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DOI:
[10.1177/0095399713482314](https://doi.org/10.1177/0095399713482314)

[Link to publication record in Manchester Research Explorer](#)

Citation for published version (APA):

Anderson, L. (2015). Constitutionalist Public Administration Paradigm: The Predominant Paradigm in OMB Circular A-76. *Administration & Society*, 47(1), 44-74. <https://doi.org/10.1177/0095399713482314>

Published in:

Administration & Society

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Constitutionalist Public Administration Paradigm: The Predominant Paradigm in OMB Circular A-76

Administration & Society
2015, Vol. 47(1) 44–74
© 2013 SAGE Publications
DOI: 10.1177/0095399713482314
aas.sagepub.com



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Abstract

An essential question for American public administration scholarship is to what degree does (and should) our constitutional heritage influence our approach to administering the public sphere, and has this changed over time. Much scholarship addresses these questions from a normative theoretical perspective. This study investigates whether the normative claim made by the constitutionalist scholars, that the U.S. Constitution *should* guide public administrative practice, is actually born out of the practice. A longitudinal content analysis of Office of Management and Budget Circular A-76 from 1966 to 2003 provides evidence that the Constitutionalist Public Administration Paradigm is the predominant public administration paradigm in all the Circulars.

Keywords

constitutionalist public administration paradigm, entrepreneurial public administration paradigm, OMB Circular A-76, inherently governmental

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An essential question for *especially* American public administration scholarship is whether our constitutional heritage actually does influence, or should influence, our approach to administering the public sphere. Although public administration scholarship of the European Union and other countries also addresses the role of their constitutionalist heritage (Bogdanor, 2009; Bovens & Yesilkagit, 2010; Christensen, 2010a, 2010b; Flinders, 2008; Jenny & Müller, 2010; King, 2007; Müller, Bovens, Christensen, Jenny, & Yesilkagit, 2010), American public administration has placed the question of the impact of the U.S. Constitution central to the study of public administration since its inception, beginning as early as with Woodrow Wilson, and it has remained a central focus.

Often honored as the founder of American public administration, Woodrow Wilson's place in American public administration scholarship has been lauded and challenged, especially his presentation of the politics-administration dichotomy. As many prominent scholars have thoroughly analyzed, Wilson also firmly places the U.S. Constitution at the center of the discussion of American public administration (Cook, 2007; Goodsell, 1984; Graham, 1993; Martin, 1988; Ostrom & Ostrom, 1971; Rohr, 1986; Rosser, 2010; van Riper, 1983). "The study of administration, philosophically viewed, is closely connected with the study of the proper distribution of constitutional power" (Wilson, 1887, p. 213). Wilson further suggests that democratic policy must inform public administration. "The principles on which to base a science of administration for America must be principles which have democratic policy very much at heart" (p. 220). Therefore, Wilson significantly frames the future American treatment of public administration by placing the role of the Constitution as a central focus in our approach to administering the public sector, laying the foundation for the role of the U.S. Constitution as an essential question in American public administration scholarship, and it has remained at the forefront of the field.

More recent American constitutionalist scholars, those American public administration scholars who advocate for public administrative practice to be guided by the U.S. Constitution (Cooper, 2006; Feldman, 1993; Goodsell, 1984, 2004; Lee & Rosenbloom, 2005; Lowi, 1993; McSwite, 1997; Moe, 1990, 1997, 2001, 2004; Moe & Gilmour, 1995; Newbold, 2010; Rohr, 1986, 1989, 1993, 1995, 1998, 2002; Rosenbloom, 1971, 1983, 2003; Rosenbloom, Carroll, & Carroll, 2000; Spicer & Terry, 1993a, 1993b; Stivers, 1993; Wamsley et al., 1990; Wamsley & Wolf, 1996; Warren, 1993; Wise, 1993; Zinke, 1992) have continued to hold a central role in American public administration scholarship. Their work takes many directions. A few streams of this literature focus on the character of the founders (especially the moral implications of their owning slaves), the proper role and legitimacy of

administration, and the rule of law. Of course, there are also critics of this approach (Levinson, 2006).

Very appropriately, and as you might expect, much of the constitutionalist literature is from a normative theoretical perspective, addressing how public administration *should* be conducted. Normative theory is, of course, grounded in empirical evidence, such as observations about actual conditions, much of which is often qualitative and historical. Normative theorists use such empirical evidence to make their case whether their normative claims are being followed in practice. It is from these rich descriptions that they ground their normative prescriptions of how our polity should be run.

However, there is less large scale or longitudinal research that investigates whether the normative claim made by the constitutionalist scholars, that the U.S. Constitution *should* guide public administrative practice, is actually born out of the practice. This study is not a challenge to the validity of the role of normative theory as a major guiding beacon in American public administration. This study asks a very specific question, whether our practice of public administration reflects the normative perspective of a constitutionally guided republic. In other words, this study asks, "Are we doing what we say we should be doing?"

Related to whether our constitutional heritage influences our approach to administering the public sphere is whether the public sector is managed (or should be managed) like the private sector. Scholarship in this area is normative and descriptive, much of it seeking best practices (Bishop & Connors, 2003; Hood, 1995; Lynn, 1996; Osborne & Gaebler, 1993; Osborne & Plastrik, 1997; Pollitt, 1993, 1996, 1998; Pollitt & Bouckaert, 2000).

Both of these questions, the role of our constitutional heritage and the distinctiveness of administering the public sector, can be seen in the *new* approaches to public administrative practice that have waxed and waned in popularity throughout the history of American public administration scholarship; Pragmatism, Civil Service Reform, the Progressive Movement, Scientific Management, Budget Reform, Principles of Management, Bureaucracy as a Model of Efficiency, Behaviorism, New Public Administration, the Privatization Movement, Public Choice Theory, New Public Management (NPM), the Refounding Movement, Public Policy Emphasis, New Public Service, and now Collaborative Network Governance. Either directly or obliquely, the academic discourses that have arisen around these trends wrestle with whether our constitutional heritage should influence our approach to administering the public sphere and whether the public sector should be managed like the private sector. Constitutional scholar have sometimes championed these reforms, as with the Refounding Movement, and at other times, have virulently rebutted it, as with NPM.

This study investigates whether the normative claim made by the constitutionalist scholars, that the U.S. Constitution *should* guide public administrative practice, is actually born out of the practice. Relatedly, it considers whether we are actually administering our public sector like the private sector. It approaches these questions from the perspective of whether there have been any recent changes in our approaches to administering the public sector.

