

AGENDA

FREE MARKET PROTECTION AND PRIVATIZATION BOARD

Thursday, January 14, 2016, 2:00 PM
Room 30 House Building
State Capitol Complex
Salt Lake City, Utah

1. Call to Order
2. Public Input (10 minutes)
 - a. Persons may make statements or comments for up to two minutes each on matters pertinent to the board.
3. Board Business/Minutes
 - a. Minutes from August 13, 2015 – *for consideration*
 - b. December 10, 2015 – *for consideration*
 - c. Annual Report – *for consideration*
 - d. Planning for 2016
4. Commercial Activities Inventory
5. Review Privatization of an Activity
 - a. DAS: Fleet
 - b. UDOT: Maintenance
6. Review Issues Concerning Agency Competition with the Private Sector
7. Other/Adjourn

Next board meeting: January 14, 2016, 2:00 PM, Room 30, House Building

Other meetings (advisory committees):

Competition Review – January 21, 2016, 2:00 PM, Beehive Room, Senate Building

- Cosmetology
- Other

Meeting Packet Contents

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7	Minutes (draft) from December 10, 2015 Board meeting	GOMB
9	Annual report (draft)	GOMB
	Fleet Update	DAS

Proposed meeting schedule:

April 14, 2016

June 9, 2016

September 8, 2016

November 10, 2016

January 12, 2017

Alternate dates:

May 12, July 14, August 11, October 13, December 8

Meeting times:

A 10-12 B 2-4 C 3:30-5:30

**Minutes of the
Free Market Protection and Privatization Board**
Thursday, August 13, 2015 - 2:00 p.m.
Room 30, House Building
State Capitol Complex

Members present:

Kimberley Jones (Chair), Sen. Howard Stephenson, Sen. Karen Mayne, Rep. Johnny Anderson, Rep. Justin Miller, Travis Dimick, Dean Drew, Bob Myrick, Russell Anderson, Rick Jones, Jacquie Nielsen, Steve Fairbanks, Shawn Milne

Members absent:

Randy Park, Manuel Torres, Al Manbeian, LeGrand Bitter

Staff present:

Cliff Strachan, Governor's Office of Management and Budget (GOMB)

Note: Additional information including related materials provided at the meeting and an audio recording of the meeting can be found at the Utah Public Meeting Notice Website (<http://www.utah.gov/pmn>). Information about the Privatization Board can be found at <http://gomb.utah.gov/operational-excellence/privatization-board/>.

1. Welcome and Introductions

Kimberley Jones welcomed new board members and called for introductions.

Randy Park and Manuel Torres were excused.

2. Public Comment (10 minutes)

3. Board Business/Minutes

a. Selection of Chair/Vice Chair

Cliff Strachan advised that the board is required to select a chair annually and may select a vice-chair. He called for nominations.

Sen. Mayne nominated, and the nomination was seconded, Kimberley Jones as chair. No other nominations were received. Kimberley Jones was acclaimed as chair.

Rep. Miller nominated, and the nomination was seconded, Jacquie Nielsen as vice chair. No other nominations were received. Jacquie Nielsen was acclaimed as vice chair.

b. Open and Public Meetings Act (annual training)

Staff provided training to the board respecting its responsibilities per Utah's *Open and Public Meetings Act*.

c. Minutes from June 11, 2015

Motion: Bob Myrick moved to approve the minutes of the June 11, 2015 meeting. CARRIED

d. Appointment to advisory committee(s)

Chairwoman Jones appointed LeGrand Bitter, Rep. Johnny Anderson, Manuel Torres, Jacquie Nielsen, Kim Jones, Rep. Justin Miller, Sen. Karen Mayne, and Shawn Milne to the Competition Review Advisory Committee.

4. Commercial Activities Inventory (CAI)**a. Department of Administrative Services (DAS)**

Kim Hood, Executive Director, and Ken Hansen, Deputy Director, presented an overview of the department, its mission, vision, values, goals and structures. The department is a collection of services necessary to the administration of other departments with some of the divisions funded by internal service funds (also known as ISFs). They noted that many services (about one-half of the 150+ services) provided are already in part privatized. For example, the Office of State Debt Collection (OSDC) processes 90+% of its claims through private claims managers. Another example is found at Print Services where the copy center is managed by Xerox or print jobs are sent to UCI.

