

AGENDA

FREE MARKET PROTECTION AND PRIVATIZATION BOARD

Thursday, June 12, 2014, 2:00 PM
Room 20 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 May 8, 2014 – *for consideration* *page 3*
 - b. Privatization Process Review Advisory Committee *page 7*
4. Commercial Activities Inventory
5. Review Privatization of an Activity
 - a. Technology Services Review Advisory Committee *page 17*
 - b. Other Initiatives
6. Review Issues Concerning Agency Competition with the Private Sector
 - a. Utah Correctional Industries – presentation *page 19*
 - b. Utah Department of Transportation re UCI Sign Shop
 - c. Competition Review Advisory Committee Update
7. Other/Adjourn

Next board meeting: July 10, 2014, 2:00 PM, Room 20, House Building

Other meetings (advisory committees):

Competition Review – TBD

Technology Services Review – TBD

Privatization Process – July 8, 2014 @ 2:30 PM, Room 240 Capitol Building

Meeting Packet Contents

<u>Page</u>	<u>Item</u>	<u>Source</u>
3	Minutes (draft) from May 8, 2014 Board meeting	GOMB
7	Minutes (draft) from May 27, 2014 PPAC meeting	GOMB
9	Cost Assessment	Sequoia
17	Minutes (draft) from May 13, 2014 TSRAC meeting	GOMB
19	UCI Commercial Activities Inventory Survey	UCI

**Minutes of the
Free Market Protection and Privatization Board**

Thursday, May 8, 2014 - 2:00 p.m.
Room 20, House Building
State Capitol Complex

Members present:

Kimberley Jones (Chair), Brian Gough (Vice Chair), Sen. Howard Stephenson, Sen. Karen Mayne, Rep. Johnny Anderson, Rep. Lynn Hemingway, Thomas Bielen, Sherrie Hayashi, Manuel Torres, Bob Myrick, Russell Anderson, Louenda Downs, Steve Fairbanks, and LeGrand Bitter

Members absent:

Randy Simmons, Kerry Casaday, and Al Manbeian

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 <http://gomb.utah.gov/operational-excellence/privatization-board/> and the Utah Public Meeting Notice Website (<http://www.utah.gov/pmn>).

1. Welcome and Introductions

Kimberley Jones chaired the meeting. Al Manbeian was excused.

2. Public Comment (10 minutes)

Nathan Andelin, Relational Data, noting that the State Office of Education (USOE) is not providing information requested by the board, addressed the board concerning the perception that the Utah State Office of Education is a fourth branch of government. He provided excerpts from Utah's Constitution that showed that power given to the legislature and its created bodies enables this body to obtain the information needed to do its work.

3. Board Business/Minutes

a. Minutes from April 10, 2014

Motion: Louenda Downs moved to approve the minutes of the April 10, 2014 meeting. CARRIED

b. Privatization Process Advisory Committee

Cliff Strachan reported on the April 29 meeting of the committee, which met with the consultants to review a Draft Guiding Principles, Core Business Process, and Service Delivery Form. The document, with edits, was provided to the board. He stated that the accounting method required in statute is still a work in progress but expects it will be provided at the May 27 committee meeting. Rep. Hemingway requested that the process define "unfair" as in "unfair competition".

3. Commercial Activities Inventory (CAI)

a. Department of Commerce

Francine Giani, Executive Director, presented an overview of the agency, its divisions, and activities. Her presentation included a list of services already privatized including a variety of online services and database management functions. The department does not rely on General Funds; rather its funded by fees. She showed that application growth management (i.e., the move to online services) has allowed the agency to increase its volume of work while reducing its staffing about 20 percent over 11 years. Ms. Giani noted that in recent years, the idea of privatizing legal representation for administrative actions and lawsuits has been considered but thinks recent changes at the Utah Office of the Attorney General (AG) has improved the relationship and the idea may not need following up as their legal needs are now being better met.

