

Title:**Transparency, Contract Management, Ethical Standard, and Open Competition: In local Government Units Contracting-out of Case Management Service Delivery****Author**

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Abstract

Contracting for welfare in CEE countries presents a fascinating case for the study to manage social inclusion process of diversified minority communities. However, Czech Republic, Poland, and Hungary governments have failed or are inappropriately in the administration and management of taxpayer`s money in outsourcing case management from public to private enterprises, assuming that private agencies are better off as enablers to meet unemployed needs and less bureaucratic. Even though, third country nationals are a heterogeneous group of people characterized by varying degrees of political and socio-economic integration process with diverse needs and enjoy different level of institutions depending on their entry route, resident and work permit. The policy paper put forth the argument that Czech Republic, Hungary, and Poland policymakers, administrators and practitioners must take into account the plurality and dichotomy of third country nationals when addressing challenges and contracting for welfare issues relevant to these heterogeneous group. The purpose of this policy is to discuss basic issues related to open access to information, capability of government officials, and monitoring of agent`s performance with ethical behaviour in contracting for case management in the CEE countries and to recommend policy options. This paper determines the contracting out in three CEE nations (the Czech Republic, Poland, and Hungary) to enable young third country immigrants transition from welfare to work. Drawing on primary research, official document and scholastic text, data are collected for analysis with the method of content analysis. The findings show that in the CEE countries, contracting out case management service implementation is marked by weakness. A real part of contracting out employment service is exempt from open information, contracts are often treated as secret with language conditionality and the existence of asymmetry information remains difficult to manage and manage taxpayer`s money with ethical standard. Under these circumstances, there is distrust for the contracting out process and the core idea of societal participation and inclusion is blurring. The research recommends reforms in the area of contracts subjected to freedom of information to meet a larger part of the population, local government unit to cut expenditure and rebuild public service capability with permanent jobs and increased staffing, as well as open book accounting with legislature to oblige contractors show their reports in the public for accountability and ethical standard. Not meeting these goals might be devastating to the people, society and the economy in global competitive market

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Points of Practitioners:

The data of this policy study are from the results of another research paper that I am also presenting during this conference. For further issue about the methodology and methods, check the paper “Contracting-out the Job Search Assistance and Counselling Service for Young Third Country Immigrant Employment-Related Transition and the Role of Public Employment Service and Private Employment Agencies in CEE Countries: A Comparison of Hungary, the Czech Republic, and Poland”

The most important contribution of this policy paper is not the achievement, but the contribution to enable pathways for further research in the implementation of contracting-out for welfare and young third country national research considering the distinctiveness of this heterogeneous group’s sub-category for a target or tailored specific enabling policy approach to enrich the real community and foster social cohesion.

Key words: Case Management, CEE, Contracting-out, Employment Service, Third country Nationals

1 INTRODUCTION

The contracting-out of Employment service from public local government to private service providers is a major trend in the reform of the public employment service (PES) in Central and Eastern Europe (CEE) and is steady increasing in scale. Czech Republic, Hungary and Poland are part of the exposed models of such a privatisation in the CEE countries, given the enthusiasm to contract-out welfare services in general, assuming that private agencies are better off to meet consumers need and less bureaucratic in the implementation process. However, CEE local governments have failed or are inappropriately to manage and administer huge sum of taxpayer`s money in contracting out of case management implementation to enable minorities groups or hard-core unemployed disadvantaged group in to all type of suitable or decent jobs in the society. Within this context, unemployed migrants are marked as welfare-dependant underclass paying nothing to the taxman, while getting everything from the contract state (Hills, 2014: 1) which is splitting the society in times of anti-immigration perspectives.

This policy paper advances the argument that, in contracting for welfare to enable third country national’s access to employment systems, policymakers, administrators and practitioners must take into account the plurality and dichotomy of non-EU members sub groups with their diverse needs, working ethics, and different level of institutions depending on their entry route, resident and work permit. As such, the purpose of this policy is to discuss basic issues related to open access to information, capability of government officials, and monitoring of agent`s performance with ethical behaviour in contracting for case management in the CEE and to present a comparative discourse in the entity. This paper determines the contracting out in three CEE nations (the Czech Republic, Poland, and Hungary) to enable young third country immigrants transition from welfare to work..