To frame these questions for an empirical analysis, the study relies on the work of Ronald C. Moe (1987, 1990, 1994, 1997, 2001, 2004) and on that of Moe and Robert S. Gilmour (1995). They identify two public administration paradigms evident in the U.S. federal government, the Constitutionalist and the Entrepreneurial paradigms. Moe and Moe and Gilmour argue that the Constitutionalist Public Administration Paradigm (CPAP) was the predominant paradigm of public administration from the origins of the republic through the late 1970s, and that by the 1990s, a new paradigm of administering government activity was taking hold across the globe, the Entrepreneurial Public Administration Paradigm (EPAP). Furthermore, they suggest these paradigms are pervasive. Much of the general discourse in public administration scholarship also proposes that they have been ubiquitous.

To investigate whether the practice of public administration has indeed been guided by pervasive public administration paradigms as Moe and Moe and Gilmour postulate to change during the 1980s, Office of Management and Budget (OMB) Circular A-76 from 1966 to 2003 is analyzed. First, the research design is reviewed, which includes presenting a conceptual model that guides the design of the project; next, the analytical framework developed to conduct the analysis is presented; then the findings are discussed; finally, the implications for the field of public administration scholarship and public administrative practice are considered.

Research Design

A longitudinal content analysis of OMB Circular A-76, titled *Performance of Commercial Activities*, from 1966 to 2003 is conducted, looking for evidence of a change in *public administration paradigms* from a CPAP to an EPAP.

Research Proposition

OMB Circular A-76 from 1966 to 2003 reflects a change in public administration paradigms from a CPAP to an EPAP. If the research proposition is supported, the following findings are expected. The Circulars published during the reign of the CPAP (1966, 1967, and 1979) will show evidence of that

paradigm. The Circular written during the period of change in public administration paradigms (1983) will contain elements of both paradigms. Finally, the Circulars printed after the solidification of the EPAP (1999 and 2003) will reflect the new public administration paradigm.

Sampling Frame

The sampling frame for the research includes the series of governmental documents from their primary source, OMB Circular A-76, 1966, 1967, 1979, 1983, 1999, and 2003. OMB issues Circulars as one way of offering instructions or information to executive agencies, with Circulars expected to be in effect for 2 years or more. From 1966 to 2009, OMB Circular A-76 articulated U.S. federal executive governmental policy and outlined specific procedures for executive agencies to follow to determine whether the government or a private source would supply a commercially available product or service that the government planned to use. In other words, when the government planned to, or was interested in, providing a product or service for its own use, which was also available from the private sector, a cost comparison was required to determine whether the government or a private source would provide the product or service. OMB Circular A-76 gave direction regarding these cost comparisons. Therefore, governmental provision and governmental consumption were essential. If either of these conditions was not present, Circular A-76 did not apply. Otherwise, procedures for determining the private provider fell under procurement guidelines such as the Federal Acquisition Regulation (FAR).

In addition, A-76 is the series of primary source U.S. federal executive branch documents with the longest history that most thoroughly address the meaning of "inherently governmental." The notion of inherently governmental addresses the fundamental question of what is the relationship and boundary between the public and private sectors and what a government must do, may do, and must not do. The concept of inherently governmental is central to the normative perspective that the U.S. Constitution should guide public administrative practice. It is also central to the related debate about whether the public and private sectors should be managed similarly. Although the meaning of inherently governmental is not the primary focus of the analysis, it is important to note that there is no U.S. federal executive document that addresses the meaning of what constitutes inherently governmental activity as its primary focus. A-76 addressed the U.S. policy on what constitutes inherently governmental indirectly as it directly focused on government's policy and procedures for issuing cost comparisons for products and services it planned to use. It is, however, the U.S. federal executive branch document

with the longest history that most thoroughly addresses the meaning of what constitutes inherently governmental activity.

In choosing a data set to analyze for the evidence of the CPAP and EPAP, it was reasoned that if there has been a pervasive change in public administration paradigms from a Constitutional to an Entrepreneurial perspective, that it indeed would be likely be evident in A-76, which is the series of federal executive branch documents that directly addressed the government's policy for issuing cost comparisons for products and services it planned to use. The government was not to produce products and services for its own consumption without verifying whether the private sector was not interested in or could not competitively provide these products and services. Intuitively, this is a very entrepreneurial activity. Asking the government to issue competitive cost comparisons certainly brings market forces into the process, an entrepreneurial focus. Directing executive agencies to issue competitive cost comparisons for products and services they planned to consume appears very entrepreneurial. As the series of primary source U.S. federal executive branch documents with the longest history that most thoroughly addressed the meaning of what constitutes inherently governmental activity, A-76 would likely reflect a pervasive change in public administration paradigms from a constitutional to an entrepreneurial perspective. Reviewing OMB documents focuses the study on the executive branch of the U.S. federal government.

The Omnibus Appropriations Act of 2009 banned new cost comparisons under A-76 and the 2012 Financial Services Appropriations Act continues the ban. Therefore, the current Congress and Obama administration do not support competitive cost comparisons as outlined in A-76. However, this study is not an examination of the effectiveness of A-76. Here, A-76 is analyzed as an *administrative artifact* for evidence of Constitutionalist and Entrepreneurial paradigms, and for this purpose, the current ban does not compromise the research design.

Figure 1 presents a conceptual model that guides the design of this project and illustrates how A-76 is treated as an administrative artifact. Public administrative practice produces public administrative artifacts. In this case, the public administrative practice of articulating and implementing policies and procedures for directing executive agencies to issue cost comparisons for products and services they planned to use produced the public administrative artifact, OMB Circular A-76. Furthermore, public administration scholarship can examine these administrative artifacts for evidence of public administration theory. In this case, the public administrative artifact, OMB Circular A-76, is examined for evidence of the public administration theory, a change in public administration paradigms.

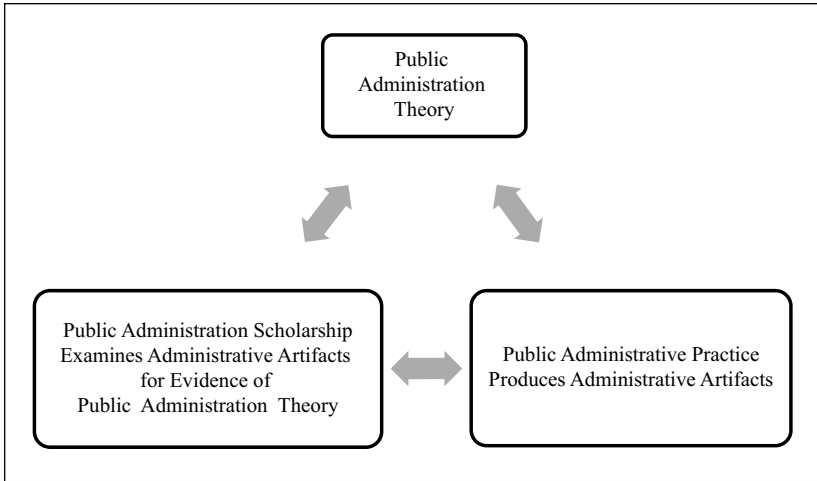


Figure 1. Examining administrative artifacts for evidence of public administration theory.