The board has previously considered potential opportunities through its Total Cost of Ownership Study (in 2014) as well as prior presentations by OSDC, Finance (re Payroll), Risk Management, Surplus Properties and Fleet Operations. DAS leaders noted that Surplus Property functions were largely privatized and this year the Legislature made some adjustments to the service. Many of the department's services have been found by independent and internal reviews to be cost effective when compared to private industry or experiences elsewhere.

Based on the Tier 1 surveys done by DAS employees, board staff recommended DAS talk about the Division of Facilities Construction and Maintenance (DFCM) and provide an update on progress at Fleet [later in the agenda]. The CAI for DFCM's maintenance had the highest score on the Tier 1 survey. However, DFCM talked about the comparative value provided by the maintenance group, which provides some services internally and others are outsourced as needed. Staff recommended not pursuing privatization of this function and none of the other survey results suggested other opportunities.

5. Review Privatization of an Activity**a. DAS - Division of Fleet Operations**

In 2013 the board's consideration of Fleet Operations was deferred to GOMB's operational excellence initiative. Among the results of that effort, Fleet initiated a pilot program with Enterprise Rent A Car to provide vehicles at the Multi Agency State Office Building.

Additional work by GOMB staff and DAS leadership has led to the issuance of a Request for Proposals (RFP) that could lead to the privatization of five activities: 1) vehicle selection, acquisition, and replacement, 2) vehicle financing, 3) vehicle remarketing, 4) vehicle maintenance and repair, and 4) recordkeeping, data

management and reporting. New Fleet Operations Director Jeff Mottishaw talked about the RFP and the process.

Kim Jones requested that DAS provide a letter to the board later in the year advising the board as to progress and results of the RFP effort.

6. Review Issues Concerning Agency Competition with the Private Sector

7. Other Business/Adjourn

Motion: Steve Fairbanks moved to adjourn. CARRIED

Next Scheduled Board meeting:

- Thursday, September 10, 2015 at 2 pm in Room 30 House Building

**Minutes of the
Free Market Protection and Privatization Board**
Thursday, December 10, 2015 - 2:00 p.m.
Room 30, House Building
State Capitol Complex

Members present:

Randy Park (chaired), Kim Jones*, Travis Dimick, Dean Drew, Manuel Torres, Russell Anderson, Shawn Milne, LeGrand Bitter

* via telephone

Members absent:

Sen. Howard Stephenson, Sen. Karen Mayne, Rep. Johnny Anderson, Bob Myrick, Al Manbeian, Rick Jones, Jacquie Nielsen, Steve Fairbanks

Staff present:

Cliff Strachan, Governor's Office of Management and Budget (GOMB)

Note: Additional information including related materials provided at the meeting and an audio recording of the meeting can be found at the Utah Public Meeting Notice Website (<http://www.utah.gov/pmn>). Information about the Privatization Board can be found at <http://gomb.utah.gov/operational-excellence/privatization-board/>.

1. Welcome and Introductions

Randy Park called the meeting to order and chaired the meeting. A quorum was not present. Sen. Howard Stephenson, Sen. Karen Mayne, Rep. Johnny Anderson, Bob Myrick, Rick Jones, and Al Manbeian were excused.

2. Public Comment (10 minutes)

3. Board Business/Minutes

a. Minutes from August 13, 2015

No quorum being present, a motion was not in order.

4. Commercial Activities Inventory (CAI)

5. Review Privatization of an Activity

a. Utah State Office of Education - Aspire

Superintendent of Public Instruction Brad Smith and Associate Superintendent Scott Jones from USOE updated the board on progress in fulfillment of the board's recommendations. They discussed the agency's intention to adopt a fee of \$4.51 for all Aspire users (by LEA or local education agency) while returning via negative appropriation the estimated \$822,000 costs for USOE to provide the service and software. A recent public hearing on the fee was opposed by charter schools and small districts because they are not wanting to pay costs they are not currently paying. The fee needs be approved by the legislature.

The superintendents also noted that the Public Education Appropriations Subcommittee recently recommended that the legislature audit USOE's Information Technology Division to better determine costs and allocations of costs, and to determine performance.

Staff requested that the Superintendent provide a spreadsheet of costs and allocations by LEAs so that the board can consider requesting the legislature to provide some bridging funds for the transition.

In discussion of the update members learned that if current Aspire users migrate to other programs that the lack of funding could lead to an "end of life" process or "death spiral" which "could lead to the spin off of the Aspire system." It was noted that the latter was one of the board's other recommendations.

Nathan Andelin, Relational Data Corporation, gave additional background to the request to look at USOE IT and Aspire. He noted that the board's recommendation called for the full privatization of Aspire. He noted also that the long-term goal should be for USOE to allow LEAs to contract for all their IT services, many of which are currently provided by USOE.