Via questions and answers, the board learned that:

- employees for the One-Stop Business Registration program in ten cities and four state agencies are state employees; there are no city employees in the program.
- the agency typically lapses funds back to the General Fund each year.
- the Executive Director would prefer that agencies have staff attorneys in addition to relying on the AG's office.
- agencies unhappy with the relationship with the AG's office in recent years should reach out given new management in that office.
- a breach of trust by a law enforcement agency of the Controlled Substances Database resulted in a tightening of procedures as to who can view the database; Commerce has never had a breach of data such as that experienced by the Department of Health a couple years ago, rather, the cited case was that of a bad actor who had authorized access; generally, it makes sense that doctors and law enforcement have access.
- the Child Protection Registry is run by a private organization and has resulted in few prosecutions.

4. Review Privatization of an Activity

Noting that an agenda item had been dropped here, Mr. Strachan advised that GOMB is working with Utah Correctional Industries (UCI) on a print services proposal. He noted that the board had recommended in 2005 that state operated print services be outsourced. The chairs will be briefed when the proposal is ready.

Sen. Stephenson requested that UCI and UDOT be invited to talk about sign shops and requirements for state agencies to purchase from UCI. Steve Fairbanks requested UCI come present on the agency and its objectives.

5. Review Issues Concerning Agency Competition with the Private Sector

a. Utah Science Technology and Research (USTAR)

Robert Behunin and Jim Grover representing USTAR provided background on USTAR, which is now in its eighth year, has built two research buildings (at the University of Utah and Utah State University), which currently support 50 researchers in 20 teams to put patents and licenses into the marketplace. USTAR funds help faculty members produce technologies and innovations that can result in patents and licenses - it is an effort to privatize that which is publicly funded and developed.

Referencing the LASSI Service Center at Utah State, which topic was initiated by a complaint from a private company at the March 27 meeting of the Competition Review Advisory Committee, the board learned that LASI received deminimus funding for LiDAR (a light detection and ranging technology used to map) resulted in research papers and student training. A couple of licenses were issued (one in Utah and one in Canada) that resulted in some royalty checks for the university. USTAR's funding of LiDAR was discontinued some years ago.

Through questions and answers, the board learned that:

- USTAR does not fund companies but rather attracts companies to: i) partner with developers of technology or innovations in the program or ii) acquire licenses from those developers.
- USTAR licenses the results of research and development on behalf of the state and its universities.
- licensing revenues are generally split between the universities and the state as follows: the first \$15 million goes to the universities and the excess is evenly split between universities and the state.
- Funding for LiDAR at LASSI was initiated in 2008 and later discontinued as it was not marketable.
- LiDAR continues on a fee basis, generally sponsored research by federal or state government sources.
- fees can cover overhead, and they cannot charge the federal government more than they charge the private sector; universities must balance educational applications and academic freedom.
- USTAR staff respond to a question on the utilization rate for the USTAR labs built by the state.
- patenting and licensing activities do not compete with the private sector; some services within the program could be a little grey - they ask if it has a market purpose and then move it out of the university.
- USTAR tries to put private sector interests together with research and development from the program; partnerships.

Rep. Anderson requested that USTAR do a comprehensive presentation covering its activities. Mr. Grover said that could be done after the new executive director is onboard.

b. Competition Review Advisory Committee

Mr. Strachan advised that the meeting scheduled for April was cancelled for a lack of information. He noted that Sen. Stephenson had contacted him concerning that lack of information and has invited him, along with State Schools Superintendent Martell Menlove, to appear at the legislature Administrative Rules Review Committee meeting on May 12 to discuss the timeline for requests and responses. He said that since that invitation, he has received some financial information (but was seeking more detail) and scheduled a site visit with the USOE IT Division.

