



# To Sell or Not to Sell?

## A Comparative Analysis of Municipal Experiences Owning and Selling Public Goods

This comparative analysis evaluates conditions in which it may be best to privatize government services highlighted with case studies on critical factors to ensure the efficient and highest quality delivery of services.

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## Introduction

The outsourcing of government services to private companies is an issue local governments consider often. This policy and data analysis evaluates research from both types of organizations and government sources to provide a balanced analysis of the pros and cons involved in selling versus retaining public assets and services for

- a) Water and Sewer Facilities*
- b) Long Term Care Facilities*
- c) Correctional Facilities*

Limitations of research and recommendations for approaching privatization for each facility will be provided as well as tools for municipal councils to assist in their decision making.

## Executive Summary

Delaware County is the oldest settled section of Pennsylvania located in the southeastern corner of the state, bordering Philadelphia, Chester, and Montgomery County. The County is over 184 square miles divided into forty-nine municipalities, and is home to a population of 564,554. The median household income is \$74,477.<sup>i</sup>

A reoccurring issue for Delaware County Council is the consideration of private vs. public management of government services. Examples include the potential public to private sales of DELCORA, the public sewage treatment organization, and Chester Water Authority, the main supplier of drinking water to Chester and Delaware Counties. This policy analysis collected and summarized research and case studies on the following major government entities targeted for privatization in Delaware County and other municipalities.

### ***Water and Sewer Facilities***

There is evidence that the transfer of water facilities to private companies has improved the quality of some municipalities' water supply. A case study of a water and sewer facility sale to a private company in Nassau County, NY is dissected to provide pros and cons of that process.

### ***Long Term Care Facilities***

Research from the Government Accountability Office in 2011 found nursing homes owned by private equity firms have an overall lower standard of care. A case study of a Montgomery County, PA nursing facility and three Allegheny County, PA nursing facilities are analyzed to present provisions to take when considering privatization.

### ***Correctional Facilities***

Overwhelming research and investigative journalism refutes any claims to the benefits of private prisons. Government research and consultation with a national jail privatization and corrections expert are presented to dismiss the theory that private prisons are more cost effective, have less incidents, and decrease recidivism. Further research and analysis will present considerations on navigating private outsourcing of services within public prisons, as private contractors are a large presence in public prison facilities.

## Methodology

This policy analysis includes data from local and national newspapers, think tanks, nonprofit organizations, academic journals, government databases, and personal communication via email and phone calls. The case studies presented provide basic geographic data including location, population, and median income. These parameters were included to present an equivalent size comparison to Delaware County as well as provide insight on how privatization vs. public ownership affected municipalities with varying income levels.

## Water and Sewer Services

In the Public Interest provides guidelines on factors to consider before entering into a contract with a private company. Those documents are included into the appendix. Three of those factors to consider are service, quality, and cost.



Experts on public-private partnerships say that cost should not be the primary reason to enter into a private contract and that service delivery improvement should be the primary consideration.<sup>ii</sup> It is important to recognize that a private firm's primary interest is increasing profits and may not have the built-in revenue stream as a municipality has to offset costs, so this may lead to either cost cutting measures or rate increases. Depending on a municipalities financial condition, capacity and size, public ownership can undermine the quality of water and sewer services as well.

Though cost should not be the most important factor in decision making, it is important to consider. Rate increases after privatization shouldn't be a sole consideration of the success or failure of a contract negotiation. One reason for this is that rate increases are often politicized; not raising rates by a government is perceived as saving constituents money, even if rate increases are needed to adequately maintain infrastructure and service delivery. Governments perceive rate increases as a political issue whereas companies perceive rate increases as cost of doing business. Since rate increases are often unappealing options to governments, deferring them can lead to insufficient financing of water systems and, in the long term, poorly maintained systems.