Drawing on primary research, official document and scholastic text, data are collected for analysis with the method of content analysis. The policy paper begins with section two discussing the problem description with

the context of local government and contracting out case management. Section three will discuss the methodology and methods of the policy study. In section four, the researcher presents the policy options with use of Principal –Agent theory analytical framework to improve overall agreement in contracting out case management. Finally, this paper ends with some recommendation and conclusion

2 LOCAL GOVERNMENT UNIT AND CONTRACTING OUT CASE MANAGEMENT

The private provision of government-funded services have had a long history in the United States (Winston et al 2002) to discuss partnership with other groups to offer the context in which citizens can improve themselves (Bavir 2009). Enabling state reforms are taking place, often couple with a weak central government fiscal policy where government expenditure outstripped tax and public discourse have moved around migrants as welfare-dependant underclass paying nothing to the taxman, while getting everything from the state (Hills, 2014: 1). For instance, Czech Republic in 2018 recorded a debt equal to 32.70 percent of the country's Gross Domestic Product (Trading Economic 2019). Meanwhile, in Hungary it was 70.80 percent of the country's Gross Domestic Product. In Poland the government debt was equal to 48.90 percent of the country's Gross Domestic Product in 2018. Such a pervasive fiscal constrains have had a major impact on the design of fiscal system. Consequently, the intervention is towards a new form of flexibility to change the types of services they give and review the mechanisms by which these services are delivered.

The move to individual autonomy has contributed to a more decentralised economy, but it has also reduced central government involvement in people's life. Public administrators are asked to behave in a more "businesslike" manner and to duplicate the virtues of a competitive market by contracting with voluntarily and commercial organizations to deliver case management. Many private enterprises are violating the contract agreement where information asymmetry is challenging (Barney and Ouchi, 1986). They offer insufficient information (Barney and Hesterly 2005) due to moral hazard (which are hidden actions) and adverse selection (which are hidden information) (Arrow (1985). This presents major challenges to compliance, administration and management of taxpayer's money (Neil 2004). Moreover, in the case of choosing suitable contract partners, public administrator's lacks commercial and considerable skills to formulate, manage and monitor contracts that deliver the best case management deal (Neil 2004) to meet heterogeneous third country nationals sub group's needs. A task that most of the administrators were not required performing 10 to 15 years ago and for which few have received adequate professional preparation (Neil 2004). In addition, private employment agencies no longer give the full story of their activities in the implementation process (Zinyama 2014). Purchasing for service contracts is also complicated by the fact that it burdened the state with huge blocks of state fund disbursed to purchase care for dependents (Neil 2004: 122), such as third country nationals and disadvantaged young people

Decentralisation reforms are taking place in CEE local government units in the context of an effort to cut the size of the government. Since, political systems change, such as, from dictatorships to democracies, and their elites are removed (Bouckaert et al 2011). Also, democratic checks and balances are established as well as state structures are reshuffled, for instance, toward more decentralisation (Bouckaert et al 2004). Moreover, the

economic system changes its nature, for example, from state monopolies to market systems with private firms, assuming that, private agencies are better off to enable disadvantaged people needs.

Not surprisingly, increase labour market activation policies concern often dominates the national and inter-organisational socio-political agenda. Reducing poverty and increasing sustainable public finance, both at the centre and at the municipalities, is fundamental to achieve social inclusion of most CEE countries. The current situation is in sharp contrast to the pre-perform period, when strict central controls ensure full employment. Under the old system, revenue sharing served only as an administrative device to simplify a system of central resource allocation, and expenditure were guided by planning and procedural norms. The result was that employment service was not run in the market, but the government was committed in investing taxpayer's money through building public service capability, with required adjustment made simply by transfer from the central budget.

The new concern for contracting out has led local government unit to view outsourcing of case management as an opportunity to replace the monopolistic state providers in two ways. First, cooperating with competitive multiple independent non-state providers (European Commission 2012; Gesine 2016) reduce centrality and enhance individual autonomy. Second, privatizing through contracting out, purportedly to increase the beneficial effects of competitive bidding from service providers to contain cost and foster quality of services.