Research Methodology

Using archival research, a longitudinal content analysis is conducted of a series of government documents from their primary source. The unit of analysis for the content analysis is a phrase.

First, each Circular is reviewed for evidence of the characteristics of the two public administration paradigms using the analytical framework described below. Thresholds that reflect clear and convincing levels of evidence are used. Traditional social science methodology and evidentiary thresholds provide little guidance for conceptualizing paradigmatic predominance and establishing data limits. The U.S. legal standards of proof offer conceptual guidelines for determining paradigm predominance. In U.S. legal standards of proof, preponderance of evidence is met if a proposition is more likely to be true than not true. Generally, the standard is satisfied if there is greater than 50% chance that the proposition is true. Clear and convincing evidence is a higher level of persuasion that means the evidence is highly and substantially more probable to be true than not and leads to a firm belief or conviction in its factuality. Proof beyond a reasonable doubt is the highest standard used as the burden of proof in Anglo-American jurisprudence and indicates there is no plausible reason to believe otherwise. Conceptually, paradigmatic predominance seems congruent with clear and convincing evidence, and the data threshold is set at 75%. Therefore, a

paradigm characteristic is reported as predominant when 75% or more of the data were found in one characteristic. The Circular is reported as being influenced by both characteristics when 26% to 74% of entries reflect a characteristic. Finally, the Circular is reported as showing no characteristic when no phrases for either characteristic were found.

Using the same thresholds, each Circular is then examined for evidence of a predominant public administration paradigm. A Circular is reported as indicating evidence of a predominant paradigm when 75% or more of phrases reveal that paradigm. Both public administration paradigms are concluded to be present when 26% to 74% of phrases reflect one of the paradigms. It is possible to have a Circular indicate overall evidence of one public administration paradigm while also showing evidence of a characteristic of the alternate paradigm.

Analytical Framework

To investigate whether there has been a change in public administration paradigms from a CPAP to an EPAP, this study relies on the work of Ronald C. Moe (1987, 1990, 1994, 1997, 2001, 2004) and on that of Moe and Robert S. Gilmour (1995). The work of Moe and of Moe and Gilmour is used because they are the scholars who most directly and thoroughly describe the two paradigms. There are alternate approaches. For example, the CPAP could have been framed as more Hamiltonian and the EPAP as more Madisonian. The CPAP could also have been framed as having a public law focus, while the EPAP took more of a public management view. In fact, in earlier publications, Moe uses similar distinctions. In addition to being conceptually and descriptively rich (certainly not unique to Moe and Moe and Gilmour, but essential when building an analytical framework), the work of Moe and of Moe and Gilmour also has the advantage of describing and comparing and contrasting the *paradigms behind* the two approaches to governing.

However, although their work has the advantage of rich description, it spans multiple publications, evolves slightly as do most histories of academic ideas, and is not detailed enough to use as a basis for a content analysis of A-76. In addition, as normative literature advocating a CPAP, their description of the CPAP is richer than their presentations of the EPAP. To mitigate Moe and Moe and Gilmour's normative constitutional bias, I embellish their description of the EPAP with the Report of the National Performance Review (NPR) titled "From Red Tape to Results: Creating a Government That Works Better and Costs Less," commonly referred to as the Gore Report (Gore, 1993), a rich source for describing the EPAP. Although there is much literature that addresses these topics, these sources were chosen because they most thoroughly and succinctly describe the two paradigms.

The normative constitutional perspective in public administration is often treated as a theory, whereas the Gore Report is often associated with the American version of NPM, a framework for practice, not fully a theory. This study is not contrasting a theory and a practice framework; this study examines the *paradigms* that undergird a constitutional approach to governing and an entrepreneurial approach to governing.

Moe's terminology for the paradigms evolved over several decades and in multiple publications, including his work with Gilmour. Moe's and Moe and Gilmour's most recent term was *paradigm*, and that usage is maintained here. Moe parenthetically refers to paradigms as worldviews (Moe, 1997). However, neither Moe nor Moe and Gilmour specifically define paradigm or expound on its inclusive and exclusive features. Since Kuhn introduced the subject of paradigms to a broad readership in 1962, (Kuhn, 1996) many authors have expounded on and challenged his ideas (Ball, 1987; Berger & Luckmann, 1966; Burrell & Morgan, 1979; Dobel, 2001; Feyerabend, 1993; Fuller, 2000; Hacking, 1992; Laudan, 1977; Masterman, 1970; Nisbit, 1980; Pfeffer, 1993; Pitt, 1985; Wilmott, 1993). An interesting subsequent study that exceeds the focus of the current investigation might explore whether the two paradigms are, in fact, paradigms as Moe and Moe and Gilmour suggest.

To operationalize these sources into an analytical framework that is sufficiently detailed to use as a basis for a content analysis of governmental documents, an analytical framework is developed that synthesizes Moe and Moe and Gilmour's ideas about the public administration paradigms over time, and their conceptualization is expanded by incorporating additional information from the Gore Report. Seven essential and interrelated characteristics of each paradigm are described, based on their value in adding conceptual clarity to the paradigms. The seven characteristics do not necessarily encompass every feature of the paradigms, and the order of the characteristics implies neither the strength of the characteristic relative to the other characteristics nor a logical progression. The characteristics are ordered based on their descriptive value (see Table 1).

The seven characteristics of each paradigm are then further operationalized into nominal criteria used to analyze the documents. Content analysis requires that each criterion be uniquely assigned to one characteristic. Therefore, each criterion is unique and is listed only once in the analytical framework. Given the interrelated nature of the characteristics of the paradigms, this operationalization forced choices regarding the categorization of criteria. Criteria are assigned to characteristics based on the placement's ability to facilitate conceptual clarity and its utility to the analysis. These criteria that further described each characteristic in the analytical framework

Table 1. The CPAP and the EPAP: An Analytical Framework.

CPAP	EPAP
Theoretically based	Pragmatically based
Values driven	Results driven
Structure dependent	Structure independent
<i>Governmental structure dependent</i>	<i>Governmental structure independent</i>
<i>Organizational structure dependent</i>	<i>Organizational structure independent</i>
Promotes sectoral distinctions	Promotes sectoral blurring
Deductive	Inductive
Strategic	Tactical
Normative	Descriptive

Source: Developed from Ronald C. Moe (1987, 1990, 1994, 1997, 2001, 2004); Moe and Gilmour (1995); Al Gore and The National Performance Review (1993).