Despite the above, Food and Water Watch cites privatization increases costs due to corporate profits, dividends and income taxes which can add 20 to 30 percent cost to operation and maintenance. If municipalities are to privatize, prudent negotiation and healthy competition for contracts is needed<sup>iii</sup>. A breakdown of the types of contracts, allocation of responsibilities in these contracts, and their pros and cons are included in Figure 1.

The following case study shows a successful case where a county council entered into a long-term contract with a private county for three of their wastewater facilities.

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### Case Study 1

Nassau County, New York  
Population 1,356,924  
Median Household Income \$116,100

Nassau County's bipartisan 7-person council voted for a 20-year term contract with United Water/Suez for operation of 3 wastewater plants. The contract designated ownership to Nassau County, operations, and environmental protection to United Water/Suez. Nassau County entered into an agreement with Suez because they could not properly maintain the sewer system after years of neglect and they could not match the financial cost of Suez. The County budgeted to pay \$57.4 million annually and invest \$1.5 billion in improvements, to result in a net savings of \$240 to \$378 million for the contract duration. The estimated savings were calculated from transitioning 300 union employees from the County to Suez. Within the first year of privatizing water and sewer services, Nassau County did not witness any savings due to district costs including unexpected stormwater infrastructure expenses and reassigning stormwater employees before the contract effective date. It is not clear what the financial cost to constituents and savings for the county was after the first year. Nassau County environmentalists including the spokesperson for the Citizens Campaign for the Environment observed a reduction in sewage discharge into the waterways and bays and noted a reduction in odor at the plant within the first year. The plants continue to perform well and receive further investments.

## Recommendations

Looking at cases of Nassau County, NY, Lexington, KY, and Felton, CA it appears one common point of friction in public-private partnership transitions is poor communication between the private provider and the public. Suez as a private company managing public employees and their payroll has caused some friction due to communication differences. In other cases, Suez and public employees were not transitioned to Kentucky American Water, Cal AM customers paid for increases due to a change in billing agreements and when customers tried to reach service representatives for answers. Considering these cases, it's important to communicate with the public on what changes they should expect during the transition of their services to a private company and further communicate information about services to them.<sup>vi</sup>

If public ownership, or public-private partnership does not appear to serve the needs of the municipality, public-public partnership is another alternative. Public-Public partnerships (PUPs) are collectives of two or more public water utilities or non-governmental organizations that serve as an alternative to public-private partnerships (PPPs). PUPs remove the profit generation and motive and focus on how municipal operating and capital expenses and costs for constituents can be reduced through the following types of partnerships:

- a) Pooled purchasing via cooperative or agreement
- b) Joint infrastructure
- c) Employee collaboration

Per Food and Water Watch, Maryland and smaller communities around Baltimore pooled their purchases with Baltimore City to create the Baltimore Regional Cooperative Purchasing Committee. This initiative saved Maryland \$1.5 million in 2010. A survey of 18 U.S. localities that ended water partnerships with private operators since 2007 found public operation to be on average 21% less expensive than private operation.<sup>vii</sup>

## Limitations

It was difficult to find information on how privatization affected the utilities on a long-term basis in the case studies cited above. Aside from general research provided from Food and Water Watch, information on the progress of specific private contracts was not available. The journalists that reported on the Nassau County, NY case study did not have further research or articles on that contract beyond the first year. Other reports on further developments and expansion for Nassau County sewer services were available which is an indication that the system is well funded and is succeeding. It is important for a municipality to monitor their water and sewer services after privatization to ensure services are being safely and efficiently provided.

## Long Term Care Facilities

The data presented in this section supports that long term care facilities have been shown to lower staffing levels, staff pay, and quality of patient care after privatizing.

In 2011, the first-ever analysis of the ten largest for-profit nursing home chains reported that between 2003 and 2008, compared to all other ownership groups, facilities owned by the top ten for-profit chains had:

- ▶ The lowest staffing levels
- ▶ The highest number of deficiencies identified by public regulatory agencies
- ▶ The highest number of deficiencies causing harm or jeopardy to residents.