In some countries administration and operational responsibility for social welfare is transferred to sub-national entities (e.g. regions, local governments, municipalities non-profit sector) (Bredgaard and Larsen). In Czech Republic, the local government units may cooperate with non-state agencies in case management based implementation on a contractual relationship (435/2004 Coll ACT dated 13th May 2004 on Employment) to enable young third country immigrant from welfare to workfare. In Poland, unless otherwise by legislation, local government employment units exercise ownership in contracting for welfare may delegate the specific rights upon another person. Also, in Hungary local government unit may delegate a specific non-competitive agreement with the executive private employment service agency for one year and the PES may define the job in respect of which a non-competition may occur. The hope seems to have been that local government units would perform the administration of taxpayer's money required, even though the implementation of this service through public-private cooperation is difficult to manage with the worsening economic situation and principal – agents conflict of interest. And in Poland again, responsibility for agency misconduct leads to the removal of the agency from the registered of employment agency (Sporniak-Czerkas and Setkowicz-Ryszka Translated version of Poland Act of 20 April 2004 on Employment Promotion and Labour Market Institutions)

Even though some of the responsibilities transfer to subnational government and private firms that have occurred seem to have been motivated partly by fiscal burden. Some of the purchasing for employment-related service measures and cooperation with some private employment enterprise involves measures that are costly, uncertain, and difficult to administer as well as contain pay structures based on particular results encouraging cherry picking, packing, and creaming² (Zinyama 2014; Arrow 1985; Neil 2004: 119). As a matter of fact, local government administrators cannot fully be sure about the serving of their interest by agencies decisions leading

² The process through which service providers avoid the risk of failure by selecting clients at the top of the pool, who are more likely to succeed, rather than those who are most impaired (Neil 2004: 119-120)

to distrust and disputable ethical standard as well as accountability of service offers in democratic settings. In the next section, the researcher presents overall agreement framework and where contractors have fallen short in the past.

Having explored the problem description, it is certain that local government units in CEE have failed or are inappropriately to manage and administer huge sum of taxpayer's money in contracting out of case management implementation to enable minorities groups or hard-core unemployed disadvantaged group in to all type of suitable or decent jobs in the society. Within this context, a rigorous empirical policy study to improve local government unit's contracting out case management service delivery is imperative in the selected entities. The aim of this policy paper is to fill this gap by improving the overall agreement in contracting out employment case management in Czech Republic, Poland and Hungary. The next section is about the methodological and method part to investigate this phenomenon and derive findings to answer the research question.

3 METHODOLOGY AND METHODS

This qualitative policy study essentially rely on a constructivist philosophical position, about how the complexities of socio-cultural world are experienced, interpreted, and understood in a particular context and point in time (Bloomberg 2007). The aim of this approach is to look at a social situation or interaction by allowing the researcher enters the world of others and attempts to make a holistic and not a reductionist understanding (Bogdan & Biklen, 1998). This qualitative methodology emphasis on discovery and description, and the goals are generally focussed on extracting and interpreting the meaning of experience (Bogdan & Biklen, 1998; Denzin & Lincoln, 2003; Merriam, 1998). The policy study is most suited for a comparative cross-country case study within the framework of a qualitative approach. The research strategy is the Most Similar System Design (MSSD) (Pennings et al. 1999: 43-49; Landman 2008: 70-76; Hantrais 2009: 59-64) and the "comparative-case strategy" (Lijphart 1971, 1975) is a "case-oriented strategy" (Regan, 1987) of few selected cases (Lor, 2011: 8) from Czech Republic, Poland and Hungary to offer an insight-generating in-depth understanding for the situation and meaning for those involves. Hence, a cross- national comparative fewer case study design with a theoretical discourse as well as an interpretative approach were selected for this policy study.

My finding is based on a triangulation of primary research, official employment policy documents, official employment reports and an overview of existing scholastic literature to offer corroboration and/or supportive evidence (Mayring 2012) from Czech Republic, Hungary, and Poland. The official documents are employment legislations and selected countries reports from OECD, ILO, and respective countries ministry internet sites about Public Employment Service. The criteria for selecting each of these official documents and reports were based on the fact that they include documents or documents of special importance with physical evidence that serve as a source for explaining human behaviour (Atteslander 1971: 53). Technically, I also use a multiple purposely sample (Patton, 1990; Yin, 2003). However, all the official documents selected in this study have a long history as official legislature and laws guiding employment act of foreigners and public employment service agencies roles in enabling young third country immigrant's transition from welfare to work. The document is purposely centered to enable an in-depth focus on the phenomenon. Hence, this policy study focuses on Local government Unit's contracting-out of case management service delivery in Czech Republic, Hungary and Poland.