Noting that Mr. Jones had called for an internal task force respecting financial data, Mr. Andelin also suggested that USOE should call for a task force to enable IT services be provided privately.

b. Utah Department of Transportation - Maintenance

Mr. Parks, who works at UDOT, and Mr. Strachan discussed the progress on the board's review of maintenance activities at UDOT. Mr. Parks specifically shared with newer board members the agency's experience with contracting services noting that 100% of construction services and 65% of design engineering are done through contracts. More discussion next meeting.

6. Review Issues Concerning Agency Competition with the Private Sector

7. Other Business/Adjourn

Department of Administrative Services - Fleet Operations - Staff noted that Fleet will report in January on its efforts to privatize elements of its services. A request for proposals closes end of December.

Department of Alcoholic Beverage Control - Sen. Mayne will introduce bills in January intended to improve conditions at the agency. The Governor's 30/60/90 day efforts at DABC are ongoing and are being reported in the media.

SUCCESS Framework - a suggestion to consider applying the operational improvement system in use at GOMB to the board's process.

The board's annual report is due for the next meeting and staff proposes a bi monthly schedule for 2016.

Motion: Shawn Milne moved to adjourn. CARRIED

Next Scheduled Board meeting:

- Thursday, January 14, 2016 at 2 pm in Room 30 House Building



Governor's Office of Management and Budget
State Capitol Complex, Suite 150
Salt Lake City, UT 84114
Telephone: (801) 538-1000

January 14, 2016

Governor Gary R. Herbert
Office of the Governor

President Wayne L. Niederhauser
Utah State Senate

Speaker Greg H. Hughes
Utah State House of Representatives

Members of the Utah State Legislature

2015 Annual Report of the Free Market Protection and Privatization Board

The Free Market Protection and Privatization Board ("the Board") was established by the legislature (see UCA 63I-4a-203(1)) to:

(a) determine whether an activity provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings; (b) review privatization of an activity...; (c) review issues concerning agency competition with one or more private enterprises...; [and] (d) recommend privatization of an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service.

The *Free Market Protection and Privatization Board Act* further directs the Board to:

(h)(i) prepare an annual report for each calendar year that contains: (A) information about the board's activities; (B) recommendations on privatizing an activity provided by an agency; and (C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review; (ii) submit the annual report to the Legislature and the governor by no later than January 15 immediately following the calendar year for which the report is made; and (iii) submit, before November 1, an annual written report to the Government Operations Interim Committee.

The Governor's Office of Management and Budget (GOMB) staffs the Board (see UCA 63I-4a-202(5)).

Update on Prior Recommendations to Privatize an Activity

In January 2015, the board issued its annual report for 2014 and included recommendations to develop a property damage subrogation pilot project and to eliminate unfair competition and privatize the state's student information system.

1. Property Damage Subrogation Pilot – Department of Transportation

The property damage subrogation pilot would have outsourced on a trial procurement basis property damage claims management involving state highway infrastructure. However, certain legislative changes were needed and the proposed bill (HB 370) failed in committee.

There has been no further action on this recommendation.

2. Student Information Systems – State Office of Education (USOE)

The board recommended five changes to eliminate unfair competition in student information systems (SIS) and made two recommendations concerning the privatization of Aspire, the state-developed, owned, and operated SIS.

During the Legislature's General Session, the State Superintendent of Public Instruction indicated a willingness to work on the proposals during the interim and the Public Education Appropriations Subcommittee moved that the State Office of Education implement the board's recommendations. However, the Executive Appropriations Committee took no action on these recommendations.

On November 24, 2015, the Public Education Appropriations Subcommittee heard testimony on the matter. The subcommittee heard that USOE has proposed to establish a fee for the use of Aspire, that a public hearing was held, but no direct action has been taken by the State Board of Education (SBOE), which has requested more information from staff as to costs to non-Aspire local education agencies (LEAs). A request for a Legislative Audit was made.

At our December 10, 2015 board meeting, USOE discussed the fee, noted opposition at the public hearing, and the SBOE's request for more information. It does not surprise us that some LEAs oppose the fee as USOE's plan to return funding to all LEAs on a per student basis will not cover the full costs for Aspire for those LEAs that do use it. While the fee does accomplish our recommendation about transparency, no effort appears to have been made with regard to consideration for those LEAs for whom the change will pose a burden (temporary for most, permanent perhaps for necessarily existent schools).