The Government Accountability Office (GAO) reported in 2011 that nursing facilities acquired between 2004 and 2007 by the top ten private equity firms:

- ▶ Had more total deficiencies than not-for-profit facilities
- ▶ Reported lower total nurse staffing ratios
- ▶ Have almost 24% fewer Registered Nurses per resident and fewer nursing staff at all levels

In September 2007, a New York Times investigative report found a Tampa, FL facility in the year after its takeover by a private equity firm, cut the number of registered nurses in half and cut spending on nursing supplies, activities for residents, and other supplies, leading to poorer resident care. <sup>viii ix x</sup>

### Case Study 2

Allegheny County, PA  
Population 1,221,744  
Median Household Income \$61,043

A case study of three Allegheny County, PA nursing homes studied the effect of a failed privatization, partial privatization, and full privatization on employees and patients. Within each attempt, staffing levels declined and worker's wages and staff turnover was most negatively affected where privatization was fully implemented. At Chelsea Manor, the fully privatized facility, the starting wage was \$8.40, and staff described turnover was low; after privatizing the starting wage was \$6.40 and turnover was 50% in the first year. In any level of privatization, there were staff complaints about medical and patient care supply shortages. Quality of care declined whether privatization was carried out or not.



### Case Study 3

Montgomery County, PA  
Population: 823,823  
Median Household Income: \$91,546

In 2013 Montgomery County Council voted to sell Parkhouse Nursing Home facility to Mid-Atlantic Healthcare. The primary motivation was financial and staffing cost. The County was losing \$1 million annually in operating costs, partly due to Medicare/Medicaid billing tasks the County was not equipped structurally to process.

During the transition, 97% of formerly government employees were rehired to MidAtlantic. Before the sale, 470 patient beds were in use at the time of the transfer; approximately 95% were Medicare/Medicaid patients. There was a small portion of disgruntled employees, residents and their families in Upper Providence, however the County managed communication with them are proceeded with minimal resistance. The facility had a five-star rating from the Center for Medicaid and Medicare Services, then maintained a four-star rating after transitioning to a private entity. MidAtlantic kept the property for about 4 years, then sold to MIMA Health Care in NJ in 2017, which also bought 3 Philadelphia nursing homes in 2011. MIMA Health CEO (buyer) nor MidAtlantic (seller) did not comment on the sale and did not disclose the sales price.

The risk of selling to a private entity is making the facility vulnerable to higher turnover from corporate buyers. This case study indicates a lack of transparency and communication as facilities change hands within private owners.

## Recommendations

### What are other options to privatization of long-term care facilities?

Non-profit healthcare facilities have been shown to have high quality health care facilities. A recent study by LeadingAge New York, the association that represents not-for-profit nursing facilities in New York State, found that not-for-profit facilities:

- Performed better on most measures than for-profit facilities in the state
- Had fewer residents using antipsychotic drugs or with physical restraints
- Had lower hospitalization rates, and more discharges to home
- Had more nursing staff and fewer survey deficiencies and spent more money per day on nursing costs and food.<sup>xi</sup>

Non-profit facilities as defined by Senior Living are facilities that do not retain profits but rather channel them back into the facilities. No profits are taken by shareholders or anyone else. Non-profit facilities are typically religious or faith-based groups or fraternal organizations not owned by hospitals or medical facilities.<sup>xii</sup>

Philadelphia area nursing home rankings included government owned and private facilities on their best and worst list. None of the facilities sold to MidAtlantic were on the lowest rated list in 2018, Tucker House Nursing and Rehab was in the Best Rated list.<sup>xiii</sup>

If a municipality is seeking to sell a long-term care facility to a private company, it is important to thoroughly inspect the private company's facilities and investigate their motivation for buying. In the case of Montgomery County, the Council toured and investigated all the facilities before choosing MidAtlantic as the winning bidder. The County probably did not foresee that MidAtlantic would sell only five years later. The executive cited that "it was time" to sell due to a lack of interest in his children continuing in the private healthcare business. This may have been valuable information to know during the bidding process that may or may not have changed the outcome of a facility.<sup>xiv</sup> It is recommended that business continuity planning be studied by the government before privatizing to protect long term care patients from businesses that sell or go bankrupt during the contract term.

