

TOWARDS A NEW MODEL OF CONTROL IN OUTSOURCING AND ACCREDITATION OF PUBLIC SERVICE PROVIDING EFFICIENCY AND ACCOUNTABILITY

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Introduction: new policies in public services – The scene and the development of new patterns and players in the outsourcing of public services - The guarantee of trustworthy public service in the outsourced scenario services among efficiency, quality and accountability: the importance of control – The “objective” accountability of public service

We have to reconsider control and accountability in public services starting from legal and managerial aspects concerning private enterprises managing public services.

The operating procedures and the evolution in the regulation of public interest service management (mainly health, education and social services) are showing us continuous changes and evolution in contracts and operating tools.

Local public governments activate public-owned private entities in order to manage the public services with more freedom of action and to pursue greater efficiency.

In the meanwhile, some private entities (mainly nonprofit, social enterprise and cooperatives) have expanded their activities providing themselves public service and establishing therefore a public-private-partnership.

They operate services from a minimum level of complexity and integration, providing temporary manpower or ancillary services to take in charge full management of public services as “accredited provider” on behalf of the government, which in turn only provides public money to offer services to the citizens.

Hybridization in legal forms of players (private companies owned by the public authorities, public interest private companies)

operating in public services area pointed out what is the updated meaning of "public service" and which entities we have to consider when we deal with regulation and control of "public services".

A related issue is which accountability regulation must be applied to the public services and if it has to vary depending on the player (public or private) who operates the service.

We can not analyze in this paper questions related to local planning of services and integration between public and private services providers.

At the same time, we can not deal with some questions regarding competition regulation and fair treatment between private companies applying for a public contract and public money.

In this paper, we try to propose the need of a "minimum data set" of information that should be provided by the entities which manage public services independently from the legal form in which they are built.

This paper has been stimulated by observing the introduction of accreditation of private providers in social services in Italy.

The limited period of experience using the accreditation system requires a deeper analysis before giving an evaluation, but this paper wants to be a starting point to design a model to controlling contracting-out in public services.

The scene and the development of new patterns and players in the outsourcing of public services

Daily activities of public administrations are partly enacting regulations and planning measures for their communities and partly providing "public" services; but the burden of "public" services has become more and more blurred during these years.

The evolution of the ways in which public administrations regulate, assign, finance, manage and control "public services" in a wide meaning and deal with private providers of elements of public services lead us to reconsider the way in which public services are provided and organized.

Moreover, public administrations do not operate directly but sometimes create formal private entities owned by public administrations or sign contracts with associations or cooperatives to purchase elements of the service or the whole service itself.

These entities are formally private (companies) but they are owned, financed and strategically managed by public administration.

They provide public services without being regulated by mandatory public laws (especially for personnel selection and contractor selection). Last year the Italian Tax Administration (Agenzia delle Entrate) has recognized the possibility for a Public Administration to form and finance a nonprofit institution (ONLUS) to provide social service to the population.

Usually the scheme is that public administrations provide public funds and operate through a supplier by signing it a contract.

Public administrations in thirty years have activated short or long term contracting out processes by private suppliers (getting service parts from private entrepreneurs).

Nowadays public administrations assign the complete management of the public service (mainly social, health and educational services, in which regulation and control are very complex) to an "accredited private entity".

For this reason, we cannot simply distinguish between "public" or "private" service providers but we have to consider the complex and continuous transition of relations in public service delivering.

We can experience situation ranging from a short term, simple contract with a supplier to a complete assignment to an accredited company who is fully responsible for providing services, while only planning and control remain in charge of the public authorities.

A private entity operating a public service has less obligations than a public one: its regulation is mainly related to its status of limited company and in a minimum part connected to the situation of public service provider.

This is important for the transparency, the fair treatment of different stakeholders and labor law: these field regulations for private operators are much more lighter than those for public ones.