Note: CPAP = Constitutionalist Public Administration Paradigm; EPAP = Entrepreneurial Public Administration Paradigm.

served as indicators when coding the documents. The specific phrases that were found in the text and coded as evidence of the indicators were identified through a reiterative review of the documents. After all the documents were reviewed, a list of phrases was compiled, and all the documents were reviewed again to increase rating reliability. [Readers interested in reviewing the complete data set used for the analysis may contact the author directly.]

The CPAP

Synthesizing the work of Moe and of Moe and Gilmour, this study describes the CPAP as *theoretically based, values driven, structure dependent, promoting public-private sectoral distinctions, deductive, strategic, and normative*. The *prominent characteristic* of the CPAP is that it is a *theoretically based* perspective of public administration, and especially important to this analysis, it is *grounded in the U.S. Constitution*. According to Moe and to Moe and Gilmour, political theory directly informs this public administration paradigm. Although they do not specifically define political theory, over the course of their publications, they describe a variety of theories that inform the CPAP. Their more general use of the term *political theory* is maintained in the description of the CPAP and their descriptions of the individual theories that inform the CPAP are used as nominal criteria within this first characteristic of the CPAP. Therefore, the theoretically based characteristic of the CPAP poses a particular challenge to the design of the analytical

framework. The framework functions in a dual capacity. It structures a comparison of the two public administration paradigms; and in this function, the goal is to maximize the descriptive value of the characteristics. It also operationalizes these characteristics into nominal criteria used in the analysis; and in this function, the goal is to maximize the integrity of the research design, which includes listing criteria only once. The challenge is that the theoretically based characteristic informs the other six characteristics, and this could potentially lead to duplicate listings for the criteria. This challenge is addressed by listing the specific theories as nominal criteria in the theoretically based characteristic. In the analysis, only direct mentions of theory are attributed to the theoretically based characteristic. This method maintains the standard of uniqueness for the criteria in the seven characteristics.

As with their use of the phrase political theory, the term *theory* is used here as Moe and Moe and Gilmour use it. Their references to, and nomenclature for theories, as well as their descriptions of specific aspects of the theories they mention is also maintained. Although Moe (1994) defines theory as propositions subject to empirical proof or disproof, he does not assess this definition of theory against his usage of it. This definition is used in the CPAP, and it is listed as the first nominal criterion for the theoretically based characteristic of the CPAP.

The second nominal criterion for the theoretically based characteristic of the CPAP is its grounding in the U.S. Constitution and the political theory that directed its formation and continues to inform its enduring guidance of the U.S. government. If there are tensions or conflicts with the activities of governing, they are resolved by the authority of the U.S. Constitution (Moe, 1990, 1997, 2001, 2004; Moe & Gilmour, 1995). Moe (2004) defines the fundamental theoretical basis of the American polity as including three theoretical values or governance principles. Governance Principle 1 suggests that the institutions of government shall be divided among three coequal branches, the legislative, executive, and judicial, and these branches shall be at once institutionally separate and interdependent. Governance Principle 2 requires all administrative functions to be located within the executive branch and responsible to the President and through the latter accountable to Congress. Governance Principle 3 notes that there shall be a governmental sector (agents of the sovereign) and a private sector and they shall be kept separate and function under distinct theories of jurisprudence. The theory of the accountable executive, which includes an integrated executive branch, institutionalized presidency, and strong central executive administration agencies as essential to strong public administration is related to these three governance principles and is listed with them in the framework. Together these form the third nominal criterion for the theoretically based characteristic of the CPAP.

The fundamental difference between the public and private sectors is based in the legal theory of constitutional government, and legally based administrative theory is its direct consequence (Moe, 1997). These are the fourth and fifth nominal criteria, respectively. The sixth and seventh nominal criteria for the theoretically based characteristic of the CPAP is public administration theory that equates public and government organizations and the view that government administration is a distinct field with its own long-tested theoretical basis (Moe, 1997).

Moe and Gilmour (1995, pp. 138-141) outline 10 “historically fundamental principles of public administration,” which are generalizations that have been collectively viewed as axiomatic. The principles provide a general theoretical framework for public administration:

1. The purpose of agency administration is to implement the laws passed by Congress as elected representatives of the people.
2. The president is the chief executive officer of the executive branch and Commander-in-Chief of the armed forces and as such is responsible for the execution of the laws.
3. Executive branch managers are held legally accountable by reviewing courts for maintaining procedural safeguards in dealing with both citizens and employees and for conforming to legislative deadlines and substantive standards.
4. Political accountability for the implementation of policy and law requires a clear line of authority from the president to the heads of the departments and agencies and from them to their subordinates.
5. Policy and program objectives specifically agreed to and incorporated into enabling legislation, subject to reasonable and articulate standards of measurement and compliance, facilitate effective implementation.
6. The congruence of statutory responsibility for policy or program performance and administrative authority and resources makes possible the achievement of statutory objectives.
7. Authority and responsibility for policy and program performance are located with certainty in single administrators, not in plural executives, interagency committees, or representative boards.
8. Public accountability requires that inherently governmental functions and tasks be performed by officers of the United States and their government-employed subordinates.
9. Departures from the principles of government organization are made only when functions to be performed or truly exceptional circumstances require them and when political and legal accountability are otherwise ensured.

10. Executive administration capacity is increased by regular reviews of general and specific administration laws and regulations to incorporate the best available government sector administration practices and to eliminate requirements and practices that are no longer relevant or productive.

These 10 principles are incorporated in the analytical framework and are listed as the eighth nominal criterion for the theoretically based characteristic of the CPAP.

In addition, included as the ninth nominal criterion, Moe and Gilmour (1995) refer to the theory guiding government organization and administration that informs the structures, processes, and procedures of government and has a foundation in public law. Moe (1994) also indicates that reports about governmental organization and administration such as those by presidential commissions are based on a theory about the nature of government and its administration. This theory often is assumed in the report's recommendations. This is listed as the tenth nominal criterion. Finally, the eleventh nominal criterion of the theoretically based characteristic of the CPAP is Moe's (1994) reference to the American theory of government as including the separation of powers and doctrine of nondelegation of governmental functions to private parties.