Our original recommendations included a call for a Legislative Audit. We agree that there is need for an external audit.

We further recommend that the legislature provide temporary support (perhaps on a phased basis) for LEAs using Aspire.

In this matter, we believe that the privatization (partial or otherwise) of Aspire will occur only if the legislature requires and facilitates it.

Information about the Boards Activities

Last year, we noted that the Board needed a workable process for the identification and evaluation of potential privatization opportunities. With the assistance of Sequoia Consulting Group, we developed a set of principles, assessment tools, strategies, and approaches consistent with its duties.

In April, the Board approved a monograph entitled **Process for Evaluation of Alternative Service Delivery Strategies**. The process includes two surveys that help identify and evaluate the various elements pertinent to a privatization recommendation. The process also outlines a recommended cost analysis and performance contracting guidelines.

Staff relies on the first of two surveys to inform and update the Commercial Activities Inventory.

It is noteworthy to point out that while the most common privatization activities are contracting out, selling assets, or some form of public-private partnerships, the process identifies 14 alternative service delivery strategies, hence we have omitted privatization from the name of the monograph.

Still, we recognize that more work needs be done to help agencies see the process of evaluation as a helpful tool not a threat to people and programs in state agencies. That will be a priority in 2016.

Some agency highlights are below. The board is continuing to review agencies and has started some preliminary work on specific functions.

1. Health

The board's evaluation process initially identified State Labs as a possible study decided the public policy benefits outweighed any potential savings. Health indicated that they were working on a privatization effort regarding pharmacy rebates which has been confirmed as moving forward in January. A future decision on Medicaid Management Information System (MMIS) support outsourcing is at least two years into the future. Even so, MMIS is being developed with private sector partners already.

2. Alcoholic Beverage Control

Prior to the process now underway at the Governor's direction, DABC met with the board to discuss its programs. The Washington State experience with privatization was discussed. While there is some interest in looking at DABC further, the board declined any specific direction.

3. Transportation

UDOT staff has been looking at the feasibility of expanding contracting of certain maintenance activities. We support that effort. What makes UDOT's efforts unique is that it sees outsourcing as a means to do more with what they have without adding or decreasing staff resources.

4. Administrative Services: Fleet Operations

In March 2015, Fleet Operations began a multi-agency pilot with Enterprise Car Rental to provide fleet vehicles. Based on initial results, the division is expanding the pilot.

The division is now evaluating responses to a request for proposals to provide purchase and acquisition, sales of surplus, and maintenance of vehicles. If satisfactory, the division hopes to award and implement later this year.

Status of the Commercial Activities Inventory

Section 302 of the *Free Market Protection and Privatization Board Act* requires the compiling and posting of an updated inventory of activities of the agencies, classified as to whether the activity is commercial or governmental in nature. Work on the inventory is ongoing.

Acknowledgements

We wish to acknowledge and thank for their service – Tom Bielen, Brian Gough, and Louenda Downs – whose terms ended in 2015.

Respectfully submitted,

Free Market Protection and Privatization Board

Kimberley Jones, Chair
Jacquie Nielsen, Vice-Chair
Sen. Howard Stephenson
Sen. Karen Mayne
Rep. Johnny Anderson

Travis Dimick
Dean Drew
Randy Park
Manuel Torres
Al Manbeian
Robert Myrick

Russell Anderson
Rick Jones
Steve Fairbanks
Shawn Milne
LeGrand Bitter

Staff: Cliff Strachan, Governor's Office of Management and Budget

For copies of this report, past reports, minutes, the Commercial Activities Inventory, or other Board materials, please go to <http://gomb.utah.gov/operational-excellence/privatization-board/>, or contact Clifford Strachan, Program Specialist, Governor's Office of Management and Budget, at 801-538-1861. Information on meetings is posted on the Utah Public Notice Website at <http://www.utah.gov/pmn/index.html>.

Fleet Update

The Division of Fleet Operations presented at the board's August 2015 meeting. Fleet Operations is in the midst of two major efforts that look at market options for fleet functions and provides the following update.

First, Fleet Operations has worked with Enterprise Car Rental in a multi-agency pilot since March 2015. Initial data indicates the overall cost per mile to the state for the Enterprise vehicle rentals is \$0.38/mile compared to the costs for the replaced Fleet vehicles of \$0.36/mile. In some situations, Enterprise rental vehicles are more cost effective for certain transportation needs, while state vehicles are more cost effective for others. Agency feedback is generally positive. With the initial results being close in cost and mostly positive in nature, Fleet Operations plans to expand the pilot to other locations to gather more data prior to the end of the pilot.

