LEAGUE OF WOMEN VOTERS®

SUBCONTRACTING PUBLIC EDUCATION

By Ted Volskay

BACKGROUND

An education management organization (EMO) is a private entity that is subcontracted to manage one or more traditional public schools charter schools, or an entire school district. The EMO objective is to achieve efficiencies that translate into improvements in academic performance, cost savings for the school districts or profits in the case of for-profit EMOs. As a result, EMOs operate schools with the same or fewer financial resources than had been provided to the schools by the public sector. In 2007, it was estimated that for-profit EMOs operated approximately 20 percent of all charter schools.[1]

Education Alternatives, Inc., (EAI) was a publicly traded, for-profit EMO that was headquartered in Minneapolis, Minnesota. Established in 1986, EAI stock was traded in the over-the-counter market and quoted on the NASDAQ Exchange.[2] An EAIs ability to make a profit for stockholders is directly tied to EAI's success in cutting the operating costs of the schools that it is managing.[3]

In 1992, the Baltimore City Public Schools entered into a $133 million, five-year contract with EAI to oversee the management and instruction at nine of the 182 schools within the district. The schools to be managed by EAI included eight elementary schools and one middle school. The contract was later modified to include three additional schools. The contract called for yearly reviews and a provision for the Baltimore City Public Schools to terminate the contract at any time following a 90-day notice.[4]

Under terms of the contract, EAI responsibilities included facilities management, financial management and some staff development. Under the contract, EAI had the autonomy to determine which services it would provide directly and which services it would subcontract with the school system to deliver where it did not wish to provide such services directly. EAI also had partial discretion to select staff, curriculum delivery, instructional methodology, training and other areas supporting instruction. The contract provided for a periodic transfer of funds based upon a negotiated per-pupil allocation for educational and most non-instructional services.[5]

EAI management expected a 25 percent reduction in operating and administration expenses. Of these savings, 20 percent would be reinvested back into the classroom and the remaining 5 percent of savings would be profit for EAI stockholders. In turn, the Baltimore City Public Schools would not incur any additional cost beyond what already was allocated for public education or approximately $5,500 in average annual per-pupil cost.[6]

EAI and school system staff agreed to appoint a school district employee to serve as a liaison to represent the superintendent. The liaison was responsible for staffing decisions and disciplinary measures, and for adhering to the policies and procedures of the Baltimore City Public Schools.[7]

In November 1995, the Baltimore City Board of School Commissioners agreed to serve EAI with a 90-day notice to terminate the contract, and the contract was terminated in the spring of 1996, one year prior to completion of the original five-year contract.[8]

Privatization Case Study: Subcontracting Public Education – Baltimore City Public Schools and Education Alternatives, Inc. (EAI).
Governmental Level: City (Baltimore, Maryland)
Primary Privatization Mechanism: Subcontracting/Outsourcing

EAI proposed to operate the schools for the average annual per-pupil cost of approximately $5,500. One criticism of the annual per-pupil cost approach was that the contract called for the district to provide EAI the average cost per pupil for the district as a whole. However, all but one of the schools managed by EAI were elementary schools, which are less costly to operate than high schools on a per pupil basis. Furthermore, on a per pupil basis, the cost to teach special needs students is much higher than the cost to teach students without special needs. This is an important cost consideration because the schools managed by EAI served proportionally fewer special needs students than the other schools served by the Baltimore City Public School District.[9]

According to the Superintendent of Baltimore City Public Schools, during the time EAI was managing the schools, EAI had the autonomy to determine whether it would provide the services directly or whether it would contract back to the school system for delivering those services. However, EAI had partial discretion with respect to selecting staff, curriculum delivery, instructional methodology, training and other areas supporting instruction, although the contract language on this point was ambiguous.[10]

Critics have argued that as a result, EAI inappropriately exercised its discretion and transferred all counselors and specialists (art, music, physical education and special education teachers) out of the schools managed by EAI.[11] For example, EAI eliminated all special education programs in favor of complete inclusion in the classroom. Since the student to teacher ratio is lower for special education classes than for traditional classrooms, this decision eliminated the more costly special education programs in favor of an increase in the number of less costly traditional classrooms. Students in need of special education services were simply moved into traditional instructional programs. These moves effectively lowered the student to teacher ratio for the majority of students. Integrating special education students into a traditional classroom setting helped a majority of students but came at the expense of students with special needs.[12]

EAI reportedly guaranteed improvement in student test scores after the first year. When compared to a control group (non-EAI students), reading and mathematics scores of EAI students dropped after the first and second years, but the test scores of the control group increased. The EAI student test scores caught up with those students in the control group after the third year.[13]

The University of Maryland Baltimore County (UMBC) evaluated and compared EAI managed schools with schools managed by Baltimore City Public Schools. Here are some of the conclusions cited by the study:

- Schools managed by EAI cost 11 percent *more* to operate than district run schools;
- Parent involvement levels in EAI and district run schools was approximately the same; and
- Overall effectiveness of teaching was the same among EAI and district run schools.

