



**Power Tools  
to Fight  
Privatization**

# How to Prevent Privatization

An Activist's Guide



# Privatization: the Public Pays

All across America, AFSCME members and the public face the threat of privatization of vital services and valuable public assets.

From public works and social services to public schools and corrections facilities, corporations are seizing control of public services and public assets. They're writing and lobbying for bills that create a market, buying the support of elected officials with enormous campaign contributions and funding right-wing "think tanks" that are working overtime to convince the country that private companies can do everything better than the public sector.

This coordinated campaign to privatize government at every level has even mutated to include privatization of important policy decisions.

For public service employees and the people we serve, the price of privatization is high and getting higher. For communities, because the privatizers are often non-union and are located far from where they provide a service, it means fewer good jobs, a reduced tax base and money shipped out of the local economy. For workers, privatization threatens job security, pay and benefits, working conditions and career opportunities. For the public, it means less control, less accountability, lower quality and higher costs.

That is why we must fight privatization — before the first warning sign and with every resource. In this strategy guide, we offer ideas and information to fight this battle.

As we travel this country, we often hear people tell us that they didn't fight back against privatization "until it was too late." With the commitment and dedication of AFSCME members and our allies, we hope you will be able to say that you helped stop privatization "before it even began."

## I. Privatization Today

From city halls, county councils, school boards and statehouses to our nation's capital, the push for private takeover of public services is relentless. For many years, privatization meant contracting out, or outsourcing, public services to private companies. That has expanded so that now private companies are buying or leasing public assets and taking over entire towns and school systems.

Privatization is fueled by an unholy alliance of politicians, for-profit and non-profit companies and right-wing think tanks. Model privatization bills often originate with the American Legislative Exchange Council (ALEC), where corporations and elected officials develop legislation that corporate lobbyists then push to the states. Think tanks affiliated with the State Policy Network (SPN) produce phony "reports" supporting these bills and demonizing public services and the workers who provide them.

## Why Government Officials Embrace Privatization

- Some politicians simply don't believe in the good that government can do. They see public service as a stepping stone to a lucrative private sector career.
- Government officials like to take credit for "shrinking government" by cutting public payrolls. Never mind that the cost to provide the service simply shifts to a different, often hidden, budget line.
- Some fall for low-ball bids from companies that may cut costs in the short-term by driving out unions and driving down wages and benefits. In the long run, the quality of services suffers, and costs increase.
- Some think they can escape accountability. When the quality and accessibility of public services decline and when costs increase, they can point to a contractor instead of taking responsibility themselves.
- Public officials also raise campaign funds from the companies that receive government contracts or take over public assets, and can often find a comfortable job with these companies when they leave government.
- Slick and aggressive marketing by companies eager to make a buck off of public services is also a factor. In a difficult budget environment, companies' promises can be difficult to resist.

## II. Going on the Offensive

The best time to fight privatization is long before it happens.

Although circumstances will vary, privatization often proceeds from an idea to a proposal to a done deal in predictable stages:

- Work is done in-house by public service employees.
- Warning signs appear.
- A general proposal is put forward or a study is initiated.
- Bids are solicited from companies.
- A company is selected and the work is contracted-out or the asset is sold or leased.

You can prevent privatization by taking these steps, starting right now:

1. Build your union's capacity to fight.
2. Watch out for the warning signs.
3. Use legislation or collective bargaining agreements to "raise the bar" for private companies that provide public services.
4. Develop allies in the community and make sure taxpayers are satisfied with the services they are receiving.

5. Educate decision makers, the media and the community about the problems of privatization.

## 1. Build Your Union's Capacity

AFSCME affiliates can fight privatization, even before it's proposed. Preparing for battle begins by educating our members. AFSCME members need to know that privatization is a real threat, and that they need to be informed and involved.

Every union program can bolster the fight against privatization:

- Collective bargaining can build barriers to privatization and vehicles to improve the quality of services.
- Our public relations can promote public services by highlighting the value of the work AFSCME members do every day.
- Our community outreach can build alliances with others who share our concern about defending and improving public services.
- Our political operation can elect politicians that support public services.
- Our legislative action can promote policies that discourage privatization.
- Our organizing can lift up workers who provide public services in the public, private and non-profit sectors, so that private companies cannot compete on the basis of low wages and benefits.

