GOVERNING
THE STATES AND LOCALITIES

Collecting What Government is Owed Efficiently -- and Equitably

By Stephen Goldsmith
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Government officials, despite their bureaucratic stereotypes, constantly wrestle with equity and fairness issues on matters that involve finances, penalties and payments. I first noticed this years ago after the Indiana Legislature significantly increased penalties for driving an automobile with equipment problems such as a burned-out light or a minor exhaust defect. Police officers simply didn't believe it was fair to lay a large fine on a relatively poor citizen driving an older, beat-up car. Ticket revenues dropped until the law was modified to allow the officer to give a citation allowing the driver to pay a much smaller fine if he proved the defect had been corrected. The number of tickets went up, equipment defects went down and ticket revenues increased.

But what about the other side of the curve, when individuals owe fees and do not pay them? All responsible officials empathize with those without the capacity to pay what they owe. A family in which a mom has lost her job and now may lose her house evokes sympathy and concern. When, however, officials tolerate or legislatively mandate broad protections or build endless amnesty opportunities and second-chance efforts across the board, the system tilts sharply in the direction of unfairness.

A public official who stands up on behalf of a broad reduction of enforcement essentially is deciding that those who play by the rules should subsidize those who don't. This "moral hazard" problem harms the struggling, honest family or business the most, for they subsidize those who earn more and play less fairly.

Few city officials think about this issue more than New York City's deeply committed commissioner of finance, David Frankel, who considers it in every aspect of city payments. In a recent interview, for example, he said he understood but was unconvinced by those who complained about his expanded boot program for those who do not pay their parking fines. Last month, Frankel's staff rolled out a pilot program in which vans with city sheriffs and staff from a contracted company cruise through the city reading license plates with cameras and booting cars owing more than $350 in fines. More creative than the readers, though, are the electronics-equipped boots, which the owner can self-release 24 hours a day by calling a number and providing a credit, debit or even a gift-card number. So booting is less inconvenient for the motorist while enforcement can be more vigorous and produce more revenue. Is it fair? It is for the New Yorkers who actually pay what they owe — or who park legally to begin with.

Frankel makes the same argument about those who can pay their property taxes but don't, those who retail cigarettes without paying the tax, and a host of other areas. In those situations, he says, the lack of vigorous fairness gives less-honorable commercial establishments a competitive edge over the others.

Those who draw customers to their variety stores with illegally priced cigarettes make sales that their honest competitors don't.

These collections programs need not be heartless. One can set up a program that explicitly provides relief to those in genuine distress. For example, both Frankel's Finance Department and the New York City Department of Environmental Protection (DEP) provide a payment-plan option for property tax and water bills. DEP also has a fund to help the neediest residents with water bills, and the city has enacted laws protecting the neediest seniors and disabled citizens from losing their homes because of unpaid tax or water debt. These programs all have something in common: They require individuals in distress to petition for help rather than granting relief broadly in a way that rewards those who game the system.

Frankel, who drives his department with a combination of focus, creativity and data, makes the case that often cities reach assumptions about these kinds of receivables without adequate data. Extraordinary senior management that is comfortable with using data to challenge and change existing strategy is a critical part of this approach. Frankel has complemented that leadership by adding contractual and employee analysts who study data sets to determine who is not paying and why. In New York as elsewhere, this use of data analytics helps in targeting both enforcement and mitigation programs.

Enforcement is a form of equity. Allowing those who can do better to ignore their public responsibilities is the height of unfairness. Evenhanded enforcement reinforces the civic contract.