

AGENDA

FREE MARKET PROTECTION AND PRIVATIZATION BOARD

Thursday, October 10, 2013, 2:00 PM
Room 20 House Building
State Capitol Complex
Salt Lake City, Utah

1. Call to Order – Kimberley Jones, Chair
2. Board Business/Minutes
 - a. Minutes from September 12, 2013 – *for consideration*
 - b. Request for Information responses – *for consideration*
 - c. Strategic Planning – *for discussion*
3. Commercial Activities Inventory
 - a. Department of Environmental Quality - *presentation*
 - b. Department of Transportation - *presentation*
4. Other/Adjourn

Next meeting: November 14, 2013

Minutes of the
Free Market Protection and Privatization Board
Thursday, September 12, 2013 - 2:00 p.m.
Room 20, House Building
State Capitol Complex

Members present:

Kimberley Jones (Chair), Brian Gough (Vice Chair), Senator Karen Mayne, Representative Johnny Anderson, Thomas Bielen, Kerry Casaday, Manuel Torres, Katina Curtis, Councillor Steve Fairbanks and LeGrand Bitter

Members absent:

Senator Howard Stephenson, Representative Lynn Hemingway, Commissioner Sherrie Hayashi, Randy Simmons, Al Manbeian, and Commissioner Louenda Downs

Staff present:

Cliff Strachan, Governor's Office of Management and Budget

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

1. Welcome and Introductions

Vice Chair Brian Gough chaired the meeting. He invited first time attendees Katina Curtis, Steve Fairbanks, and Bob Myrick to introduce themselves.

Senator Stephenson, Representative Hemingway, Commissioner Hayashi and Commissioner Downs were excused from the meeting.

2. Board Business/Minutes

a. Minutes from July 10, 2013

Motion: Mr. Torres moved to approve the minutes of the July 10, 2013 meeting. CARRIED

b. Electronic Meetings

UCA 52-4-207 says a public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern them. The board considered procedures for electronic meetings.

Motion: Sen. Mayne moved to adopt procedures for electronic meetings. CARRIED

c. Budget

Staff provided budget information, indicating that there is \$207,700 budgeted for the board's support, and providing a breakdown of its use. Noted that \$200,000 of those funds are one-time and a request is being submitted through the Governor's Office to fund FY 2015 with the same amount.

3. Follow-up from Orientation
 - a. Free Market Protection and Privatization Board Act
 - i. Mission Statement

The board considered the mission statement drafted to replace the old version. Discussion focussed on the relationship between the mission statement and the duties set forth in legislation.

Motion: Rep. Anderson moved to adopt the mission statement as a framework for the board. CARRIED
(Opposed: Fairbanks)

- ii. Board Accounting Method - Request for Information

The board considered issuing a Request for Information (RFI) to facilitate establishing structure and rigor around the privatization review process. The intent is to gather information to draft a request for proposals (RFP). Sen. Mayne asked whether the proposals would result in one consultant to work on all projects or different consultants for different projects. The future use, if any, of consultants including number, scale and scope will be determined by the board. Mr. Bitter wanted to know if such tools are available from other states. There are some but not consistent where they do exist. Mr. Strachan indicated that the RFI should lead to an RFP to hire a consultant to only help establish the privatization "toolbox", to which Mr. Torres noted will not necessarily "be one-size fits all". Mr. Bielen asked about conversations with consultants; no pricing has been discussed. He shared experience with hiring consultants, noting it takes time and "does not come cheap".

Motion: Sen. Mayne moved to issue a request for information to establish a privatization review process. CARRIED

- iii. Commercial Activities Inventory

Mr. Strachan advised that he has initiated reviews of the inventory with departments in order to update the information. The first agencies to be revisited and which are underway are UDOT, State Parks, and Department of Environmental Quality.

He discussed the process of review he's following for GOMB-initiated reviews: first phase is to do a quick analysis to see if there's possibility, second phase is to engage the agency and dig deeper, and third phase is to bring a proposal to the board. For board initiatives, all phases will be through the board.

Mr. Strachan also addressed a question asked at the last meeting concerning looking at other governments. In 2008, the legislature enacted Utah Code Annotated 10-1-119 and UCA 17-50-107. These required cities and counties of the first and second classes to compile inventories, to post them, and to file a copy of these with the board. There are none on file. Mr. Strachan noted that Commissioner Downs told him the counties are not likely to want to revisit the requirement. Councillor Fairbanks noted that Utah League of Cities and Towns (ULCT) have some inventories compiled and do not want to change the format or do more busy work. Rep. Anderson opined that with some time and successes, the board will attract cities and counties for input. Sen. Mayne sought clarification on the requirement on cities and counties. Staff will seek copies and

information from ULCT. In relation to the question raised, last meeting, this board does have applicability for local government.

6. Presentations

a. Fleet Operations

Kim Hood, Executive Director of Administrative Services, introduced the two parts to the presentation, indicating they are okay with privatization but also wants the board to understand what government does for us.