6. Other Business/Adjourn

Motion: Rep. Hemingway moved to adjourn. CARRIED

Scheduled Board meetings:

- Thursday, June 12, 2014 at 2:00 PM in 20 House Building

Advisory Committees:

- Competition Review - TBD
- Privatization Process - May 27, 2014 at 2:30 PM, Room 240, Capitol Building
- DTS Review - May 13, 2014 at 2:00 PM, Room 210, Capitol Building

**Minutes of the
Free Market Protection and Privatization Board:
Privatization Process Advisory Committee**

Tuesday, May 27, 2014, 2:00 PM
Copper Room, Senate Building
State Capitol Complex

Present:

Brian Gough (Chair) and Russ Anderson

Absent:

Kim Jones, Rep. Lynn Hemingway, Randy Simmons, and Chad Whitlock

Staff present:

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

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

1. Welcome and Introductions

Brian Gough called the meeting to order. Kim Jones, Rep. Hemingway, and Randy Simmons were excused. Chad Whitlock was expected to arrive late.

Ken Murray, Anita White, and John Bower, Sequoia Consulting Group, participated via video conference.

2. Committee Business/Minutes

a. Minutes from the March 26, 2014 meeting

There was no quorum, therefore no motion was allowed to approve the minutes.

3. Sequoia Consulting Group - Ken Murray and Anita White

The advisory committee, consultants, and staff reviewed and discussed specific points of an updated Draft of Guiding Principles, Core Business Process, and Service Delivery Assessment Form dated May 21, 2014 prepared by Sequoia Consulting Group. Included in this version was a cost assessment process, which the committee reviewed. More work is needed by the committee to rank the elements of review.

In response to a request from the Board, Dr. Murray introduced and the committee discussed a definition of "unfair competition" for review. Mr. Anderson noted the definition should be relevant to the state statute.

There was a brief discussion on bullets 1 and 7 of the Primary Alternative Service Delivery Strategies, specifically on the status of state employees.

Mr. Bower presented the draft costs analysis model, noting it can lead to a better definition of services. How

it is used and what parts of the model are used will vary by projects. The committee talked about challenges with cost benefit analysis, including relative importance of cost elements, factors to be clarified, how to evaluate risk, how to quantify policy outcomes, and a need to study a sufficient time frame to avoid loss-leader effect.

4. Other/Adjourn

Committee Chair Brian Gough adjourned the meeting.

Scheduled meetings:

- Tuesday, July 8, 2014 at 2:30 PM in Room 240 Capitol Building
- Tuesday, August 19, 2014 at 2:30 PM in Room 240 Capitol Building

These meetings will include video conferencing or telephone participation.

State of Utah

Free Market Protection and Privatization Board

Guiding Principles, Core Business Process, and Service Delivery Assessment

Cost Assessment-Preliminary Instructions

These forms contain factors used in determining the annual cost of providing a given service. The process results in an annual estimate of the expected decrease or increase in the cost should the service be privatized.

As soon as the initial assessments have been done to illustrate the overall possibility of privatizing a service, the cost analysis can also begin. Cost analysis is usually service based, because the overall privatization of an entire department or budget unit is less likely than the privatization of specific services offered within a department. So, to begin the cost analysis, the following steps need to be undertaken.

- 1. Identify and clearly define specific services (or you may think of them as activities) that might be candidates for privatization analysis.** In order to identify specific services, a review of the activities involved in providing the service are required. A service is a set of linked activities which results in actions that benefit a specific set of customers, undertaken by specified employees. Utilizing the salary and wage worksheet (see Salary & Wage worksheet) is also helpful in identifying activities which result in service. As you can see from the example of maintenance for light vehicles, we have identified the staff involved in providing light vehicle maintenance. Presumably, the person undertaking this cost analysis will interview the staff and assign their time to specific activities or aspects of a service. Then, at the end of this undertaking, a set of costs are identified, including administrative and supervisory services.
- 2. In the second step, fringe benefit costs are assigned** to the salaries and wages assigned to the salaries and wages determined for each activity or service. If any other labor costs, not identified within the cost of engaging in the activity or service, are known those costs can also be included in the labor expenses.
- 3. Next, supplies and operating services, need to be assigned to each activity or service.** These costs could be office supplies or supplies related to the specifics of the work performed within each activity/service. For example, there might be contracts for specific kinds of repairs, or tires can be considered a part of the cost of tire repair. In each of the types of operating supplies there may need to be specific analyses. Other operating expenses might include capital outlay or equipment depreciation or use, debt service, etc. This analysis will depend upon how the activity or service treats such costs for audit and budget purposes. (NOTE: Cliff will provide some financial reports for us to utilize and more specifically identify objects of expenditure, as used by the State)
- 4. In this step, the administrative and supervisory services are reviewed** to determine which services would be allocated to the individual services (paint, body work, tires, preventive maintenance, etc). At the end of this step you have final costs for each set of activities/services. If, as you move through the analysis, it is difficult to assign these costs, it might be best to assign them on a proportional basis (e.g., based upon salaries or number of FTE's) if those providing administrative and supervisory support cannot assign their costs to each of the activities, or services.