As described in the analytical framework, the second characteristic of the CPAP is that it is *values driven*, specifically prioritizing democratic, political, and administrative values within government administration, which are listed as three nominal criteria for this characteristic. In addition, the framework describes the third characteristic of the CPAP as *structure dependent* in two ways. It is dependent upon governmental structure, and listed as nominal criteria for this characteristic are the constitutionally defined roles and relationships of three separate and coequal branches of government as outlined in the first three Articles of the U.S. Constitution. According to this characteristic, Congress establishes executive agencies, articulates their missions, passes enabling and administration legislation related to their operation, passes funding appropriations, provides program and administration oversight, and has the authority to dissolve agencies, its second nominal criterion. Also according to this characteristic, the CPAP is based on the theory of the accountable executive (the third nominal criterion), advocating an institutionalized presidency (the fourth nominal criterion), unified executive branch (the fifth nominal criterion), and strong central administration agencies (the sixth nominal criterion). From this perspective, executive branch directors report directly to the President, ensuring directors operate within appropriate legal authority and remain politically accountable to

elected officials (the seventh nominal criterion). Also from this vantage point, the judicial branch provides additional oversight (the eighth nominal criterion). The CPAP is also dependent upon organizational structure. Nonpartisan professional managers ensure an institutional perspective (the ninth nominal criterion). Hierarchical reporting within an agency (the tenth nominal criterion), and standardized procedures (the eleventh nominal criterion), ensure legal authority remains concentrated in top public officials and they remain politically accountable to elected officials.

Furthermore, that the CPAP *promotes public-private sectoral distinctions*, prescribing a strict distinction between the public and private sectors based on the sovereignty of the state. This is listed as its fourth characteristic in the analytical framework. Several nominal criteria are included that reflect this characteristic: sovereignty, inherently governmental functions, and jurisprudence. All sovereign functions must be assigned to the government, and some context-relevant secondary functions also may be assigned to the public sector. “What is essential to governmental character is its exercise of sovereign authority under the Constitution, its interactions with citizens in a framework of popular sovereignty and limited government” (Moe, 1997, p. 43). In Moe’s view, sovereignty includes several fundamental attributes. It always involves the legitimate right to use coercion, immunity from suit except by its own permission, and indivisibility. It also includes the right to disavow debts but does not include the right to declare bankruptcy, which is a private right. Furthermore, it encompasses the right of eminent domain (Moe, 1987). The second nominal criterion in the analytical framework that indicates the promotion of sectoral distinctions is the concept of inherently governmental. According to Moe, sovereign functions should be assigned to the government through a legal process that holds government officials accountable for their decisions.

Assignment of functions between the sectors is not simply an economic exercise to find the most economical choice, but first and foremost it is a legal exercise in which the values of accountability of officers of the United States are spelled out in law. (Moe, 1997, p. 42)

Government officials must perform all functions that involve the power of the sovereign. In addition to sovereignty, the government may include secondary criteria when deciding whether a function is public, such as providing for national security, ensuring public safety, retaining sufficient knowledge to manage contracts, and limiting corruption. These secondary criteria depend on context. The third criterion that indicates the promotion of sectoral distinctions is the concept of jurisprudence. Public and private law are separate in

the United States, representing distinct jurisprudences and governed by separate bodies of law. Public law is based on a restrictive jurisprudence in which government action must be expressly permitted within the law, and private law is based on a more permissive jurisprudence, allowing private citizen action unless specifically restrained by the law. Executive agencies are subject to public law that comprises the Constitution, Bill of Rights, statutory, regulatory, and case law. Executive agencies are also governed by Title Five of the U.S. Code. The goal of public law is to ensure the continuance of a republican form of government and protect the rights and freedoms of citizens. It makes the public sector distinct from the private sector in the United States. The private sector is founded in a different legal doctrine of judge-made common law that protects the rights and responsibilities of private individuals (Moe & Gilmour, 1995), the fourth nominal criterion.

Finally, the analytical framework describes the CPAP as *deductive*, *strategic*, and *normative*, its fifth, sixth, and seventh characteristics in the framework, respectively. It is deductive in that it begins with vision or theory (the first nominal criterion for the deductive characteristic), and all administrative decisions follow from that theory (the second nominal criterion). The vision and purpose of government guide governmental decisions, how they are practically implemented, and what governmental actions are taken. It is strategic in that it is based on long-range and broad goals (the nominal criterion for the strategic characteristic). The CPAP also is normative in two ways. It is normative in that it is based on what has been done historically; thus, tradition holds a *hallowed* place in the CPAP (the first nominal criterion for the normative characteristic). It also is normative in that it bounds decisions and actions by establishing and maintaining expectations for those decisions and actions. In this way, it is standardizing and evaluative, defining what should be done (the second nominal criterion).

The EPAP

The second public administration paradigm that Moe and Moe and Gilmour describe, the EPAP, rose to prominence in the 1990s. Globally, the privatization movement brought a focus on new methods of governing, a NPM. In 1993, the Gore Report (Gore, 1993) solidified its prominence in the United States. The Gore Report translated the globally implemented NPM movement into a distinctively American version of NPM that does not utilize public choice language, as do many of its international cousins. It relies on an explicit business model and discourse, making “reinventing government” a buzz phrase (Moe, 2004). Synthesizing the work of Moe and of Moe and Gilmour, and embellishing it with the Gore Report, the analytical framework

describes the EPAP as *pragmatically based, results driven, structure independent, promotes sectoral blurring, inductive, tactical, and descriptive*.

Whereas the CPAP is explicitly theoretically based, the first defining characteristic of the EPAP is that it is *pragmatically based*. The EPAP is pragmatically based because it relies on the NPR's review of what currently was working for successful organizations in the public and private sectors (the first nominal criterion). It is based on the twin missions of the NPR that were to create a government that works better and costs less (the second and third nominal criteria), focusing on how government operates, not what government should do (the fourth nominal criterion). "Our job was to improve performance in areas where policymakers had already decided government should play a role" (Gore, 1993, p. ii). Even though Moe (1997) acknowledges the EPAP has its origins in the discipline of economics, he views this as different from the strong theoretical roots of the CPAP. For him, the EPAP "fail[s] to provide the theoretical comprehensiveness necessary to ensure that the basic political values of American democracy are met" (p. 43). What masquerades as theorizing in the EPAP is actually the stringing together of aphorisms; the EPAP calls for nostrums rather than tested theory (Moe, 1997).

The *prominent characteristic* of the EPAP is that it is *results driven*. It primarily focuses on organizational outcomes (the first nominal criterion of the results-driven characteristic). The first NPR principle, "Cutting Red Tape," focuses on systemic changes. It advocates creating budget, personnel and procurement systems reoriented to prevention (the second nominal criterion), innovation (the third nominal criterion), and deregulation (the fourth nominal criterion).