Rich Amon addressed Fleet utilization noting that while there are 7,300 state vehicles, only about 1,500 vehicles fit the parameters identified by Sen. Weiler in posing the questions respecting utilization. The rest are specific purpose vehicles including emergency vehicles, maintenance vehicles, supply/transport vehicles. Other passenger type vehicles are managed by higher education. He shared the SUCCESS formula for utilization developed with Fleet and GOMB. The goal is to help state employees use the vehicles more efficiently. QT/OE is essentially miles driven divided by operating expense.

Rich Amon and Jeff Mottishaw addressed the surplus vehicle question with data from the division's pilot study which measured return on sales viz industry information (NADA). It reviewed sales data against fees charged. Fleet concludes that is getting a better return for lower cost than it could by hiring outside services. The pilot is still underway and more data will be gathered.

Mr. Amon summarized the report with three points: the focus needs to be on the subset of 1,500 vehicles identified not the larger body of 7,300 vehicles; that utilization should be the key rather than privatization; and that Fleet is getting good return on the sale of state vehicles.

It was clear from the board's discussion that there is a consensus that the agency is appropriately handling utilization and surplus vehicles and it was generally satisfied with the review done by Fleet Operations on these questions. The board debated whether there was a need to have the agency report back and the board make a definitive motion on the review requested per Sen. Weiler's presentation in July or to have the agency speak with the Senator directly.

Motion: Rep. Anderson moved that the agency come back with a report in three months to report summary results and costs of the efficiency and surplus vehicle studies. CARRIED (Opposed: Mayne, Bielen)

b. State Parks Operations

Mike Long, Division of State Parks and Recreation, discussed the division's review of its reservation system and its intention to outsource the telephone call center. Staff provided a case study on the proposal. The case study recommended that the division proceed with the outsourcing of the call center. Implementation is expected October 1, 2013.

Mr. Long also commented on the depth of private sector involvement in the parks, noting that 60 private businesses contract with the state in supporting its 43 state parks.

Mr. Bielen and Sen. Mayne asked about the loss of two staffers plus seasonal employees, wondering what will happen to them, suggesting that the division reach out to other departments to see if they can be

placed. Mr. Long also noted that the contractor may offer positions to them and there may be other opportunities within the division.

c. UDOT: Outsourced

Carlos Braceras, Executive Director, began off-topic with comments on the agency's use of vehicles in the context of the first presentation. Noted they get excellent value and rely on performance audits to get cost effective use of their vehicles. Their policy is to charge themselves for equipment usage and to employ lease buy back for vehicles.

His presentation focussed on UDOT's experience with outsourcing, noting the agency's role is to create a level playing field and act as a steward of the public's money. Noted 100% of construction, 40% of engineering, and 75% of design engineering is outsourced. Noting there are 488 UDOT engineers as opposed to nearly 16,000 contracted engineers, construction workers, and consultants, he noted there is a need for UDOT engineers to provide oversight. There is a basic need for expertise and core competencies to negotiate projects responsibly. Also noted that contractors don't like consultants overseeing projects because it confuses liability. Consultants appear to cost more but total cost of an employee is more costly long term.

Stated maintenance is 15% outsourced and materials are 30% outsourced. Noted that the agency wanted to totally outsource maintenance on Bangerter Highway but found that bids were much higher than anticipated. The reason is uncertainty on snow removal.

He talked about innovation as a by-product of outsourcing. The state's use of diverging diamond interchanges and continuous flow intersections came from contractors as they sought to provide value within a RFP for projects - specifying outcomes results in better performance.

Mr. Strachan commented on the surveys provided by UDOT for the Commercial Activities Inventory noting it is clear that UDOT searches its functions to outsource them. He also asked UDOT to work with him to develop a lessons learned/best practices for distribution by GOMB.

7. Other Business/Adjourn

a. Privatization Studies

The board was invited to suggest possible privatization studies. Mr. Bielen wanted more information from other states. Sen. Mayne noted that the board may have to look at prison privatization as the PRADA (Prison Relocation and Development Authority) does its work. She thinks it will come to this committee and it should prepare. Ms. Jones talked about need to examine what privatization has occurred in other states, example parks and recreation.

b. Adjourn

Motion: Mr. Torres moved to adjourn. CARRIED

Next meeting: Thursday, October 10, 2013 at 2 pm in 20 House Building
Meetings are scheduled for second Thursdays of each month through January 9, 2014.