The national union can help in these efforts, as well as provide information, such as:

- Information about private companies and non-profits that seek government contracts.
- Horror stories about contracting services to private companies and non-profits.
- Sample language for collective bargaining agreements and state and local laws to discourage privatization.
- The big picture of what's happening with privatization of specific services nationally.
- Time-tested arguments against privatization.
- Information on possible allies.

For real time news about privatization see the Privatization Update at [www.afscmeinfocenter.org/privatizationupdate/](http://www.afscmeinfocenter.org/privatizationupdate/)

The update is searchable by type of service, state or specific company.

## 2. Watch Out for Warning Signs

There are common early warning signs of privatization. For example:

- Watch out when public officials talk about the need to cut budgets or “restructure” government. Often this is intended to pave the way for privatization.
- A hostile labor-management relationship or bargaining climate may lead to privatization.
- Whenever new services are introduced, or existing services are cut or restructured, public officials may want to bring in private contractors.
- Outside consultants hired to review finances or service delivery could be the first step to privatization.
- A committee set up to study privatization often is just a vehicle to provide a rationale for the decision.
- Vendors visiting worksites or hobnobbing with public officials may be laying the groundwork to push privatization.
- New managers may be hired because of their record of privatizing elsewhere.
- When workers who leave are replaced with temporary workers, or not replaced at all, the work may eventually be privatized.

## 3. Raise the Bar for Private Companies that Provide Public Services

### **Enact Legislative Protections**

Some state and local governments have adopted policies that ensure efficiency, effectiveness and honesty. These policies may require that:

- Government must show a minimum level of cost savings over the duration of a contract.
- Contractors must pay their employees wages and benefits comparable to those paid to the public employees currently doing the job.
- Displaced workers must be offered employment by contractors at comparable rates and benefits.
- Contractors must recognize the existing union and bargain according to applicable law.
- State and local governments cannot contract with companies that have been convicted of any criminal act.
- Contractors must comply with the open meetings and open records laws that apply to government.

## Pass Living Wage Initiatives

Another way to make sure that contractors don't undermine standards for wages and benefits is by enacting "living wage" laws at the state and local levels. These laws require that workers are paid a wage that can support themselves and their families. Living wage laws:

- Set pay scales higher than the federal or state minimum wage.
- Sometimes require that workers also receive at least a minimal level of health coverage, or set the wage rate to account for health insurance.
- Can cover all the workers in a state or locality, employees of companies with government contracts, or employees of companies that receive other government benefits, such as subsidies or tax abatements.

These laws make sure taxpayers' money is spent to lift, not lower, living standards. And they make it more difficult for privatizers to compete with public employees just by cutting corners on wages and benefits.

A similar approach is enacting "responsible contractor" ordinances that require companies that get public contracts to uphold labor, environmental and civil rights laws or other accountability standards.

For more information on legislative protections, see  
***"Stop Bad Contracts & Protect Public Services."***  
***[www.afscme.org/privatization](http://www.afscme.org/privatization)***

## Include Protections in Your Collective Bargaining Agreement

An absolute prohibition on privatization is obviously the strongest protection. If that is not obtainable, there are a variety of "next best" protections:

- **Limit Privatization to emergency situations.**

*The Employer and the Union agree that no person other than those normally employed shall perform the work done by a member of the bargaining unit, except in cases of emergency. In the event of emergency, every effort will be made to utilize the services of such members of the bargaining unit who would normally perform the work required.*

- **Limit privatization to work the bargaining unit cannot do.**

*The Employer agrees that work or services presently performed shall not be subcontracted, transferred, leased, assigned or conveyed, in whole or part, to any other agency, person, or private contractor, or non-unit employee, where such work or services can be performed by present employees.*

- **Guarantee that privatized work will not affect the employment of bargaining unit employees.**

*As a result of the Employer contracting out any of its present work or services, no bargaining unit employee shall be transferred, reassigned, demoted, have his/her work reduced or be laid off.*