The two paradigms fundamentally differ in that they have inverted relationships between laws and organizational outcomes. The CPAP places laws first in importance. In the CPAP, administrative practices flow from laws. If one is incongruent with the other, or a change is proposed in organizational outcomes, laws are first changed. This makes the CPAP more process-focused than outcome-focused. Means are equally as important as ends in the CPAP (Moe, 1994). In the CPAP, the public administrator serves to implement the laws. In contrast, in the EPAP, organizational outcomes are of supreme importance. In the face of incongruence in laws and organizational outcomes or a proposed change in organizational outcomes, administrative practices are changed, which may involve ignoring or disobeying laws. As a secondary focus, laws may or may not be changed to support the new organizational outcomes. In the EPAP, results, outcomes, and ends are more important than processes and means. For the EPAP, the central issue for public administration is ensuring the legal system works to the advantage of the federal manager (Moe, 1994).

The Gore Report espouses a commitment to democratic values and positions its recommendations as a means of preserving these values.

To deliver what the people want, we need not to jettison the traditional values that underlie democratic governance—values such as equal opportunity, justice, diversity, and democracy. We hold these values dear. We seek to transform bureaucracies precisely *because* they have failed to nurture these values. We believe that those who resist change for fear of jeopardizing our democratic values doom us to a government that continues—through its failures—to subvert those very values. (Gore, 1993, p. 8)

Echoing the politics–administration dichotomy, Gore treats values as appropriate to the realm of politics that guide and inform management, but not an integral part of the management of government. Hence, it is not an essential characteristic of the EPAP.

Therefore, the EPAP is also *structure independent*, independent of governmental and organizational structure, its third characteristic. Agencies are encouraged to articulate their own visions (the first nominal criterion) and work through interagency committees (the second nominal criterion). Along with other factors, an era of the personalized presidency (the third nominal criterion) has brought about a disaggregated executive branch (the fourth nominal criterion). Public–private partnerships (the fifth nominal criterion), quasigovernmental hybrid organizations (the sixth nominal criterion), and government-sponsored enterprises (the seventh nominal criterion) are more common than a single agency providing a service. Power is decentralized to create a culture of empowering workers to make decisions (the eighth nominal criterion). The third NPR principle, “Empowering Employees to Get Results,” promotes performance results through employee empowerment and the fourth principle, “Cutting Back to Basics: Producing Better Government for Less,” advocates economic results by reengineering work processes (the ninth nominal criterion).

The EPAP also *promotes public–private sectoral blurring*. The public and private sectors are considered alike in the essentials. No one or even several characteristics inclusively define the new public–private partnerships and quasigovernmental hybrid organizations, which are nominal criteria for the previous EPAP characteristic; yet they all share one critical excluding factor. None is governed by Title Five of the U.S. Code. They are instead guided by a commingling of public and private jurisprudence systems. To some degree they act on behalf of the sovereign and to some degree they act as private entities. Government-sponsored enterprises have especially blurred lines (Moe, 2001, 2004). The NPR Principle 2, “Putting Customers First,” utilizes

market dynamics with both customers (the first nominal criterion) and employees (the second nominal criterion). Customer choice introduces a market mechanism to customers (the third nominal criterion), and competition introduces a market mechanism to create incentives for employees (the fourth nominal criterion).

The NPR reviewed successful public and private organizations as a way of describing how successful organizations operated, not what they should do. For this reason, the analytical framework describes the EPAP is *inductive*, *tactical*, and *descriptive*. The CPAP is deductive, whereas the EPAP is inductive. The CPAP is grounded in political theory and the U.S. Constitution. All the details of administration follow from this theoretical grounding. The vision and purpose of government guide the specifics of governmental decisions, how they are practically implemented, and what governmental actions are taken. In contrast, the EPAP is inductive, rooted in a practical examination of governmental action. Program implementation defines organizational vision (the first nominal criterion) and actions already taken shape future organizational purpose (the second nominal criterion). Political theory is not mentioned and must be inferred from the aggregate sum of the actions advocated. Where there is incongruence between theory and action, the CPAP remains true to theory and accepts inefficiencies in implementation. However, the EPAP is committed to efficient results and pays less attention to discrepancies between theory and action. In addition, the EPAP is tactical in that it focuses on current and specific short-term outcomes and objectives (the nominal criterion for the tactical characteristic). It also is descriptive because it describes current successes (the first nominal criterion) and makes no attempt to apply normative criteria other than the organization's economic success (the first nominal criterion).

A sample of the data indicators is given in Table 2.

Findings

The research proposition was not supported. The CPAP is the predominant public administration paradigm in all the Circulars (see Table 3).

Although all the Circulars show evidence of the CPAP, all also have at least one characteristic of the EPAP that is predominant. The research proposition posited that the Circulars published during the hypothesized reign of the CPAP (1966, 1967, and 1979) would exhibit evidence of that paradigm. Indeed, this is the case; the CPAP is predominant in each. Furthermore, these three Circulars have the same pattern of predominant characteristics. Each displays five predominant CPAP characteristics: structure dependent, promotes sector distinctions, deductive, strategic, and normative. However, each

Table 2. Coding the Circulars: A Sample of the Data Indicators.

Theoretically based	Values driven	CPAP				Deductive	Strategic	Normative
		Structure dependent	Promotes sector distinctions					
		Governmental structure dependent	Organizational structure dependent	Public sector	Private sector			
Act on the public's behalf	References to the 3 branches of government, their processes, and publications	References to political accountability: Heads of department	Government Public	Government	Private	Builds on	Agency's basic program	Statements of government policy
Individual freedom and initiative	President's memorandum	Delegations or nondelegations of authority from department head	Inherently governmental function	Government	Civilian employees	For the purpose of	Agency's basic mission	Related to government policy:
National interest	Executive order	References to hierarchical organizational structure	Government consumption	Government	Corporate incomes	Should not be started unless savings are sufficient	Agency's essential program	government policy:
References to decision transparency	Required by law	References to organizational structure	For government use	Government	Private enterprise	Under this general principle	Mission need	Rely on
Fair	References to strong central management agency	References to SOPs: Formal program guidelines	Needed by the government	Free enterprise economic system	Free enterprise economic system	In recognition of this principle	Mission essential	Retain Aim
		Procedures		Competitive enterprise system		Required as justification for	Government's primary program objectives	Historical references
		Implementation instructions						Restates an existing requirement

(continued)

Table 2. (continued)

		EPAP					
Pragmatically based		Results driven	Structure independent	Promotes sector blurring	Inductive	Tactical	Descriptive
Works better	Costs less		Governmental structure independent	Organizational structure independent			
Lessen the burden of work	References to economic when it means thrifty.	Precise work statements	Government corporation	Government corporation	Contracts	Is the result of	Usually involve
Simplicity	Purposes of economy	Scope of work	Public-private partnerships	Public-private partnerships	Bids	Resulting from	Comprehensive
Realistic	Aim for performance	Level of Program planning	High performing organization	Public-public partnerships	Preparing, and evaluating	Based on	review
In a timely manner	Most efficient	Standards	Internal management reviews	High performing organization	competitive bid invitations, bids, or proposals		
Most performance	Most efficient	Establishment of performance goals and priorities	Reorganization	Internal management reviews	Negotiating, awarding, managing, and monitoring	One time activity of short duration	
Accomplishing the work more efficiently	Descriptions of economic impact: Removal or withholding of property from tax rolls	Incentives	Transfer of work	Internal management reviews	contracts		
		Performance evaluation	Minimum necessary internal instructions	Internal management reviews	Competitive consideration		

Note: CPAP = Constitutional Public Administration Paradigm; EPAP = Entrepreneurial Public Administration Paradigm. Table 2 gives a sample of the data indicators used when coding the Circulars. Table 2 groups the specific phrases and categories of phrases that were found in the text and coded as evidence of the data indicators of the nominal criteria that describe the seven characteristics of each paradigm in the analytical framework.