Commercial Services Inventory					
Services highlighted in grey are those that have been determined to be "Commercial" in nature.					
Services marked both as "Commercial" and "Inherently Governmental" have aspects that are considered to fall into both categories (i.e., - commercial activities that private industry doesn't provide, etc.).					
Services marked "Further Study Required" are currently being assessed for their privatization capabilities.					
Note that services marked as commercial do not necessitate a designation of "privatizable". Some services should not be privatized due to cost benefit analysis - or structural considerations.					
Department of Environmental Quality					
Board review October 2013					
Air Quality					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Air Monitoring		X			
Compliance		X			
Planning		X			
Permitting		X			
Drinking Water					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Engineering		X			
EPA Regulations		X			
Certification Programs	X	X		N	
Sanitary Surveys		X			
Source Protection Programs		X			
Financial Assistance Programs		X			
Environmental Response & Remediation					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Underground Storage Tanks		X			
Federal Superfund Program		X			
Voluntary Cleanup/Brownfields		X			
Brownfields		X			
Spills, Chemical/Toxi Release Inventories		X			
Certification of Clandestine Drug Lab					
Decontamination Specialists		X			
Solid & Hazardous Waste					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Permitting		X			
Compliance		X			
Corrective Action		X			
Radiation Control					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Licensing, Registering, and Permitting		X			
Compliance Monitoring and Enforcement		X			
Indoor Radon Outreach		X			
Water Quality					
Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Permitting, Compliance, TMDL					
UPDES Permits					

UPDES Engineering					
TMDL/Watershed					
Engineering & Water Quality Management					
Engineering					
Groundwater Protection					
Water Quality Management					
Water Quality Monitoring					

FREE MARKET PROTECTION AND PRIVATIZATION BOARD SURVEY
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY

Service/Function #1: Air Monitoring

- A.** Please describe the service/function so there is a clear understanding of the service and how it operates.
Operating and maintaining an ambient air monitoring network. Verify monitoring plans by sources proposing to operate meet state and federal monitoring requirements. Develop Exceptional Event / Natural Event documentation required to avoid federal actions based on data from wind storms, fires, etc. Provide air pollution information for the daily air quality, health advisories, winter and summer season "Action Day" alerts.
- B.** What process does the division use to determine which services /functions will be provided? Federal law dictates what monitoring equipment is used and established minimum monitoring requirements. Computer modeling performed by DAQ experts determine where those sites are needed.
- C.** Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.
Unknown
- D.** Is the service/function available in the Private sector? **Y/N – No**
Private sector companies establish monitoring plans and sites to assist companies planning to construct here in Utah; however, those plans and sites need to be reviewed and approved by DAQ staff, and the sites verified to be established and functioning as identified in the monitoring plan.
- E.** Is the service/function advertised in the Yellow Pages or on the Internet? **Y/N - No**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y/N – N/A**

Service/Function #2: Compliance

- A.** Please describe the service/function so there is a clear understanding of the service and how it operates.
Ensuring that all regulatory requirements pertaining to Air Quality are met through inspections audits and enforcement. Provide oversight and enforcement for all activities within the state pertaining to asbestos. Provide course audits, and a certification program for workers and companies performing asbestos and lead based paint work.
- B.** What process does the division use to determine which services /functions will be provided? In accordance with Utah Code; 19-2-104, 19-2-107(2)(viii), 19-2-110, 19-2-115, and 19-2-116.

- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.
None
- D. Is the service/function available in the Private sector? **Y/N - No**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Y/N - No**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y/N – N/A**

Service/Function #3: Planning

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

Administer a comprehensive program to address National Ambient Air Quality Standards (NAAQS) within the state of Utah. These standards are developed and revised by the EPA for a number of criteria air pollutants, and the state of Utah has been delegated primacy for their implementation. For each such standard, the monitored data (see # 1) must be analyzed alongside other information to assess which areas of the state are in compliance or not. For areas that are not in compliance, it is incumbent on the state to develop long-range plans to meet that standard.

To meet this goal, it is necessary to collect and develop emissions data from a variety of sources affecting the area. For much of this emissions data it is necessary to consult and interact with other governmental agencies such as UDOT, the various Metropolitan Planning Organizations, City and County Councils, the Governor's Office of Management and Budget, and local health departments. Emissions data must be analyzed, along with monitored data and meteorological data, using complex mathematical models to assess the inventoried pollutants' dispersion and simulate the chemical transformations and removal processes in order to derive estimates of concentration at a specified location. These models must first be "developed" to ensure their correct application in Utah's particular circumstance.

To meet this goal, it is also necessary to write and enact rules and other enforceable emission limitations which are a required element in any federally-approvable State Plan to address nonattainment with one of these NAAQS. One such limitation is a Motor Vehicle Emissions Budget. These budgets are important to transportation planners and affect federal funding for capacity adding projects.

Other responsibilities include preparation of periodic reports concerning the nature and amounts of emissions from within the state, their impacts on welfare related air quality standards (such as visibility), and their potential impact on down-wind states. Consultation with other states and Federal Land Managers is important to address regional air quality issues and to develop technical tools that are needed to quantify regional and global pollution impacts.

Participation in regional air quality organizations is also an effective way to raise western air quality issues during the federal rulemaking and federal guidance process.

- B.** What process does the division use to determine which services /functions will be provided? Federal Law requires this process to be completed by the State. State statute gives the authority to develop, implement, and enforce air quality rulemaking to the Air Quality Board, the Director of the Division of Air Quality, and the Division.
- C.** Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.