Only some enterprises, such as social cooperatives (very diffused among accredited enterprises) are sometimes subjected to strict regulations regarding transparency and internal and external control.

The contracts of particular services can introduce standards of service and additional regulations about transparency and fair treatment of different stakeholders (workers, users, suppliers, etc).

The regulation of accreditation requires the respect of some structural elements to provide the service (appropriate facilities, staff number and qualification and operating protocols) and the

adoption of some procedures (service chart publicity, equal opportunities for some stakeholders as users, more financial accountability).

These procedures should reduce the autonomy of the management and assure public control on the “public service” and on the “public money” given by public authority; in this way the specific public-private-partnership represented by accreditation is monitored by on a higher level of control.

The guarantee of public function in the contracted services between efficiency and accountability

The responsibility to guarantee efficiency managing the services and equal opportunities to all the players involved remains in charge of to public authorities.

The equality (obligation of equal opportunities to all the stakeholders dealing with public services) implies equality among:

- companies interested to supply goods and services;*
- citizens as possible customers interested to receive services;*
- customers receiving the services;*
- workers or prospective workers.*

If we focus our attention on efficiency we pursue it by operating services in an entrepreneurial way in order to reach the best conditions producing and delivering services.

Performance indicators, usually inserted in accreditation contracts, are the ways to control efficiency and effectiveness in service.

Transparency in performance indicators and efficiency are strongly related: transparency in managerial activity allows to activate an effective social control that pushes to greater efficiency.

If public services are not only provided by public entities, we will have to widen the concept of “public service” to all services:

- regulated in a public regulation framework;*
- financed partly with public money;*

independently if they are managed by private or public entities.

This sentence is the core of this paper: if a public service is managed by a private company with public funds, to guarantee efficiency and equality, we need to define the same levels of efficiency and transparency both for public services managed by public or private entities.

The previous control model, based on legal condition of the entities, is not able to represent the complexity and the hybridization in public services: outsourcing in public service requires different tools in analyzing and controlling public services.

“Objective” accountability of the public service

The first step is a new definition of “public” service widening to all services managed by public or private providers in a public framework regulation using partly public money: we must focus our attention on the service contract, not on the entities.

Indeed, we observe that the control (on equality of treatment and efficiency) has a very different level between a public entity and a private contractor with public money and sometimes even in public facilities even managing the same services.

So we have to design a mandatory “minimum set” of public service regulations not only for “public” managers but for private providers strongly integrated in public accreditation system.

These regulations have to balance goals of

- Equality of stakeholders’ treatment*
- Transparency in the process*
- Efficiency in production and delivery.*

This set of regulations should be intermediate between formalities requested to public entities and freedom of movement of private entities.

It is based on a common responsibility upon public money invested in public service (outsourced or not).

We can assume that a system of accountability and control (public, social and diffused) on the services characterized by minimal conditions of equality of the interlocutors, transparency on resource utilization, can guarantee conditions of efficiency and transparency.

The system is connected not to the entity but to the contract, then the service contract becomes the main document that disciplines relations among:

a) public authority, the entity in charge of regulation, programming and coordination, financing, operating management and control of the service;

b) *private entity accredited (or operating within the national service or concessionary or contractor) that manages the service and therefore a part of the public function.*

c) *stakeholders or social interlocutors (customers, workers, suppliers, citizens, volunteers) who have the right of transparency, equal treatment and control of the service, and guarantee of efficiency and effectiveness.*

If the service is directly operated by public authority we will have not the private entity and all relations between public and citizens are going to be without the mediation of a private provider.

The service contract between public and private entity accredited, must define:

- guaranteed rights of equal treatment to the different categories of interlocutors (equality obligation)*
- information and procedures recognized to the interlocutors (accountability of service and organization)*
- standards of service guaranteed (effectiveness and efficiency of the service).*

The service contract gives the citizen equal rights of control also on private entities that enter in the public frame and are submitted to control elements and accountability.