- **Prohibit privatizing of work when any bargaining unit employees are in a layoff status.**

*The Employer and the Union agree that, while bargaining unit employees are on layoff, the Employer shall not subcontract any public work or services normally performed by members of the bargaining unit.*

- **Require advance notice of any intent to privatize.**

*Whenever the Employer proposes to subcontract work or services normally performed by bargaining unit employees, the Union will be notified no later than 90 calendar days prior to the date of subcontracting. The Union will have the right to meet with the Employer to discuss the proposed action.*

- **Allow privatization only if contracting will cost substantially less than in-house performance of the service.**

*Contracting out will be permitted on a specific project only if it can be performed for 10 percent less in cost than the present in-house provision of the service. Prior to contracting out any project, both the in-house and proposed contractors' cost of the project will be estimated by the Employer and provided to the Union. The Union will have access to all source information on both cost estimates. The Union will be allowed a full and fair hearing to present its findings and conclusions on the cost estimate. If the Employer and the Union cannot agree on the estimated costs of both the in-house provision of the service and the proposed contractor's cost, the issue is subject to the grievance procedure and may be arbitrated.*

- **Successorship**

Even with good protections in place, a service may be privatized. A “successorship clause” prescribes rights that employees and the union have if the employer turns over its operation to another employer.

Ideally, a successorship clause should require that the successor will be bound by the current union contract and will recognize the union and negotiate with it when the contract expires.

*If the Employer sells, leases, transfers or assigns any of its functions, the Employer shall inform the purchaser, lessee or successor of the exact terms of this agreement and shall make the sale, lease, transfer or assignment conditional on the successor assuming all the conditions and obligations of this agreement, including but not limited to the retention of all employees. Any sale, lease, transfer or assignment shall include a provision requiring the successor to be bound by all the provisions of this agreement until its next expiration date, at which time the successor organization will recognize and negotiate with this union and no other employee organization.*

Even without this language, if privatized workers comprise the majority of the new employer's workforce, under the National Labor Relations Act the employer may have to recognize and bargain with the union.

## 4. Develop Allies in the Community and Keep the Public Satisfied

Remember, when private companies try to take over public services, we are their competition. If we have strong allies in the community, we have a much better chance of winning the competition. And if the public is satisfied with the services they receive there will be little support for privatization. As the voice for employees, AFSCME must lead the way in improving public services. That means working with management when possible — and without management when necessary — to put good ideas into practice. Here are some ways we can do that:

### Speak Up

We should be eager, not afraid, to bring problems with public services to the attention of management and, if necessary, to the public.

We are citizens, taxpayers and parents, too. We want good schools, parks, sanitation, public safety, public health and other vital services. Many of the frustrations we confront on the job also frustrate the public. And frontline workers usually take the heat when things don't run smoothly.

By calling attention to problems, the union can be a leader in solving those problems, not a supporter of the status quo. That puts the union in a position to frame solutions, rather than simply react to other people's ideas.

### Develop Solutions

Public officials have ideas about reforming government, frequently meaning shrinking it. We should put forth our own ideas to promote better services for taxpayers and fair treatment for employees.

Principles that can help pave the way for “high road” reform include:

- True empowerment of frontline workers through their union, to be full participants in making services more efficient and effective.
- Worker training on how to improve the delivery and the quality of services.
- Trimming the layers between top management and frontline workers to make government more responsive and effective.

Acting on these principles, AFSCME councils and locals have worked with public officials to make services more effective and efficient. While these efforts differ from service to service and place to place, they're based on some common practices:

- The union is involved in every aspect of the program.
- The union has full access to information needed to analyze a service.



- Frontline workers have real input.
- No employees are laid off or lose compensation.
- Frontline workers receive training to be effective participants in the redesign effort.

## 5. Educate Decision-Makers, the Media and Community Allies

The best time to make the case for public services is before privatization is considered.

### Decision-Makers

Privatizers are constantly trying to “sell their wares” to public officials. Any publication that decision-makers read is filled with ads touting privatization. State legislators get “scholarships” to ALEC meetings where they’re wined and dined and indoctrinated. Company lobbyists go to meetings of elected officials and their presence is well-known from city halls to statehouses to Congress. While their financial resources are daunting, they cannot compete with the grassroots efforts of unions, and politicians know this.