I use data from my preliminary study. Moreover, I search for the official documents using Google scholar data base. Also from the researcher`s network through gatekeepers living and working as public administrators in the three comparative entity of this study. For the online search and choice, the researcher gave “employment Acts”, or “Employment legislature for foreigners” and “contracting out Case management” on the search machine rubric that enable different types of link to the original official documents as well as official translations from reliable lawyer. The numbers of documents from the countries generates multidimensional materials for the data collection. The diversity of materials found marks the first major advantage of this research plan opening up accesses to material that falls for behavioural observation (Mayring 2002). Also, these documents are essential materials because the data are already done and available for collection. Therefore, the sources of these documents are less subject to error because of its official existence and the researcher has purposely chosen the right official documents. This approach of the researcher is refers in social research as a nonreactive measure (Webb et al 1975, Bungard and Luck 1974), The idea behind this strategy is that the principal and agent in contracting out for case management being studied through document in this research are not aware of it but leave evidence of their social behaviour or actions “naturally” for the researcher to infer into the evidence without disrupting those being studied.

I investigated the documents online and scholastic text during my stay in Prague and Linz at the university campus. I collected the data between the month of January and March. The documents were in Czech, Polish, Czech, and Magyar. In some cases, I use Google to translate the text and ask my colleagues from the network to translate the documents to English, which is the preferable language for the researcher to understand the text passages. Furthermore, the researcher use MAXQDA to tract the text passages during the coding and the building of categories.

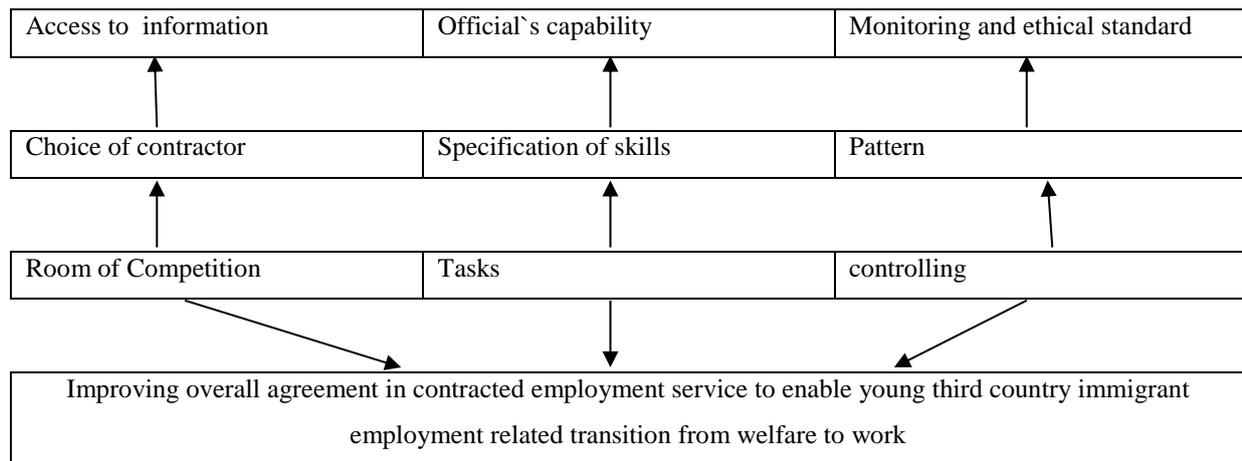
Hence, in the empirical part of this policy study I concentrate on preliminary results and official employment documents that provide plausible information local government unit`s contracting out of case management delivery. Beside the questions to information accessibility, the document investigation also explore local government officials capability in purchasing for employment service and the monitoring of agent`s performance with ethical standard in contracting out of public service. Other part of the document investigation concentrates on the general recommendation and remarks.

I used a document and qualitative content analysis technique (Mayring, 1983) to analyses the date. It enables specific inferences from text to other properties (Krippendorff 1969: 103) that generate ample findings about the phenomenon to answer the research question. This approach enables the data to be systematically and gradually ready in a chronological pattern (Mayring, 2002). In this case, I coded and analyses the data using themes derived from principal-agent framework deductive categories. In the first round of coding process, I develop following suitable categories to enable interpretation:

- i. Room for competition – Choice of contractors: This show the information agents know or principal have prepared to complete in bidding for employment service contracts. How open is the information for public access and how agents are aware of the information.
- ii. Tasks – Skills to be performed: This code is to specify the capacity of local government units to delegate and sustained contract and pay. How do they know the motives to get the best contractors? What are the challenges they faced to delegate rules in purchasing for employment service agreement?