The technical analysis services that are provided for the development of the long-range plans mentioned in 3.A have been evaluated on a periodic basis since the mid-1990s. In 2000 UDAQ made the decision to develop the expertise in-house to setup, run, and interpret the meteorological and photochemical models that are necessary to evaluate control strategies for PM2.5 and ozone pollution. In doing so UDAQ has developed cooperative relationships with the US Army Dugway Proving Grounds, the University of Utah Atmospheric Science and Chemical Engineering departments and the University of Utah Center for High Performance Computing. A conservative estimate for the amount of money that was *not* paid out for private contracting services in the development of the recent PM2.5 Plans is on the order of 1-2 million dollars.

- D.** Is the service/function available in the Private sector? **Y/N - No**
- E.** Is the service/function advertised in the Yellow Pages or on the Internet? **Y/N - No**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y/N – N/A**

Service/function #4: Permitting

- A.** Please describe the service/function so there is a clear understanding of the service and how it operates.
Issue Approval Orders, Title V permits, and modifications and renewals as required by UAC R307-400 series of rules (as well as the federal air rules) for sources of air pollution in the state. This includes making applicability determinations, reviewing BACT analyses, reviewing and conducting air dispersion modeling and other regulatory functions as outlined in the rules.
- B.** What process does the division use to determine which services /functions will be provided? Case-by-case review of each application that is submitted for relevancy and applicability to state and federal rules.
- C.** Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.
None. However, approximately 15-20 years ago, we utilized the resources of a private entity (a consulting firm) to assist in the issuance of air Approval Orders. This effort did not result in any cost savings or efficiencies. On the contrary, the time to issue was longer, state employees were not freed up to accomplish other tasks as they had to review (and normally re-write) the work of

the contractor and more importantly, there was a significant conflict of interest on the part of the contractor. Any contractor that is knowledgeable of the air permitting program is gainfully employed preparing permit applications, inventories, and other tasks for the industries that are permitted and it is suspected that it would be difficult or impossible to obtain the services of a consultant that wasn't conflicted due to work done for industry.

- D.** Is the service/function available in the Private sector? **Y/N – No, not directly.**
- E.** Is the service/function advertised in the Yellow Pages or on the Internet? **Y/N - No**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y/N – N/A**

FREE MARKET PROTECTION AND PRIVATIZATION BOARD SURVEY
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF DRINKING WATER

Service/Function #1 Engineering Plan Review

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

The Division of Drinking Water implements a plan review function to verify that drinking water facilities, including: source water development, treatment, pumping, storage, and pipelines are designed to comply with State Rules and to ensure a safe and reliable supply of drinking water. This service/function involves the review of the engineering design, prepared by non-Division employees.

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

The extent of the review is confined to an evaluation of hydraulics, treatment technology evaluation and compliance with State Rules related to the design and construction of drinking water facilities. The process involves engineering calculations, literature reviews and plan and specification evaluations.

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

To our knowledge, no review has been made in the last 5 years if this service/function can be provided by commercial/private companies. It is inherently a government function.

- D. Is the service/function available in the Private sector? No**

- E. Is the service/function advertised in the Yellow Pages or on the Internet? No**

- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? No**

Service/Function #2 EPA Regulation Implementation

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

The Environmental Protection Agency has delegated Primacy (the authority to implement the federal regulations) in the State to the Division of Drinking Water. This service/function involves: writing and implementing corresponding State Rules of each Federal Regulation. The Division provides training to water utility personnel regarding the content and requirements of the Rules and then tracks compliance with the Rules. If there are instances of non-compliance, the Division follows up with appropriate

enforcement. Further the Division reports quarterly to EPA all compliance and enforcement activities in the past calendar quarter.

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

The standard the Division uses to govern its implementation of the Rules is the Rules themselves. Enforcement is based on the seriousness of the violations, the quantity of non-compliance and the willingness or lack thereof of the offending water utility.

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

To our knowledge, no review has been made in the last 5 years if this service/function can be provided by commercial/private companies. It is inherently a government function.

D. Is the service/function available in the Private sector? No

E. Is the service/function advertised in the Yellow Pages or on the Internet? No

F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? No

Service/Function #3 Operator Certification and Backflow Technician Certification

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

The Division implements two certification programs: The Operator Certification Program and the Backflow Technician Certification Program. For the Operator Certification Program, the service/function involves writing and validating examination questions, administering examinations with the help of local health departments, evaluating test results, issuing Certificates to successful candidates, tracking the accumulation of Continuing Education Units (CEU's) and Certificate renewals for Certified water operators. For the Backflow Technician Certification Program, the Division uses written tests provided by the American Backflow Prevention Association and administers the tests and practical examination to applicants. Further, the program includes issuing the successful candidates a Certificate. Both new and renewing applicants for this Certificate must successfully complete both the written and practical examination.

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

Both Certification programs are overseen by a panel of practitioners who oversee the programs. The minimum elements of the Operator Certification Program are established by EPA. The minimum elements of the Backflow Technician Program are established by the American Backflow Prevention Association.

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

To our knowledge, no review has been made in the last 5 years if this service/function can be provided by commercial/private companies. It is inherently a government function.