The time to get to know public officials is before you need them. Participating in their campaign is the best way to develop a good relationship. Even officials who did not receive labor’s support may be with us on this issue. Some background information is helpful.

### For example:

- Who will make the decision to privatize? Which officials are key in this decision? Which have particular influence or serve on important committees?
- Where do they stand? How many are with us, how many against us and how many are persuadable?
- What “moves” them? What do they care about?
- Do AFSCME members or members of other allied groups have influence with them?

Armed with this background and with the facts on privatization, meet with elected officials to “inoculate” them against the sales pitch they will get from the privatizers and educate them about the valuable work AFSCME members do. See if they oppose privatization or support it. Strategize after the meetings to see where we stand.

### Traditional and Social Media

In today’s world, there are many avenues to disseminate your message — both online and off. You can place a letter to the editor or an opinion editorial in your local newspaper. You can work with bloggers to cover your story online. You can post in the comment section of online publications. You can post

a compelling video on YouTube, and use the echo chambers of Facebook and Twitter to help it go “viral.” You can give an interview with a local news channel or radio station. The possibilities are endless.

First, there are traditional media: newspapers, television and radio. The key to gaining “brick and mortar” media coverage is building relationships. Get to know the journalists in your community who cover the issues you care about — before you need them. Once those relationships are in place, work with these journalists to get your message out through interviews, opinion editorials and letters to the editor. If you provide accurate information and meet journalists’ deadlines, they will be more likely to come to you for future stories.

Then, there are social media, also known as digital media. Here you can use your existing social networks — on Facebook and Twitter, for instance — to create an echo chamber.

**For example:**

An AFSCME member — whose job is on the line because of privatization — is interviewed by the local news station. The station puts the video online. The AFSCME affiliate then posts the video link on Facebook and Twitter, asking its followers to like and share the video. Hundreds of people share the video, vastly increasing the number of people who see the video and greatly amplifying your message.

Regardless of the medium, the stories of AFSCME members and their communities are our best tool. At AFSCME, we use a simple formula:

**Story + Message + Call to Action = Impact**

Here’s an example of this formula in action:

*I’m a 20-year veteran with the city of Houston. I came to work for the Houston Police Department because I relished the opportunity to help create positive and productive change where my child is growing up, where our families are. I wanted to make a difference.*

*We have a mayor who has decided that she doesn’t want our city to be in the jail business. She wants to privatize our prison system.*

*Privatization is not good for our city. The companies are about profit, not about delivering quality services to our community. That makes our community less safe.*

*Privatization is not good for our city. Our jail attendants, the ones who provide the services that keep us safe, will be forced into unemployment if they don’t go with the private company. And even if they do go with the private company, they will make less money and get fewer benefits.*

*I’m asking you to contact your city council member and our mayor. Tell them that you want a safe community. Tell them that privatization is not good for our community.*

When you are talking to members of the media or creating your own media online, remember to deliver a compelling personal story, add some of the core messages in this booklet and end with a clear call to action.

## **Community Allies**

Just as with the news media and decision-makers, the time to build relationships with community groups is when they need help from AFSCME. In every community, there are groups that value high quality public services that are available to everyone, from sanitation and education to health care and public safety. These groups include neighborhood associations, PTAs, civil rights groups, environmental groups, faith groups, other labor unions and many more.

When these groups need friends, AFSCME should be there with them — from budget battles to picket lines. It's the right thing to do, and we want them to be there for us.

We need them with us because AFSCME may be seen by some as just promoting our own self-interest. Other groups may have more credibility. And there's strength in numbers. Other groups may have relationships with decision makers that we do not have. Even groups we are at odds with on some issues may support us on a specific issue — that is the nature of coalitions. For example, in some contracting battles, local small businesses are on our side.