5. Some costs applicable to each activity or service may come from the State's SWCAP or other cost allocation or assignments, specific to each department. Thus, part of the analysis will be to review the SWCAP and pick up appropriate allocated costs.
6. Costs need to be analyzed for the longer term. For example, in the first year (years, if spread over more than one year) there will be potential employee lay-off costs. These costs, however, should not continue for an extended period. Similarly, any vendor responsible for acquiring equipment and facilities will have some short term costs, with shorter useful lives, such as inventory for tire replacement. Other equipment and facility related depreciation may require a longer depreciation period.
7. Costs must be analyzed to determine whether each cost is fixed or variable during the term of the analysis. For example, if the privatized activity or service shows a higher level of supervision under governmental control than would be expected in a privatized scenario, the State would have to determine whether/when the privatized vendor might be able to reduce these costs.

Once we have access to an appropriate financial report, the instructions will be further explicated.

State of Utah**Free Market Protection and Privatization Board****Guiding Principles, Core Business Process, and Service Delivery Assessment****Summary of Cost Assessment**

Generally Accepted Accounting Principles (GAAP)

Cost of Engaging in Commercial Activity	\$	564,000.00
Costs of Privatization		<u>1,000,500.00</u>
Costs of Moving to Privatized Service (Year 1)	\$	<u><u>(436,500.00)</u></u>

State of Utah
Free Market Protection and Privatization Board
Guiding Principles, Core Business Process, and Service Delivery Assessment
Cost of Engaging in Commercial Activity

Generally Accepted Accounting Principles (GAAP)

	Amount	
<hr/>		
Labor Expense		
Salaries & Wages of Department Personnel	\$ 364,000.00	A)
Fringe Benefits		
Other		
<hr/>		
Total Labor Expense	\$ 364,000.00	
Other Operating Expense		
Service and Supplies: Operating Costs (Fuel & Maintenance)	\$ 50,000.00	
Equipment (Capital outlay)		
Equipment (Interest Costs)		
Depreciation		
Operation and Maintenance of Buildings		
Cost of Premiums Paid for Liability and Fire Insurance or Claims		
Paid in a Self Insurance Program		
Allocated Administrative Costs		
Allocated Overhead Cost of Other Executive and Staff Agencies	150,000.00	
Management, Supervision, Oversight (similar to contract		
Other		
<hr/>		
Total Other Operating Expense	\$ 200,000.00	
Total Cost of Engaging in Commercial Activity	\$ 564,000.00	
<hr/> <hr/>		

A) includes supervisors, staff, and overtime of services provided as a direct cost to the activity. Time spent in training of these personnel are also included here.