- D. Is the service/function available in the Private sector? No**

- E. Is the service/function advertised in the Yellow Pages or on the Internet? No**

- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? No**

Service/function #4 Sanitary Surveys

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

The Division conducts inspections of drinking water facilities on an every 3 year frequency for each of the 1,011 public drinking water systems in the State. This inspection is known as a Sanitary Survey. This service/function involves a review of each water system's records and all physical facilities associated with the water system. The service/function uses as its standard the Division's Rules which are based on EPA Regulation, engineering design standards and common practices of the drinking water industry.

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

The Division staff schedule surveys based mostly on the date of the last survey. Occasionally the Division will survey a water system more frequently if there is compliance problems association with the water system.

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

To our knowledge, no review has been made in the last 5 years if this service/function can be provided by commercial/private companies. It is inherently a government function.

- D. Is the service/function available in the Private sector? No**

- E. Is the service/function advertised in the Yellow Pages or on the Internet? No**

- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? No**

Service/function #5 Source Protection Program

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

The Division of Drinking Water implements a Source Protection Program to minimize the contamination of drinking water sources. This service/function involves the setting of criteria to be used to identify the watershed for each source as well as permitted activities on the watershed and as necessary control strategies if contamination sources exist on the watershed. The basis for determining the watershed for surface water sources is the ground topography. The basis for determining the watershed for groundwater source is the transmissivity of the underground geology. Where activities that may contaminate sources exists and effective control strategies do not exist, more frequent monitoring of the source waters are required. Source Protection Plans are required to be updated every three years. The actual development of Source Protection Plans and updated Plans is performed by non-Division employees.

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

The Division requires the update of Source Protection Plans every three years. Then the Division staff reviews the update. Also any water utility proposing new sources must submit a Source Protection Plan for review.

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

Initially the Division staff prepared basic Source Protection Plans for all of the 474 non community water systems in the mid 1990's. Clearly this effort could have been done by non- Division employees. Since the development of these plans, the updates of these plans must be performed by the water utility and/or their consultant strictly on a voluntary basis. All initial and updated plans for the remaining 537 public drinking water systems were and are prepared by non-Division employees. The review of the Source Protection Plans and updates is an inherent government function.

D. Is the service/function available in the Private sector? No

E. Is the service/function advertised in the Yellow Pages or on the Internet? No

F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? No

Service/function #6 State and Federal Financial Assistance Programs

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

The Drinking Water Board administers a financial assistants program. This Board is appointed by the Governor and confirmed by the Senate, as required by State statute (See Section 73-10c). The Division

acts as staff to the Board. The Division's role involves working with applicants, engineers, bond counsel and other funding entities in implementing the Board's directions. The Division's standard is the Board's Rules and directives for State funds and the Board's Rules, EPA Regulations and Board directives for the federal funds. Typically the terms of loans are more attractive than private sector funding. However, most loans are given to small and very small water systems that are not able to qualify for private sector funding. This is confirmed by the fact that some applicants use private financial institution's employees as financial counselors in their efforts to secure funding from the State.

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

The Division uses the Board's Rules to evaluate each application and prepares a packet of information for the Board to review. At regularly scheduled Board meetings, staff presents issues related to the project and recommends an action for the Board's consideration. The Board grants the applicant the opportunity to present information about its needs and desired funding and terms. The Board asks staff and/or the applicant questions about the project and funding. A Board member offers a motion that is voted on by the Board. The motion covers the amount of the funding and the terms of the funding. A vote of the Board is taken on each seconded motion.

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

To our knowledge, no review has been made in the last 5 years if this service/function can be provided by commercial/private companies. It is inherently a government function as defined by State Statute (Title 73 Chapter 10c-4.2).

D. Is the service/function available in the Private sector? Yes

E. Is the service/function advertised in the Yellow Pages or on the Internet? Yes

F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? Yes

FREE MARKET PROTECTION AND PRIVATIZATION BOARD SURVEY
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION

The programs administered by DERR are regulatory programs with responsibilities of the agency identified in statute or rule. The Superfund program is a non-delegated federal program that DERR receives funding to participate through a cooperative agreement with the U.S. Environmental Protection Agency, Region 8 (EPA). This funding is for DERR to have “substantial and meaningful involvement” in the federal Superfund for sites located in the state. EPA provides funding for DERR to oversee and lead activities necessary to complete Superfund cleanups. DERR receives funding and takes the lead for all site assessment activities that the EPA typically has EPA contractors perform in other Region 8 states (i.e., Colorado, North and South Dakota). DERR has demonstrated that site assessment activities conducted in-house are done at a lower cost than EPA’s contractors are able to do. Laboratory services under the site assessment program must utilize EPA Contract Laboratories assigned by the region for analytical services. Community Right-to-Know data collection is a statutory responsibility required of states by the Superfund Amendment Reauthorization Act of 1986 and requires facilities storing or releasing hazardous chemicals or materials to report to EPA and states in which those activities take place.

In short, there are no potentially privatization portions of DERR’s responsibilities under Superfund, as it is a non-delegated program.