Table 3. Data Analysis: Public Administration Paradigm Predominance.

Circular	CPAP (%)	EPAP (%)	CPAP characteristics						EPAP characteristics							
			Theoretically based	Values driven	Structure dependent	Promotes sector distinctions	Deductive	Strategic	Normative	Pragmatically Based	Results driven	Structure independent	Promotes sector blurring	Inductive	Tactical	Descriptive
1966	77	23	—	—	x	x	x	x	x	—	—	—	—	—	—	—
1967	75	25	—	—	x	x	x	x	x	—	—	—	—	—	—	—
1979	75	25	—	—	x	x	x	x	x	—	—	—	—	—	—	—
1983	87	13	—	—	x	x	x	—	x	x	x	—	—	—	—	—
1999	83	17	—	—	x	x	x	—	x	x	x	—	—	—	—	—
2003	79	21	—	—	x	—	—	—	—	x	x	—	—	x	—	—

Note: CPAP = Constitutional Public Administration Paradigm; EPAP = Entrepreneurial Public Administration Paradigm; x = characteristic predominance; — = no characteristic predominance; blank cell = The corresponding characteristic in the alternate paradigm is predominant.

also show a predominance of the EPAP characteristic, pragmatically based; and none include a predominance of the CPAP characteristic, values driven, or the EPAP characteristic, result driven.

The research proposition also predicted that the Circular written in 1983 during the postulated period of change in public administration paradigms would contain elements of both paradigms. This was not found; the CPAP remains predominant. However, the 1983 Circular does exhibit a change in the pattern of predominant characteristics. It maintains the pattern of the previous three Circulars with one exception; there is no predominance of either the CPAP characteristic, deductive, or the EPAP characteristic, inductive. The 1983 Circular, then, demonstrates predominance of four CPAP characteristics: structure dependent, promotes sector distinctions, strategic, and normative. Like the previous Circulars, it also shows the EPAP characteristic, pragmatically based, is also predominant and indicates no predominance of the CPAP characteristic, values driven, or the EPAP characteristic, result driven.

Furthermore, the research proposition suggested that the Circulars printed after the hypothesized solidification of the EPAP (1999 and 2003) would reflect the new paradigm. This also was not supported; both show evidence of the CPAP. The 1999 Circular has the same pattern of characteristic predominance as the 1983 Circular.

The 2003 Circular displays the greatest change in the pattern of characteristics. Circular 2003 shows predominance for two CPAP characteristics, structure dependent and normative. It also exhibits predominance for two EPAP characteristics, pragmatically based and inductive. In addition, no predominance appears for the CPAP characteristic, values driven, or the EPAP characteristic, result driven. There is also no predominance of the CPAP characteristic, public-private sectoral distinctions, or the EPAP characteristic, sector blurring. Finally, no predominance is found in the 2003 Circulars for the CPAP characteristic, strategic, or the EPAP characteristic, tactical. Therefore, Circular 2003 has two predominant CPAP characteristics and two predominant EPAP characteristics; it is reported as indicating evidence of a predominant CPAP paradigm because more than 75% (79%) of the phrases reveal that paradigm. Paradigm predominance is based on total number of phrases, not number of characteristics (Figure 2).

Two possible conditions may help explain why the research proposition was not supported. First, there may have been no change in public administration paradigms and the Circulars reflect that stability. The data indicate an increase in the influence of the EPAP in OMB Circular A-76 from 1983 (13%) to 2003 (21%), although there is actually a decrease in the influence of the EPAP in 1983 from previous levels (1966 is 23%; 1967 and 1979 are

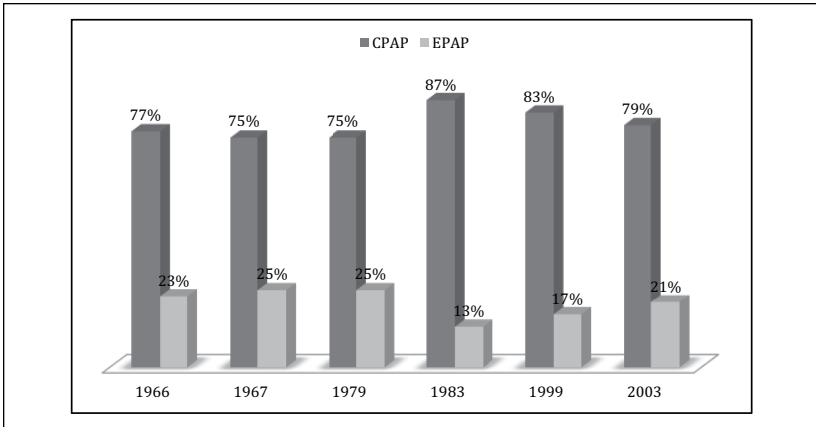


Figure 2. Public Administration Paradigm Predominance.

Note: CPAP = Constitutionalist Public Administration Paradigm; EPAP = Entrepreneurial Public Administration Paradigm.

25%). This increase in the EPAP by 2003 cannot be generalized past the Circulars. It does, however, raise the question whether the premise of a change in public administration paradigms is an error. If there has not been a change in public administration paradigms, it is certainly possible that there has been some increase in influence of the EPAP, especially most recently, but possibly not to the degree postulated by Moe and by Moe and Gilmour and as elaborated on in the Gore Report, and not to the level of a generalized public administration paradigm.