State of Utah
Free Market Protection and Privatization Board
Guiding Principles, Core Business Process, and Service Delivery Assessment
Cost of Privatization

Generally Accepted Accounting Principles (GAAP)

	<u>Amount</u>
Start Up Costs	
Request for Proposal - Development & Contract Development	\$ 10,000.00
Bid Preparation	
Bid Selection	
Contract Monitoring Development System	
Unemployment Benefits Liability for Displaced Workers	
Leave Benefits Buy-Out, Severance Pay, and Accrued Liabilities for Displaced Workers.	230,000.00
Disposing of Unused Equipment Write-Off	
Depreciation, Under Utilization of Space	
Gain (Loss) on Disposition of Equipment, Under Utilization of Space	
Transition Costs Such as Duplication of Effort	
Other	
	<hr/>
Total Start Up Costs	\$ 240,000.00
Primary Contracting Costs	
Contract Price (Annual)	\$ 750,000.00
Allowance for Cost over-Runs (Annual)	
Effect on State Revenues (Will the State Stop Collecting User Fees?)	(61,500.00)
Estimated Cost of the State Losing any Grants or Subsidies	
Other	10,000.00
	<hr/>
Total Primary Contracting Costs	\$ 698,500.00
Contract Oversight Costs	
Salaries	\$ 50,000.00
Fringe Benefits	12,000.00
Service and Supplies	
Equipment (Capital Outlay)	
Equipment (Interest Cost)	
General Operating Costs	
Operation and Maintenance of Buildings	
Other	
	<hr/>
Total Contract Oversight Costs	\$ 62,000.00
Contract Support Costs	
Space Provided	
Equipment Provided	
Other	
	<hr/>
Total Contract Support Costs	\$ -
Total Costs of Privatization	<u><u>\$ 1,000,500.00</u></u>

State of Utah
Free Market Protection and Privatization Board
Guiding Principles, Core Business Process, and Service Delivery Assessment
Cost of Engaging in Commercial Activity
Salary & Wage Analysis

Generally Accepted Accounting Principles (GAAP)

	<u>Amount</u>	
Salary & Wages		
Admin	\$ 95,000.00	Need to allocate to other activities
Supervision	50,000.00	Need to allocate to other activities
Paint	35,000.00	
Body Work	69,000.00	
Reg Prev Maint	38,000.00	
Tires	38,000.00	
Oil Changes	39,000.00	
Other		
	<hr/>	
Total Salary & Wages	\$ 364,000.00	

State of Utah
Free Market Protection and Privatization Board
Guiding Principles, Core Business Process, and Service Delivery Assessment
Cost of Privatization
Effects of State Revenues

Generally Accepted Accounting Principles (GAAP)

	Amount
IF Services NOT PRIVATIZED	
Business Licenses	(10,000.00)
Small Business Taxes	(7,500.00)
Individual Employee Taxes	
Property Taxes	(44,000.00)
Contract Monitoring Development System	
Unemployment Benefits Liability for Displaced Workers	
Other	
Total Effects on State Revenues	\$ (61,500.00)

If Continue to Provide With Government Employees/Facility
 This would be an annual increase in revenues if privatized

**Minutes of the
Free Market Protection and Privatization Board:
Technology Services Review Advisory Committee**

Wednesday, May 13, 2014, 2:00 PM
Room 210 Capitol Building
State Capitol Complex

Members present:

Thomas Bielen (Chair), Sherrie Hayashi, and Sen. Karen Mayne

Members absent:

Steve Fairbanks

Staff present:

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

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

1. Welcome and Introductions

Thomas Bielen called the meeting to order. He noted that while the Department of Technology Services had presented its Commercial Activities Inventory to the Board in November 2013 (minutes provided) and this committee was appointed in January, work on this committee was delayed at the request of the agency until following the legislative session.

2. Board Business/Minutes

3. Department of Technology Services (DTS)

a. Application Development

Mark Vanorden, Chief Information Officer and Executive Director, presented an overview of the agency and more specifically briefed the committee on its application development function. Stephanie Weiss and Daniel Frei of DTS, and Steve Cuthbert (GOMB) participated in the discussion with committee members. Staff provided copies of DTS' IT Plan, Strategic Plan, and Annual Report dated October 2013. All are available online at www.dts.utah.gov.