The Medicare.gov Care and Compare tool provides a search engine for long term care facilities by zip code, and provides information on # of certified beds, Medicare and Medicaid patient mix in the facility as well as 1 to 5 star ratings on staff to patient ratio, quality of care, and health inspections.<sup>xv</sup>

## Limitations

One limitation with the research in this section is that most is from the 1990s and the early 2000s. The Medicare.gov website contains a current database of recent healthcare facilities and evaluates them on a scale of 1 to 5 on health inspections, quality of staffing, quality of resident care, and overall rating. Data from this website can be compiled based on zip code to evaluate if public or private facilities in a certain area rate higher than in other areas. This in-depth analysis was not provided for this paper due to the time needed to compile the information.



**“When I start[ed] at Winn, nonranking guards make \$9 an hour, no matter how long they’ve worked there. The starting pay for guards at public state prisons comes out to \$12.50 an hour.” – Shane Bauer, journalist at Mother Jones**

## Correctional Facilities

During the “War on Drugs” era of the 1980s, private prisons became a solution for municipalities to meet the demand of higher imprisonment. Nearly 50 years after the growth of private prisons, there is overwhelming research that indicates their issues with safety, accountability, and financial stability.

### *Safety*

Under the currently predominant method of contracting, states pay private prison companies a per diem rate for each prisoner and the contractor assumes the costs of maintaining the prison. As such, private prisons are incentivized to reduce costs by spending less on inmate services or cutting the cost of labor.<sup>xvi</sup> Part of reducing labor costs is employing poorly trained, ill-equipped, non-unionized private guards. They are not trained correctional officers, and as such are not protected under government laws. State licensed correctional officers must complete weeks of training for inmate management and safety training; in Pennsylvania the training is 5 weeks/167 hours.<sup>xvii</sup> Shane Bauer, a journalist that went undercover in Winn Correctional Facility as a private prison guard, attests to the poor screening and pay for private prison guards, “When I start[ed] at Winn [in 2014], nonranking guards make \$9 an hour, no matter how long they’ve worked there. The starting pay for guards at public state prisons comes out to \$12.50 an hour.” These poor training and pay conditions do not create a safe environment for employees or inmates. A Department of Justice study from 2001 found that the rate of inmate-on-inmate assaults was 38 percent higher at private prisons than at public prisons. Inmates are also reported to be nearly twice as likely to report being sexually victimized by staff.<sup>xviii</sup>

### *Liability and Transparency*

“Private prisons are especially secretive. Their records often aren’t subject to public access laws; CCA (Correctional Corporation of America) has fought to defeat legislation that would make private prisons subject to the same disclosure rules as their public counterparts.”<sup>xix</sup> Private prisons recorded having more incidents, more shortages of food and medical supplies, and more escapes. Private prisons aren’t legally granted to detain a prisoner once they escape.<sup>xx</sup>

### *Recidivism*

According to a 30-state study conducted by the U.S. Department of Justice (DOJ), 50 percent of incarcerated people return to prison within three years of being released. Research studies show that people incarcerated in private prisons have higher rates of recidivism than people incarcerated in public prisons.<sup>xxi</sup>

## What Issues Remain with Public Prisons?

Private prisons house less than a twelfth of the country's prisoners. It is more prevalent for public prisons to outsource services—healthcare, food, communication, transportation, and financial services—to private companies. Private companies also play a role in reentry, electronic monitoring, and drug treatment programs.<sup>xxii</sup>

Outsourcing services to private companies can introduce performance issues. Public suppliers are subject to government laws and oversight, and the employee's records (background check and job history) are accessible. Private contractors present a liability issue for public prison employees as they do not have the same access to the records information.