The Underground Storage Tank fund program underwent a Privatization Policy Board review about seven years ago, and the outcome was that it was best served being managed by the agency. Administration of the loan fund could potentially be privatized, but the volume of loans it makes is small and the costs associated with it being managed by the private sector with necessary oversight by the agency would not make that an efficient use of the funds set aside for fund administration. Some elements of other underground storage tank programs are already handled by the private sector through Level of Effort contracting done by the division (for Leaking Underground Storage Tank release cleanups).

The Methamphetamine Certified Decontamination Contractor program is a regulatory certification program set up to ensure that those conducting the cleanups in the private sector are qualified to perform the work, including assessments and cleanups. The agency role is clearly regulatory providing a “certification” required by statute to qualified applicants.

The State Voluntary Release Cleanup program requires the Executive Director or representative to issue Certificates of Completion once cleanup work is completed under accepted work plans. The cleanup work is performed by consultants and contractors procured by the applicant and, other than the regulatory review of work plans and reports, documenting cleanup to standards protective of human health and the environment. It is essentially a

regulatory oversight program that facilitates property cleanup by the private sector with State agency oversight.

The Brownfields Program has an element of Targeted Brownfields Assessments (TBA's), conducted utilizing funding received in part for that purpose from EPA Region 8 through a competitive application and approval process. Assessments currently conducted by the state could conceivably be conducted by contractors procured by DERR, but the activities (sampling and reporting) routinely done by DERR staff is done under terms of the funding agreement from EPA Region 8 and at less cost than comparable work performed by private sector consultants. DERR does utilize private contractors and laboratories through a competitive solicitation for field and analytical services as needed.

DERR's programs are regulatory in nature and, as a whole, are not conducive to privatization without statutory changes and funding mechanism revisions. DERR already uses private consultants, contractors, and laboratory services where it can and has found a balance between government services it provides at considerable value to the regulated community under funding agreements for those purposes as well as to the public and technical services necessary to competently complete the work for which it has responsibility.

Please provide written summaries for A, B, and C questions and Circle either Yes/No for D, E, and F for each of the major services/functions performed by your Department:

Service/Function #2: State Involvement and Oversight of the Federal Superfund Program

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **Regulatory oversight of federal Superfund program elements such as Site Assessment through National Priority List Cleanups.**
- B. What process does the division use to determine which services /functions will be provided? **The Superfund process is mandated by the federal CERCLA statute (42 USC Chapter 103 - COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, as amended by SARA) and defined in the National Contingency Plan (40 CFR Part 300)**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **N/A**
- D. Is the service/function available in the Private sector? **The administration and oversight components are regulatory, but contractors are employed by the private sector and at the Federal and state level to perform work required under Superfund Authority.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Yes, Environmental Contractors who can perform CERCLA work are typically advertised in the Yellow Pages or online as Environmental Contractors or Construction Services.**

- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes.**

Service/Function #2: Implementation of the Underground Storage Tank Program

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The Division of Environmental Response and Remediation has statutory responsibility for oversight of the following program:**
- **Underground Storage Tank Act, Utah Code Ann. 19-6-401**
This program regulates underground petroleum storage tanks (UST) throughout the state, including requirements for inspection and maintenance of UST systems, management of the Petroleum Storage Tank Trust Fund, the Petroleum Storage Tank Loan Fund, and oversight of cleanup of petroleum releases from UST's
- B. What process does the division use to determine which services /functions will be provided? **Statutory requirements and rulemaking for program implementation.**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **The Underground Storage Tank fund program underwent a Privatization Policy Board review about seven years ago, and the outcome was that it was best served being managed by the agency. Administration of the loan fund could potentially be privatized, but the volume of loans it makes is small and the costs associated with it being managed by the private sector with necessary oversight by the agency would not make that an efficient use of the funds set aside for fund administration.**
- D. Is the service/function available in the Private sector? **The administration and oversight components are regulatory, but contractors and consultants from the private sector perform the work of investigation and cleanup of petroleum releases from UST's, as well as tank installations, tank removals, etc. Contractors also teach classes for the various certifications administered by the division for work related to UST's.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Yes, contractor services for UST installation, removal, and site characterizations and cleanups are typically advertised in the Yellow Pages or online as Environmental Contractors/Consultants.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes.**

Service/Function #3

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **Administration and management of the Utah Voluntary Cleanup Program (VCP). DERR has been assigned as the lead agency within DEQ for the administration and management of the VCP. The VCP was created by statute in Utah Code Ann. 19-8-101**
- B. What process does the division use to determine which services /functions will be provided? **The administration and oversight of the VCP program is statutory. Those utilizing the program to voluntarily cleanup sites that qualify for inclusion in the VCP employ private consultants and contractors to perform the work. Laboratory analyses to support cleanup objectives are provided by private labs at applicant's expense.**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **None.**
- D. Is the service/function available in the Private sector? **The administration and oversight component is regulatory. The field work and cleanup activities are performed by entities in the private sector.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Yes, Environmental Contractors/Consultants who can perform VCP site work and analytical laboratories for sample collection data analysis are typically advertised in the Yellow Pages or online as Environmental Contractors/consultants or Laboratories.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes.**