- iii. Control - monitoring pattern and ethic: This code offers information about local government unit performance management to resolve conflict of interest. What are the controlling mechanisms regulates agency behaviour against misconduct? Also shows the link to the country specific bonding mechanism such as punishment towards misbehaviour that are relevant to guide the process from corruption and evoke transparency and accountability. For example, arrangements that penalised agents violating principal`s interest or reward them for achieving principal`s goals.

Figure 1: Themes to interpret Local government Unit`s contracting out of Case Management Service Delivery and Principal –Agent Agreement.



Furthermore, I conducted other rounds of coding based on the document and observation notes. I follow a content structure which lies at the centre of this study text interpretation (Lamnek, 2010; Atteslander, 2010). Thus, after several rounds of codes deduction as illustrated in figure 1, a thick description is built with the theoretical preposition (Hennink et al. 2011: 236) of principal-agent arrangement to show local government unit in improving overall contracted employment service to enable hard-core employment related transition from welfare to work.

4 IMPROVING OVERALL AGREEMENT IN CONTRACTED HUMAN SERVICES

Principal – Agent`s framework proposed a basis for the reform of roles and responsibilities of principals and agents in government-contracted service relations and for the development of effective methods for ensuring accountability (and quality) in contracted human services (Dicke 2002). In this analytical framework, the basic issues that are covered include open access to information for transparency, skills and capacity of government officials to select suitable contractors, and monitoring of agencies performance in contracted human services.

4.1 *Open access to information to enhance competition and transparency*

Open access to information is clearly desirable from the local government units to contract out. Often a public call for tender is typically used but not involvement all the organization. Limited markets lack the competition required to make sure that taxpayers get the best deal. One way in which government can avoid becoming overly reliant on particular suppliers is ensuring that different parts of a service are provided by different companies. For instance, small and medium-sized enterprises (SMEs), as well as community-based organization are still hampered in their efforts to win government business by excessive bureaucracy and bidding costs, with language deficiencies such as in Czech Republic, Poland and Hungary. Furthermore, it is even harder for them to compete when large-scale employment service providers have come to dominate a market, when contracts are unnecessarily long, or when contracts are extended when they should be retendered. In addition, where small and medium size firms are in the supply chain of larger firms there has been inequality in the redistribution of wealth as most profits remain with the bigger suppliers in disfavour of the smaller organizations. However, the local government employment service units change of contracting habits to create a more competitive marketplace of providers might be difficult to attained due to the institutional setting that's historically path dependent in disfavour of non-Slavic foreign-born (such as part of non-EU nationals from "poor countries" Muslim countries moving to the visagrad countries). But, this could be reached through the improvement of Local Employment Unit Official's skills and capacity

4.2 Local government officials' capability and skills

Local employment unit official does not have the expertise to extract the greatest value from contracting to private providers. Besides, there is a longstanding problem of insufficient investment in staff with contract management skills to deliver the best deal. Investment in the right people with the right commercial skills is essential if the Local Government Employment Units is to make the goals of contracting out. This approach offers the most effective the precise specification of administrators to decide what it is that the public agency is buying. This is often complicated and difficult to find because the contracting out of employment case management to private firms often involves an operation that varies. Moreover, even though contracting-out can bring benefits to both citizens and to the taxpayer, benefits depend crucially on the government's ability to manage contracts well. Therefore, the need to know the motives (either for market, organizational, or institutional reasons), the territorial scope (for instance, local/regional or centralised model that show the size of the country and decentralisation), and the global perspectives (special contribution expected from the private enterprise to be highly specialised in the delivery of services for hard-to-placed group) is imperative in contracting out of employment related services. The precarious economic and heterogeneity of hard to place young third country nationals situation in many transition economy makes the case for limiting local government's capacity even stronger. Capacity to choose the best agents and delegate rules through specific task performance measures such as desired behaviour, seem wholly unreachable. Few of the local government's employment service unit have experience challenge to purchase-of-employment-related-service with difficulties to monitor agencies performance

4.3 Monitoring agency's performance and ethical standard in public business.

In the command economy period, subnational government's control was determined by the central government. Under current circumstance, however, local government employment service units are purchasing for employment case management and monitoring (That's performing the function of compliance³, auditing⁴, accounting⁵ and explanation⁶) private enterprise activities. Conflict of interest and inaccurate information in contracting for welfare agreement may tend to limit local governments unit to accurately and costless monitor agency's actions. The information asymmetry in many transition economies makes the case for limiting local government's access to need information (that's relevant, reliable, and valid) and execute control over agency's activities even stronger. Asymmetry information through issues of moral hazard (which are hidden actions) and adverse selection (which are hidden information), exposing agency's opportunistic behaviour in service delivery, seem wholly undesirable. In addition, this shows that contractors have not consistently demonstrated the high ethical standards expected in the conduct of public business. However, legislation has not enabled contractors to nominate someone in the contracting department as a person to whom whistle-blowers can make authorized disclosures.