The UMBC study concluded that "the promise that EAI could improve instruction without spending more than Baltimore City was spending on schools has been discredited."[14]

The superintendent of the Baltimore City Public Schools at that time cited the following lessons learned:[15]

- Anticipate conflict – some in the education community embraced the EAI partnership while others were distrustful;

- Secure the support of all constituencies beforehand – school leaders cannot *impose* innovations on school communities;

- Establish specific performance objectives at the outset with milestones to monitor progress and accountability mechanisms linked to funding;

- Establish a reasonable time frame for changes to occur and inform the public about realistic expectations;

- Agree to terms of severance – when preparing the contract, be very specific about the disposition of leases, equipment, materials and supplies when the contract is terminated;

- Anticipate the need to reopen the contract and of the agreement as needed – when implementing innovative changes, flexibility is needed to resolve unexpected issues.

THINGS TO CONSIDER

- The first school managed by EAI was South Pointe Elementary School in Dade County (Miami) Florida in 1990. The contract to manage South Pointe Elementary School was not renewed by the school district.[16]

- In November 1994, EAI signed a 5-year contract with the Hartford, Connecticut, Board of Education to manage the school district. EAI was given the responsibility of operating 32 schools in the distric,t while the Board of Education retained authority for policymaking. Controversy began when EAI's proposed budget for the 1995-96 school year included cuts in teaching positions. Most school board members would not support the reduction in teachers. The school board terminated the contract with EAI in January 1996, reportedly because EAI would not operate under the contract as written. EAI countered, saying that it ceased services because the school district failed to pay for services rendered in accordance with the contract.[17]

- Maryland became the first state to exercise its authority to seize control of failing schools under the No Child Left Behind Act of 2001. The Maryland State Board of Education ordered new management of the schools, but the legislature immediately passed legislation to delay the takeover. The Governor subsequently vetoed the bill but the Governor's veto was overridden.[18]

- EAI was specifically mentioned as being less successful than privatization advocates predicted in a study comparing privatization of public schools in the United States and Great Britain. The study notes that the relatively low level of per capita funding for public education has made it difficult to make a profit and has contributed to a recent lull in public education privatization initiatives in the United States.[19]

- During the first year of the contract with Baltimore City Public Schools, EAI was paid $26.7 million and reported a gross profit of $1.9 million or 7.1 percent; however, EAI's refusal to produce a public budget aroused suspicions about the company's reported profits and losses.[20]

- One criticism of the EAI - Baltimore City Public Schools experience was that the administrators didn't give teachers time to develop an open attitude toward the program.[21]

- EAI changed its name to the Tesseract Group, Inc. The Tesseract Group filed for bankruptcy in October 2000.[22]

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ENDNOTES

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[3] Julia E. Koppich. "Considering Nontraditional Alternatives: Charters, Private Contracts, and Vouchers," The Future of Children, Volume 7, No. 3, winter 1997. http://www.princeton.edu/futureofchilden/publications/journals/article/index.xml?journalid=32&articleid=280

[4] Amprey, Walter G. "Some Hard-Knock Lessons About Public-Private Partnerships," The Free Library, 01 January 1997. 15 May 2011. http://www.thefreelibrary.com/Some Hard-Knock Lessons About Public-Private Partnerships-a077204657

[5] See endnote 4.

[6] Janet R. Beales and John O' Leary. "Making School Work: Contracting Options for Better Management," The Mackinac Center for Public Policy, January 1994.

[7] See endnote 4 here and below (endnote 8).

[8]

[9] Hellen F. Ladd. "Market-Based Reforms in Urban Education," Sanford Institute of Public Policy, Duke University, Durham, North Carolina, December 2000.

[10] See endnote 4.

[11] Catherine G. Brandt. "Taking the Wheel: Commonalities and Lessons from Mayoral and State Takeovers of Urban School Districts," Education Law Consortium, The University of Georgia Institute of Higher Education, 2007 Forum (Vol. 3). http://www.educationlawconsortium.org/forum/journal07.html

[12] Shannon Stormont. "Examining the Governance Structure of Hartford Schools," Senior Honors Thesis, Trinity College, Spring 2002.

[13] See endnote 3 here and below (endnote 14).

[14]

[15] See endnote 4.

[16] See endnote 8.

[17] See endnote 2.

[18] See endnote 7.

[19] John Fitz and Bryan Beers. "Education Management Organizations and the Privatization of Public Education: A Cross-National Comparison of the USA and Britain," Comparative Education, Vol. 38, No. 2. (May 2002), pp. 137-154. http://links.jstor.org/sici?sici=0305-0068%28200205%2938%3A2%3C137%3AEMOATP%3E2.0.CO%3B2-F

[20] See endnote 3.

[21] See endnote 5.

[22] The United States Bankruptcy Court for the District of Arizona. http://sec.edgar-online.com/tesseract-group-inc/8-k-current-report-filing/2001/08/10/section9.aspx