Service/function #4 : Management of the Toxic Release Inventory (TRI) and Tier II Community Right-to-Know reporting and participation on the State Emergency Response Commission

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **Facilities that emit toxic substances or store chemicals are required by federal statute to report their emission inventories and chemical stores to the EPA, state, and local emergency planning commissions (LEPC's). DERR compiles the data into summary reports for the LEPC's and shares the data via the State Emergency Response Commission with Public Safety and others.**
- B. What process does the division use to determine which services /functions will be provided? **Required by Statute (Superfund Amendment Reauthorization Act of 1986)**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **None, as the requirement to receive the data is federally mandated.**

- D. Is the service/function available in the Private sector? **No.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **No.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A**

Service/function #5 : Certification of Clandestine Drug Lab Decontamination Specialists

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **DERR certifies Clandestine Drug Lab Decontamination Specialists per Statute (Utah Code Ann. 19-6-901) and through rules promulgated by the Solid and Hazardous Waste Control Board implements the certification and revocation process for this specialized certification program.**
- B. What process does the division use to determine which services /functions will be provided? **Required by Statute and defined by rule (Utah Code Ann. 19-6-901 and R311-500, 600)**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **None, as the requirement to certify and/or revoke is required of DERR by statute. There are private contractors who teach certification classes to prepare candidates for the exam as the DERR does not sponsor or hold classes, only processes applications and administers the certification exam.**
- D. Is the service/function available in the Private sector? **No. The application and certification process is administered by DERR. Actual certified decontamination specialists, who are hired to address clandestine drug lab sites, are private sector contractors.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Certified decontamination specialists do advertise in the Yellow Pages and online.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes.**

Service/function #6 : Brownfields Program administration, including offering Targeted Brownfields Assessments to public entities (within parameters of the federal funding stream), reviewing and issuing Enforceable Written Assurances (EWA's) as tools to aid in property redevelopment.

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **DERR implements a Brownfields Program in Utah tied to EPA Cooperative Agreement funding known as 128(a) State Response Program funding. This allows the state to develop state programs that assist with Brownfields redevelopment, including outreach to local governments, conducting Targeted Brownfields Assessments for local governments, assisting with grant applications for federal CERCLA 104(k) grants, and review of EWA applications under the authority of Utah Code Ann. 19-6-301 (specifically 19-6-326).**
- B. What process does the division use to determine which services /functions will be provided? **Authority under state statute and EPA grant Terms and Conditions.**
- C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion. **None, as the ability to issue EWA's is statutory and the funding stream from EPA imposes certain conditions on the acceptable use of the 128(a) funds received.**
- D. Is the service/function available in the Private sector? **Property Assessments equivalent to Targeted Brownfields Assessments are routinely performed by private sector environmental contractors/consultants for the multitude of property transactions that take place. DERR provides TBA services only to local government based on the funding agreement with EPA. There is no private sector authority for issuing EWA's.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Yes, Environmental consultants and attorneys who assist parties with property transaction services such as site characterizations and assessments, EWA applications, etc., advertise in the Yellow Pages and online.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes.**

FREE MARKET PROTECTION AND PRIVATIZATION BOARD SURVEY
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF RADIATION CONTROL

Service/Function #1: Licensing, Registering, and Permitting

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

The Division of Radiation Control (DRC) implements the following licensing, registration, and permitting programs as authorized by the Utah Radiation Control Act (UCA 19-3). Additionally, the DRC is authorized by the U.S. Nuclear Regulatory Commission (NRC) under federal law to administer these programs and perform the associated regulatory functions in Utah (excluding the X-ray registration and inspection program). Administrative rules associated with radioactive material licensing, registering, and permitting are promulgated by the Radiation Control Board whose members are appointed by the governor with the consent of the Utah Senate (UCA 19-3-103).

Radioactive Materials Licenses: The possession, use, transport, transfer, treatment, or disposal of radioactive materials requires a license issued by the DRC. Licensing procedures and requirements are governed by state and federal laws and rules designed to provide and ensure protection of public health and safety with respect to sources of radiation and their life cycle (i.e., manufacturing to final disposition). The use, application, and benefits of radioactive materials vary across a broad spectrum—from medical to industrial and institutional.

Groundwater Protection Permits: The DRC is specifically authorized by state law (UCA 19-5-102(6)) to exercise regulatory authority and jurisdiction for issuing groundwater permits to facilities that have a radioactive materials license and discharge or may discharge radioactive sources to groundwater. Such facilities manage and dispose of tailings from the milling of ores and materials containing uranium or thorium and/or manage and dispose of low-level radioactive waste.

Generator Site Access Permits: Generators of low-level radioactive waste are required by state law and rule to receive a permit from the director of the DRC in order to be granted access to ship and dispose of their waste in Utah. (See UCA 19-3-106.4 and UAC R313-26.)