Alternatively, of course, it is possible that there has been a change in public administration paradigms as Moe and as Moe and Gilmour postulate and as elaborated on in the Gore Report, and OMB A-76 does not reflect that change. The nature of the Circular may predispose it to being consistent with the CPAP. OMB is a strong central management agency and Circulars state governmental policy and give implementation instructions to executive agencies; these are all indicators of the CPAP. However, the topic of the Circulars, the performance of commercial activities, may be distinctly indicative of the EPAP. Therefore, if there has indeed been a change in public administration paradigms, but the Circulars do not reflect that change, one explanation is that the OMB context of producing and the process of implementing policy outlined in the Circular is more likely to be governed by the CPAP; whereas, its content, the policy and procedures for determining whether the government or a private source will supply a commercially available product or service for the government's use, is more likely to be governed by the EPAP.

If this is the case, then the impact of the OMB context of producing and the process of implementing policy outlined in the Circular is more evident than the impact of the subject matter in the Circulars. In other words, the CPAP influences the way in which the entrepreneurial policy is administered.

Implications

This study has implications for public administration scholarship as well as public administrative practice. Especially for American public administration scholarship, an essential question is to what degree does (and should) our constitutional heritage influence our approach to administering the public sphere, and has this changed over time. Related is the question of whether the public sector is managed (or should be managed) like the private sector. Most scholarship addresses these questions from a normative theoretical perspective and there has been little historical and longitudinal research that investigates whether its prescriptions are reflected in practice. This study begins to close this research gap by providing one empirical analysis. This study investigates whether the normative claim made by the constitutionalist scholars, that the U.S. Constitution *should* guide public administrative practice, is actually born out of the practice. Relatedly, whether we are actually administering our public sector like the private sector is also examined. In both cases, evidence of recent changes is explored.

Although the results cannot be generalized beyond OMB Circular A-76, it is worth noting that the CPAP is the predominant public administration paradigm from 1966 to 2003. Perhaps the normative claim made by the constitutionalist scholars, that the U.S. Constitution *should* guide public administrative practice, is indeed actually reflected in the practice. This could, of course, occur for several reasons. Perhaps our constitutionalist values do indeed guide our practice. Perhaps the CPAP was stronger at some time in the past as Moe and Moe and Gilmour suggest, and path dependence has contributed to its continued prominence.

Perhaps the implications are slightly more complex. If in fact there has been a change in public administration paradigms, and OMB A-76 does not reflect that change, perhaps there is incongruence between our public administration paradigms that govern our policy discussions, our espoused paradigms, and our public administration paradigms that govern our policy implementation, our paradigms in use (Argyris, 1999). OMB A-76 articulates policy and issues implementation instructions. Therefore, it is possible that it reflects an *espoused public administration paradigm* and an operationalized or *enacted public administration paradigm*. In A-76, perhaps the CPAP influences our rhetoric; perhaps it guides the way in which the entrepreneurial policy is administered. This is a question for future research.

At a broader level, the exercise of conducting empirical analyses to investigate whether our practice of public administration reflects evidence of our normative prescriptions in public administration scholarship is also important. Very appropriately, public administration scholarship is one area of research that is strongly influenced by normative theory. Although there is also a rich body of empirical research in public administration, little of it assesses the implementation of normative theory. While it is important to debate our normative views, it is also important to know if these normative views articulated in scholarship actually guide public administrative practice. In addition, when there are discrepancies between our normative views and our practice, it is important to consider why this may be and what its implications are for the theory and practice of public administration.

In support of this project, a conceptual model is presented, suggesting that public administrative practice produces public administrative artifacts and that public administration scholarship can examine these administrative artifacts for evidence of public administration theory. (For studies that utilize this model, see, for example, Anderson & Bishop, 2011; Anderson & Bishop, 2005.) It further suggests that these relationships are multidirectional, reciprocal, and constitutive. Not only do we need to conduct empirical analyses that examine administrative artifacts for evidence of normative claims made by public administration scholars but we also need to broaden our view of the relationships among public administration theory, public administrative practice, and public administration scholarship. A broader and richer view of the relationships among public administration theory, public administrative practice, and public administration scholarship is that they are reciprocal and constitutive. Not only should public administration theory inform public administrative practice but public administrative practice should also inform public administration theory and scholarship. This broadens the normative project for public administration scholarship.

In this study, the U.S. Constitution is a document that changes slowly, but its interpretation and application is, at least to some degree, fluid and dynamic. Empirical analyses such as this one can begin to help us critically examine whether our conceptualizations of a constitutionally guided public administrative practice is reflective of actual practice. Empirical analyses can also offer a richness and verisimilitude to our theorizing.

As our world becomes increasingly global, and our scholarship becomes increasingly international, public administration scholarship must wrestle with the appropriate balance of nationally focused studies and cross-national analyses. Both are essential and vital to a robust discipline. This study is an American study. While American public administration scholarship places the role of the U.S. Constitution as a guiding principle at the center of the

discussion of administering the public sphere, it is by no means a topic unique to the United States. Many cross-national studies are founded on strong national-level research. Therefore, although the question of constitutionality is essentially a question of national (or European Union) focus, it is a topic of interest shared by many liberal democratic states. Future cross-national research into the influence of jurisprudence, federalism and governmental structure, and institutional perspectives on privatization and management paradigms would be fruitful for public administration scholarship.

In light of the Omnibus Appropriations Act of 2009 banning new cost comparisons under A-76 and the 2012 Financial Services Appropriations Act continuing the ban, much political rhetoric has focused on the ways A-76 competition affects public interest, especially the cost-effectiveness of the government. In the December 22, 2011, issue of the *Government Executive*, Rob Burton, an administrator at OMB's Office of Federal Procurement Policy during the Bush era advocated the opposite view, indicating that the ban on A-76 competitions are

not in the taxpayers' best interest . . . This goes hand in hand with the Obama administration's insourcing initiative by prohibiting agencies from engaging in robust public-private competition . . . A-76 is based on competition and transparency, and in the last couple of years we have moved into an era when we make these decisions on what is cost-effective with no competition or transparency. (www.govexec.com)

In the same issue, Senator Barbara Mikulski, Democrat, Maryland comments, "I'm proud of the work that we've done for our federal employees, but the job isn't over. Continuing efforts to prevent outsourcing and contracting out is important both for American taxpayers and our federal employees" (www.govexec.com). She is including the morale of public servants in her assessment of the impact of A-76 cost comparisons. The efficiency and morale of public servants is often a fulcrum for political rhetoric, so her comment is not unique in that respect. What is interesting in light of this study is that perhaps the incongruence between the political rhetoric and the ways the policy is applied also affects morale of public servants. This study supports future research into this and similar areas to investigate the impact of such incongruence in our political rhetoric and the ways we implement policy. For public administrative practice, it is important to know that there may have been incongruence in the entrepreneurial rhetoric of U.S. federal policy directing government contracting for products and services it used, and the more constitutional way in which the policy was actually implemented.

Declaration of Conflicting Interests

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author received no financial support for the research, authorship, and/or publication of this article.

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