFSCME Council 62 actually partnered with WREP to submit the proposal. Instead of fighting the possibility of privatization, the union chose to partner with a substantial vendor in the arena so that they could be competitive and maintain jobs for their constituencies.

#### **The Goldsmith Philosophy**

These competitions have been amazingly successful in the city of Indianapolis. Mayor Goldsmith has a broad philosophy that smaller government is better government. His vision is that competition is the only way to assure that citizens are getting the best value for their tax dollar. Privatization is often referred to as the "P" word in Indianapolis. We do not view privatization as the only model because a private sector monopoly is actually worse than a govern-

mental monopoly in many circumstances. Competition is the only way to ensure the right result.

Mayor Goldsmith has also recognized that the only way to truly foster competition is to create a level playing field on which the union may compete. The city administration has taken the position that it wants to encourage affected employees to compete and will actually enable them to do so by providing them with consultants and the necessary tools.

This competitive philosophy was embodied in the form of Mayor Goldsmith's Service, Efficiency, and Lower Taxes for Indianapolis Commission (SELTIC). SELTIC is a team of local entrepreneurs and volunteers who reviewed city government to determine how to improve government services and make them more efficient, decrease cost, and eliminate waste. The Commission and its volunteers have inventoried city assets and services to identify those that can be moved into the competitive marketplace. The Commission simply makes recommendations to the mayor, who then arranges to have the proposals presented and debated in a public forum. Historically, the city has obtained savings of 25 percent per competition regardless of whether it leads to a private or public solution.

### **City Bidding Procedures**

When we spoke earlier about the union's opportunity to bid, we referred briefly to city bidding procedures. To determine what was open to bidding, the city had to determine what services it provided. This sounds somewhat silly; however, it is not unusual for governments to have no idea what they own or what services they provide. To determine this, the city created a new accounting procedure called Activity Based Costing (ABC). This process breaks down the cost of providing municipal services based on the activities that are performed. By engaging in this process the city was actually able to determine the exact cost of filling a pot hole.

The city also determined the most flexible means by which to engage in competition. The old way of doing business was to solicit bids, which were submitted in sealed envelopes, and the "lowest responsive, responsible bidder" was awarded the contract. State statute requires that the lowest responsive, responsible bidder receive business in the case of purchases of "goods and equip-

ment.” However, the state’s statute is silent as to the means of obtaining “professional services.” Therefore, in the past, the city had utilized a proposal process that allowed more flexibility than a traditional bid process.

The city begins a competition by sending out a Request for Qualifications (RFQ), which is a short document that simply requests a vendor to supply information on its experience and interest in a potential competition for a particular project. When the city has determined that there is interest in the private sector to run a legitimate competition, the city sends out an RFP. This is a detailed document that sets out the exact specifications of the process. The RFP process will usually reduce the competition to two or three finalists who are then pitted against each other to obtain a best and final offer.

One of the most important things about the new city bidding procedures is the ability to negotiate outcome-based contracts. Instead of contracts that are too detailed in cost and deliverables, the city has learned to create contracts that simply require a better result. For example, the gist of the AWT contract was that we simply needed to get better water more inexpensively. Contracts also contain service level agreements, and liquidated damages are to be paid when the vendor fails to reach service levels. This is true whether a private or public sector competitor wins the competition.

One of the other opportunities that this process provides is the creation of incentives to perform the work in a more efficient manner so that there can be a sharing of the savings in the form of incentive payments. As noted earlier, both the Solid Waste and Fleet Services employees have received cash incentives for their efforts.

### **Not All “Peaches and Cream”**

Not all of this relationship has been “peaches and cream.” As one might expect, such drastic change leads to some strain since a new paradigm relationship leads into new, uncharted territory. In the bidding for golf course management and the AWT plant, the union did, at times, remind the city of its place in the competitive process. However, the relationship between the city and the union has weathered these storms.

### **Changing Roles: Where Is the Relationship Now?**

Competitive bidding in Indianapolis has meant change. There have been numerous unanticipated changes in the basic relationship between the union and the city and between the union and its members. The local unit has accepted responsibility and “stepped up to the plate” to prove that it is competitive. Instead of retreating and making excuses, the union has energetically joined the competitive fray.

#### **What This Competition Has Meant to Indianapolis as a City**

When Steve Goldsmith took office, it was very clear that he would not raise taxes to pay for the increased cost of “doing government business.” He wanted the city to pursue his vision: “A competitive city with safe streets, strong neighborhoods, and a thriving economy.” To accomplish this, government had to operate more like a business.

During the course of his four years in office, Mayor Goldsmith has reduced the non-public safety positions by more than 40 percent. Indianapolis now has the lowest number of city employees per capita of the 50 largest cities in the country. There have been no property tax increases during the Goldsmith administration.

In fact, the city’s budget is actually lower than it was in 1992 when Steve Goldsmith took office, and this has allowed for a reallocation of resources to aid a \$530 million infrastructure bond issue for bridges, roads, neighborhoods, and parks. It also allowed for the hiring of an additional 100 police officers and an increase in the city’s fund balance for bond purposes. Without the introduction of competition and the cooperation of the union, these success stories would not have been possible.

#### **Conclusions**

In Indianapolis, competition has completely changed labor-management relations. A traditional adversarial relationship has been transformed to one of cooperation and ongoing negotiations that help to make government more responsive. In fact, in the most recent competition for sewer maintenance, AFSCME partnered with the private sector on the winning proposal.

Indianapolis has chosen this competitive philosophy, and the union has recognized that you cannot go back. Both have recognized that competition is truly a win-win proposition. Competition does not necessarily mean that everything will be subcontracted and that all job opportunities will be lost. Instead, it is simply the best way for a city to determine how to obtain substantial savings and efficiencies to provide taxpayers with the best and lowest cost municipal services.