There are many ways other groups can support our privatization battles. They can:

- Sign a statement of principles
- Pass a resolution
- Collect petitions
- Lobby decision-makers — with letters or postcards, by phone or in person
- Contact the media
- Publicize the issue in their own publications
- Speak out at public forums
- Enlist other support

Because coalitions by their nature often bring together groups that have little else in common, members of the coalition should have a clear understanding of where they agree — and where they disagree — and the coalition should stick to areas of agreement. Participating organizations also likely will have different mechanisms for making decisions and taking public positions, so it is important to understand and respect them.

# III. Fighting Back

Even locals that have done their best to prevent privatization may still face proposals to privatize services. When that happens, you need to fight back on every front.

## 1. Make a Plan

When privatization rears its head, act strategically. Develop a plan that's comprehensive, effective and doable. Then put it into action.

If you haven't inoculated decision-makers yet, meet with them now. Determine who makes the decision to privatize. Is it a legislative body? The mayor or county executive or governor? Or an administrator? Next determine where the decision-maker(s) stands and why. If we need to bring them over to our side, how can we do that and who can effectively sway them? If the issue is not subject to a vote by a legislative body, we might urge that it should be.

The next step is to buy time. Studies or public hearings can buy time — and create a debate about privatization. With more time we can raise doubts about privateers' promises and organize opponents of privatization.

## 2. Mobilize the Members

Using every tool at your disposal — membership meetings, council or local publications, social media, stewards, e-mails, websites, house calls, leafleting and one-on-one discussions at work — make sure the members know:

- Privatization has been proposed.
- It is harmful for them and for the people they serve.
- The union is fighting back — and we need everyone's involvement and support. Our power comes directly from membership support and willingness to act.

## 3. Learn the Arguments

Proposals to privatize public services touch off debates in which both sides offer battle-tested arguments. It's important to know those arguments:

### **Advocates of privatization will say:**

- *Privatization brings sophisticated, cost-cutting techniques to public services.*
- *Public administrators are freed from managing day-to-day operations and have more time to concentrate on core functions and plan future programs.*
- *Contracting out provides specialized skills that are unavailable in government. It would cost too much to recruit and hire new workers.*

- *Using private firms means paying less money up front for facilities, equipment and training on new projects.*
- *Because of competition, private sector managers and employees have the greatest motivation to perform.*

### **What they won't tell you:**

- Privatization frequently costs more than providing services in-house. The full costs are usually not considered. They include the use of public equipment and facilities. A new layer of bureaucracy is often created to deal with the contract. In addition, contract loopholes and cost overruns can raise the price. Contractors often “lowball” the bid to get a contract, and then raise the price significantly.
- It is just another attack on unions. An employer can use the threat of privatization to intimidate the union. Or, since contractors are often non-union, the employer may be able to get rid of the union altogether by contracting out.
- A contractor's goal is to maximize profits, which often means cutting corners — perhaps hiring inexperienced workers at low wages and benefits, providing inadequate training and supervision, or skimping on services.
- When workers are paid low wages and benefits, we lose community-sustaining jobs, tax revenues decline, and those workers may be eligible for public assistance. In addition, the public sector has generally provided employment opportunities for women and minorities.
- Privatization decimates in-house expertise and capacity. The government is then forced to rely on the contractor. Public administrators cannot deal with situations not explicitly spelled out in the contract, and may not be able to bring the service back in-house if they're unhappy with the contractor.
- Privatization reduces accountability. Unlike the government, contractors do not have to conduct their business in the public eye, so important decisions are made behind closed doors. The government is ultimately responsible for providing the service, but the contract creates a barrier between the government and taxpayers.
- Privatization opens the door to corruption. Contracts may be used to reward cronies and political supporters. And companies pressure governments to contract-out. In fact, contracts may be written so only one company can meet the requirements.

## 4. Get the Facts

### How Privatization Typically Happens

1. A request for proposal (RFP) is written. It describes the work to be privatized, requirements to be met and the decision process.
2. The RFP is advertised in the newspapers and trade publications. A meeting of potential bidders (“bidders’ conference”) is held.
3. Bids are received.
4. Bids are opened and evaluated and ranked. In some places information on the bids is not made public because companies claim it is proprietary.
5. A contractor is selected.
6. A contract between the company and the government is negotiated.