Second, Fleet Operations provided an initial report on the Fleet Management and Services Request for Proposals (RFP). This multi-phase RFP solicited responses from the private sector providing a range of fleet management services. These services include categories such as purchase and acquisition of vehicles, surplus of vehicles, and maintenance. The phases included: (1) vendor prequalification, (2) question and answer, (3) technical response, (4) oral presentations, and (5) cost. Out of six initially qualified vendors, two vendors progressed into the final phase of the RFP, which closes on January 17, 2016. The Division of Purchasing and General Services will score the cost portion of the response. Based on the Committee's evaluation and the results of the RFP, the Committee will make recommendations to the Department of Administrative Services (DAS). DAS will then evaluate and implement recommendations that best address the interests of the state. The evaluation and implementation period may take up to a year.

<u>Agency</u>	<u>Sub agency</u>	<u>Acronym</u>	<u>In CAI</u>	<u>Presentation</u>	<u>Comments</u>
Administrative Services		DAS	Y	8/13/2015	
Administrative Services	Risk Management		Y	12/11/2014	
Administrative Services	Finance: OSDC		Y	11/13/2014	
Administrative Services	Finance: Payroll		Y	11/13/2014	
Agriculture and Food		UDAF	Y	1/9/2014	
Alcoholic Beverage Control		DABC	Y	5/4/2015	
Attorney General			N		EXEMPTED
Auditor			N		EXEMPTED
Board of Pardons & Paroles			Y	4/10/2014	
Capitol Preservation Board		CPB	Y		
Career Service Review Office			N		
Commerce			Y	5/8/2013	
Corrections			Y		
Corrections	Utah Correctional Industries	UCI	N	6/12/2014	
Courts			N		
Environmental Quality		DEQ	Y	10/10/2013	
Financial Institutions			Y	4/10/2014	
Governors Office			N		
GO Economic Development			N		
GO Energy Development			N		
Health		DOH	Y	4/9/2015	
Heritage & Arts		DHA	Y	12/12/2013	
Higher Education			N		EXEMPTED
Human Resource Management		DHRM	N	11/13/2014	
Human Services		DHS	Y	HOLD	
Insurance			Y	12/12/2013	
Juvenile Justice Services			N		
Labor Commission			Y		
Legislature			N		EXEMPTED
National Guard			N		
Natural Resources		DNR	Y	1/9/2014	
Public Education	State Office of Education	USOE	N	1/8/2015	
Public Lands Office		PLPCO	N		
Public Safety		DPS	Y	1/9/2014	
Public Service Commission		PSC	Y	11/14/2013	
School Trust Lands			N		EXEMPTED
State Office of Rehabilitation		USOR	N	4/10/2014	
Tax Commission		USTC	Y	12/12/2013	
Technology Services		DTS	Y	11/14/2013	
Transportation		UDOT	Y	10/10/2013	
Treasurer			N		EXEMPTED
Utah Colleges of Applied Technology		UCAT	N		EXEMPTED
Utah Education Network		UEN	N		
Utah Science Technology and Research		USTAR	N	8/14/2014	
Veterans' & Military Affairs			Y	1/9/2014	
Workforce Services		DWS	Y	HOLD	

2016 priorities?

1. Marketing the Board's Evaluation program
2. State lending programs
3. State labs
4. Human Services
5. Workforce Services

Exempted agencies:

"Agency" does not include:

- (i) the Legislature;
- (ii) an entity or agency of the Legislature;
- (iii) the state auditor;
- (iv) the state treasurer;
- (v) the Office of the Attorney General;
- (vi) the Utah Dairy Commission created in Section [4-22-2](#);
- (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);
- (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- (ix) the Utah Housing Corporation created in Section [63H-8-201](#);
- (x) the Utah State Fair Corporation created in Section [63H-6-103](#);
- (xi) the Workers' Compensation Fund created in Section [31A-33-102](#);
- (xii) the Utah State Retirement Office created in Section [49-11-201](#);
- (xiii) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under [Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act](#);
- (xiv) the Utah Schools for the Deaf and the Blind created in [Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind](#);
- (xv) an institution of higher education as defined in Section [53B-3-102](#);
- (xvi) the School and Institutional Trust Lands Administration created in Section [53C-1-201](#);
- (xvii) the Utah Communications Authority created in Section [63H-7a-201](#); or
- (xviii) the Utah Capital Investment Corporation created in Section [63N-6-301](#).