Few of the new local government have experiences with pay-for-performance contracting (which involves measures that are costly, uncertain and difficult to administer), and most are not yet capable of preparing a payment structure based on a meaningful project discouraging the process of creaming through which service providers avoid the risk of failure by selecting clients at the top of pool who are most likely to succeed, rather than those impaired.

In other word, each of the above can be seen as a prerequisite in contracting-out case management in a way that best serve taxpayers money and protect inclusion. If information is open and transparent, there is a possibility that diverse contractors will take part and share the burden. Without open information, there is limited assurance that taxpayer's voices are heard or the most favourable terms for the implementing of employment services to the disadvantaged. Similarly, without transparency and accountability there is a like possibility of corruption and distrust with selectivity in the process to find new contractors. Moreover, without transparency, most people are excluded out of the contracting process and they are mostly people from minority group with multiple disadvantaged. In this case, the bigger picture and potential benefit of critical thinking, evaluation and expertise knowledge are blur and underrepresented.

5 CONCLUSION AND RECOMMENDATION

³ Monitoring helps determine whether the actions of program administrators, staff, and other stakeholders are in compliance with standards and procedures imposed by legislatures, regulatory agencies, and professional bodies

⁴ Monitoring helps determine whether resources and services intended for certain target groups and beneficiaries (individuals, families, municipalities, states, regions) have actually reached them.

⁵ Monitoring produces information that is helpful in accounting for social and economic changes that follow the implementation of broad sets of public policies and programs over time

⁶ Monitoring also yields information that helps to explain why the outcomes of public policies and programs differ

In the CEE countries (Czech Republic, Poland and Hungary), examined in this policy study, public policy and implementation in regards to contracting out case management service is marked by weakness. A substantial part of contracting out employment service is exempt from open information, contracts are often treated as secret with language conditionality and asymmetry information remains difficult to manage and manage taxpayer's money with ethical standard. Under these circumstances, there is distrust for the contracting out process and the core idea of societal participation and inclusion is blurring.

As a matter of fact, the research recommends following reform in this area for improvement:

- 1) All contract for employment case management should subject to freedom of information and the full publishing of information should be made available
- 2) Open-book contracts should be the norm with access to all the relevant information associated with contracts with the public sector.
- 3) Cooperation and openness needs to be sustained and apply to all private contractors that provide public services
- 4) Community-based organization should be provided with language courses and training to draft contracts as well as national to act as secretary to help them draft contracts in the national language and break the barriers to offer tenders for fair competitions
- 5) Local government unit capacity and skill should include:
 - a. Local government should be committed to cut government spending in consultants, and reinvest taxpayers' money to rebuild public service capability with permanent jobs and increased staffing. This is good news for the democracy- less corporate interest and more frank and fearless advice to government.
 - b. The Government needs Accounting Officers to take responsibility for and show leadership in relation to contract management
- 6) Monitoring conflict of interest and ethical standard in public business includes:
 - i. Open-book accounting provisions that need to be standard practice in government contracts and need to be used;
 - ii. Data Information need to be focused, proportionate and relevant, coupled with performance indicators that are linked to appropriate penalties for failure and to rewards for excellence;
 - iii. Local government Unit should have contractor information, which includes user feedback, independent inspections and information on corporate social responsibility;
 - iv. Requirement for disclosure of reports and complaints by contractors in the implementation process;
 - v. Legislation should enable contractors to nominate someone in the contracting department as a person to whom whistle-blowers can make authorized disclosures;
 - vi. Clear regulations with firms which seek to win government contracts that they are expected to behave with the same standards of honesty, integrity and fairness that apply to the public sector itself.;
 - vii. Legislation should set specific expectations which include transparency, the treatment of service users and employees, and ethics.

In conclusion, local government units activities in contracting out employment case management is decisive not only in the management and administration of tax payers money that regulates fiscal imbalances and adjust budgetary deficit, but subsidize private activities that enable young third country immigrants employment related transition from welfare to work through promoting and protecting work for an aesthetic inclusive society. Not meeting these goals might be devastating to the people, society and the economy in global competitive market.

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