#### Understand the process.

Privatization usually starts with issuing a request for proposal (RFP), which is a description of the work to be done and guidelines for submitting a bid. Sometimes a proposal to contract with a particular company might be issued.

#### Analyze the RFP and/or the proposal.

Often the work that is bid out is not the same as the tasks currently performed. This can lead to hidden charges for work not included in the contract or problems with quality. Compare the work described in the RFP or proposal with what workers do now and see what’s missing.

#### Research the companies.

Learn the track record of companies bidding on the work. Find out if they have lived up to their promises. The best way to discredit privatizers’ claims is to show that they have not lived up to them in the past.

#### Ask the tough questions.

Privatizing a service or an asset has serious long-term implications. Too often decision makers, the media and the public fail to ask basic questions to ensure that the public interest is protected.

For more information about questions to ask see  
*“Ask the Right Questions Before Privatizing”*  
[www.inthepublicinterest.org](http://www.inthepublicinterest.org)

## 5. Offer an Alternative

“You can’t beat something with nothing.” This is especially true when it comes to fighting privatization. One strategy may be to examine the company’s proposal and offer an alternative that keeps the service in public hands. In some cases employees and managers work together to submit a bid to compete with the contractor’s proposals. This last-ditch effort has successfully saved AFSCME members’ jobs.

For more information about competitive bidding see  
*“What’s Your Bid?”*  
[www.afscme.org/privatization](http://www.afscme.org/privatization)

## 6. Take Legislative and Legal Action

Even after privatization is proposed, legislation can be offered to limit or prohibit it or to include standards that protect the public interest. Hearings offer an important forum for making the case against privatization. And supporting the legislation can mobilize members and the community.

Legal action can also help stop bad privatization deals and expose information that may not otherwise be available.

For more information on legislative protections, see  
*“Stop Bad Contracts & Protect Public Services.”*  
[www.afscme.org/privatization](http://www.afscme.org/privatization)

### **Violation of the Duty to Bargain**

Under a collective bargaining law that obligates the employer to bargain over wages, hours and conditions of employment, the impact of the decision to contract out is generally considered a mandatory subject of bargaining. Courts have ruled that contracting out of work without bargaining with the union is an unfair labor practice.

### **Violation of Civil Service Laws, Constitutions, or Charters**

In jurisdictions with strong civil service laws, the principles of selection on the basis of merit and just cause in dismissals may protect employees’ jobs. There may also be protections against privatization in a state constitution or a city or county charter.

## IV. After the Battle

In the fight against privatization, there are no lasting victories. And it's up to us to make sure that there are no permanent defeats.

### **If You Win, Stay Vigilant**

Continue to provide high quality service, so that there will be no support for turning public services over to a private company.

Maintain strong relationships with the news media, public officials, the community and unrepresented workers.

Thank everyone who helped win the fight — from union members to community activists to elected officials — and try to keep the coalition together, addressing new issues as they emerge.

### **If Jobs Were Privatized, Protect the Workers**

- Follow the work by exercising any successor rights under your collective bargaining agreement or under the National Labor Relations Act.
- Or organize the contractor's workforce, which may include many former members of AFSCME or other unions.
- Know when the contract will expire. Monitor the contractor's work to document problems. Use that information to bring the service back in-house and make sure that no additional services will be privatized.

To assess compliance with the contract, quality of service deliveries, actual savings v. cost overruns, and any political improprieties, ask these questions:

- Is the contractor following the contract?
- Have citizen complaints increased?
- How responsive is the contractor to complaints?
- Have other workers had to support, clean up, or fix the work of the contractor?
- Do public workers supervise the contracted workers?
- How do actual costs compare with the estimated contract cost?
- Has government equipment been repaired or replaced as a result of the contractor's mistakes?
- Are contracts renewed without formal bidding?
- Are key government officials receiving political contributions from the contractor?



It's also important to assess how managers, directors and frontline supervisors feel about the contractor. They may want the work come back in-house because their reputation is suffering due to shoddy work by contractor.

## Conclusion

Privatization will be a threat as long as there is money to be made from public services. But armed with the facts – and with the support of our members and the community – AFSCME and our allies can protect public services from private greed, preserve the jobs that sustain our local economies, and protect the public interest.