The overview included information about staffing size, structure and locations, types of projects and consultants, budget, security requirements, and the Operational Excellence work looking at the Business Case process.

From the discussion the committee heard that:

- about one-half of the agency is involved in application development with personnel located in most of the agencies.

- that many applications start as commercial off the shelf (COTS) products and are customized to agency needs.
- the presence of DTS staff in the agencies allows them to know the business well.
- attracting and keeping the best and brightest technical staff is difficult when compensation is lower than the private sector.
- two SUCCESS Framework projects (GOMB's Operational Excellence projects) are i) hardening security, which has improved by 70 percent, and ii) improving the business case process.
- DTS looks first to buy before building inhouse applications for agencies, and outsources approximately one-half of application development (49 percent of IT spending statewide is in the private sector).
- agency requests for new applications and software are vetted by an Architectural Review Board.

Committee discussion leaned toward looking further into the business case process.

4. Other/Adjourn

No meeting was set as members want to review the materials provided before setting another meeting.

Motion: Sherrie Hayashi moved to adjourn. CARRIED

Future meetings:

- Technology Services Review Advisory Committee, TBD

FREE MARKET PROTECTION AND PRIVATIZATION BOARD**COMMERCIAL ACTIVITIES INVENTORY SURVEY 2014****UTAH CORRECTIONAL INDUSTRIES (UCI)****DIVISION: Utah Correctional Industries****CONTACT: Alan James****CONTACT PHONE: 801-576-7771****CONTACT EMAIL: alanjames@utah.gov****Service/Function: Training inmates in job skills to reduce recidivism.**

- A.** Please describe the service/function so there is a clear understanding of the service and how it operates.

UCI has been tasked by the legislature to employ inmates in the correctional facilities and to be self-supporting. UCI achieves this mandate through the production of goods and services that are sold to state agencies. Studies show that inmates that work while incarcerated have a lower recidivism rate.

- B.** What process does the division use to determine which services /functions will be provided?

There are policies and procedures that outline how inmates are brought into the program, and there are statutes, and policies and procedures that outline how products and services are introduced.

- C.** Which services have been evaluated in the past 5 years, to determine if the service or function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.

All of UCI's "products and services" can be provided by a commercial/private company. However the products and services provided by UCI are only the vehicle or means to produce the "real" product of UCI, which is to return an inmate to the streets as a productive member of society. The legislature did not set UCI up in "competition" with the private sector, rather it gave UCI a specific customer base to limit competition with the private sector.

- D.** Is the service/function available in the Private sector? **Y**
- E.** Is the service/function advertised in the Yellow Pages or on the Internet? **N**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y**

UCI
Industries
April, 2013

Commissary:

- Commissary Services to Draper, Gunnison and the Sevier County Jail.

Plate Plant: (License Plate Production)

Print Shop:

- Full service Printing.

Milk Processing:

- Process milk and juice drinks for the prison.

Roofing:

- Certified commercial roofing services.
- Roofing maintenance.

Construction:

- B-100 licensed commercial contractor.
- Commercial construction.
- Demolition services.

Asbestos Abatement:

- Certified asbestos abatement.
- Certified lead abatement.

Asphalt Sealing:

- Parking lot crack sealing.
- Road crack sealing.

Furniture/Upholstery:

- Office furniture.
- Custom cabinets.
- Upholstered chairs.
- Lounge furniture.
- Task seating.

Sign Shop:

- Street signs.
- Routed wood signs.
- ADA signs.
- Laser engraved signs.
- Interior signs
- Directories.

Embroidery Shop:

- Digitizing services.
- Embroidery.
- Silk screening.

Sewing:

- Contract sewing.
- Garment sewing.

Scanning:

- Scan, digitize, and catalog paper documents

Horse Gentling:

- Care and feeding of wild horses in partnership with the BLM
- Training and gentling to prepare wild horses for adoption.

Serving Time Café:

- Providing breakfast, lunch and catering services.

Offender Employment:

- Screen and hire inmate workers for DIO operations.