## Recommendations

Unfortunately, recommendations to improve the state of private prisons is limited to state and federal regulations; there seems to be little control or influence county level private prisons possess over regulations. Therefore, it is recommended to eliminate private contracts with for profit prison companies including immigrant detention facilities. Additionally, municipalities can demand the below recommendations from state and federal regulators.

*Expand transparency requirements.* Until 2002 public and private facilities on every government level used to report their statistics to the Corrections Yearbook. After 2002, the 9/11 attack and Patriot Act reduced accountability on private prisons to release information. Additionally, the American Correctional Association accreditation has been shown to not have strict standards by Senator Elizabeth Warren's report and other activists.<sup>xxiii</sup>

*End practice of incarcerating people far from home.* Some states contract with private prisons out of state to avoid costs of building facilities within state borders. This practice further undermines transparency and accountability and puts a strain on families that must travel long distances to see loved ones.<sup>xxiv</sup>

## Limitations

There are few jurisdictions internationally and domestically that have transitioned a private prison to public management. As such there's not much information or data on how performance changes before and after public ownership.

## Conclusions

Though each facility has specific recommendations and limitations for improvement, there is advice that applies to all publicly owned services and facilities.

### *Maintain the public's expectations for communication*

As mentioned in some cases of water privatization and nursing home privatization, poor communication with the public can erode public trust and make ownership transitions more difficult than necessary. If your municipality will change the service delivery model for a facility that affects them, ensure that the changes are communicated clearly and effectively. Consider employing a transition team if necessary, posting frequently asked questions, and having a contact or hotline that people can consult for assistance. If selling to a private entity, consider that entity's performance with serving the public and their quality of communications.

### *Service to the public is primary, money is secondary*

The main limitation of government to consider is that it is not a business and does not operate as a business. The main goal of businesses is efficiency to advance profit; the main goal of government is efficiency to advance service to the public, whether it's cost effective or not. <sup>xxv</sup> Businesses can choose to deny service to some audiences either because of income or service area which can make privatization of water and sewer facilities and long term care facilities problematic; because under a private entity low income residents and residents in remote areas can be priced out of the "market." <sup>xxvi</sup> Government is designed to serve the public, regardless of income or location. This conflict of interest is important to consider, especially if the population is predominantly low income.

Attached in the appendix is a performance rubric for municipalities that asks questions on your municipality's service delivery, quality of service, sustainability, and cost for citizens to determine if a different service delivery model is needed for a utility or service.



## Appendix

Figure 1. Examples and Types of Public-Private Partnerships <sup>(6,7)</sup>

Figure 1. Examples and Types of Public-Private Partnerships <sup>(6,7)</sup>				
Contract Type	Typical Term	Responsibilities	Pros	Cons
Operations and maintenance (O&M)	2 to 5 years	Company operates and maintains all or part of a utility. Local government owns, manages, and finances improvement projects.	Increases competition amongst contractors, increases chances of competitive offers.	Firms are less willing to invest in costly infrastructure improvements since there is less time to make up the funds.
Management	10 years	Company runs and oversees the operation of a plant or distribution system, and local government owns system and finances improvements.	Company has incentives to invest. Privatization is perceived to be more advantageous in long term contracts when the city cannot afford to make improvements or if local government prefers to retain the infrastructure but a company to operate the water system.	More oversight needed from local government.
Design-Build-Operate (DBO)	10 to 20 years	Company designs and constructs a new facility or upgrades an existing one, and then runs and manages it. The local government owns and usually finances the project.		
Lease	20 years	Company operates, manages and makes improvements to utility; local government owns system and finances improvements.		
Concession	20+ years	Company operates, manages, and finances utility improvements. Local government retains ownership.		

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