X-ray Equipment Registrations: Individuals, businesses, organizations, companies, institutions, etc. possessing/using equipment that produces X-rays are required by state

law and rules to register their equipment with the DRC. Registration procedures are specified by state rules established by the Radiation Control Board.

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

The scope, procedures, and regulatory framework for radioactive materials licensing/permitting and X-ray registrations are governed by state laws (UCA 19-3, UCA 19-5-102(6)) and administrative rules (R313-13, R313-15-6). Additionally, the NRC sets national criteria, standards, regulations, and guidance for states to follow in administering radiation control programs. The DRC also relies on national professional organizations, such as the Conference of Radiation Control Program Directors (CRCPD), that serve to establish program benchmarks and standards of quality that can be applied in performing licensing, registering, permitting functions.

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

As part of the reauthorization of the Radiation Control Act by the Legislature in 2012, a review of DRC and its primary services and functions was performed. During the 2012 General Session, the Legislature reauthorized the Radiation Control Act without a future repeal date because of the critical need for these program services and functions to protect the health and safety of the residents of Utah from sources of radiation.

The NRC has established national performance measures and indicators to use when evaluating and reviewing an individual state's efforts and activities in administering the radioactive material licensing programs. This process by the NRC is known as the Integrated Materials Performance Evaluation Program (IMPEP). For additional details refer to NRC's online program information at www.nrc-stp.ornl.gov/impeptools.html.

- D.** Is the service/function available in the Private sector? **No**
- E.** Is the service/function advertised in the Yellow Pages or on the Internet? **No**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **No**

Service/Function #2: Compliance Monitoring and Enforcement

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

The DRC implements the following compliance monitoring and enforcement functions as authorized by the Utah Radiation Control Act (UCA 19-3). Additionally, the DRC is authorized by the U.S. Nuclear Regulatory Commission (NRC) under federal law to

perform these regulatory functions in Utah (excluding the X-ray registration and inspection program). Administrative rules associated with radioactive materials and groundwater protection compliance and enforcement are promulgated by the Radiation Control Board whose members are appointed by the governor with the consent of the Utah Senate (UCA 19-3-103).

Radioactive Materials Licensees: Licensees are required to comply with applicable laws and rules to ensure protection of public and health safety during the possession, use, transport, transfer, treatment, or disposal of radioactive materials. Compliance and enforcement functions and activities by the DRC are governed by state and federal laws and rules (e.g., UCA 19-3-103.5, 19-3-108 to 19-3-111, and R313-14). The DRC conducts regular on-site inspections of radioactive material licensees to ensure applicable regulatory requirements are being followed. Appropriate enforcement actions are taken based on the severity and nature of noncompliance.

Generator Site Access Permittees: Permittees are subject to the provisions of R313-14 and R313-19-100 for violations of state rules or requirements in the current land disposal facility operating license regarding radioactive waste packaging, transportation, labeling, notification, classification, marking, manifesting or description. Permittees are also subject to the Generator Site Access Permit Enforcement Policy. Permittees are required to comply with applicable State (R313-26) and Federal rules. The DRC performs inspections of the shipments that arrive at the disposal site. The inspections cover both health physics and Department of Transportation requirements. The DRC also performs independent calculations to verify and ensure the waste meets State acceptance requirements, including the state prohibition on waste greater than Class A. Periodically, the DRC also performs point-of-origin inspections of the generators shipping waste to the disposal site in Tooele County.

Groundwater Protection Permittees: The DRC is specifically authorized by state law (UCA 19-5-102(6)) to exercise regulatory authority and jurisdiction for compliance and enforcement matters associated with groundwater permits to facilities that have a radioactive material license and discharge or may discharge radioactive materials to groundwater. Such facilities manage and dispose of tailings from the milling of ores and materials containing uranium or thorium and/or manage and dispose of low-level radioactive waste. The DRC conducts regular on-site inspections of groundwater protection permittees to ensure applicable regulatory requirements are being followed. Appropriate enforcement actions are taken based on the severity and nature of noncompliance.

X-ray Equipment Registrants: Individuals, businesses, organizations, companies, institutions, etc. possessing/using equipment that produces X-rays are required to comply with applicable state laws and rules. Registration procedures are specified by

state rules established by the Radiation Control Board. The DRC conducts regular on-site inspections of X-ray registrants to ensure applicable regulatory requirements are being followed. Appropriate enforcement actions are taken based on the severity and nature of noncompliance.

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

The scope, procedures, and regulatory framework for radioactive material licensees/permittees and X-ray registrants are governed by state laws and administrative rules, as noted above in Section A. Additionally, the NRC sets national criteria, standards, regulations, and guidance for states to follow in conducting compliance and enforcement functions within the radiation control programs. The DRC also relies on national professional organizations, such as the Conference of Radiation Control Program Directors (CRCPD), that serve to establish program benchmarks and standards of quality that can be applied in performing compliance and enforcement functions.

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

As part of the reauthorization of the Radiation Control Act by the Legislature in 2012, a review of DRC and its primary services and functions was performed. During the 2012 General Session, the Legislature reauthorized the Radiation Control Act without a future repeal date because of the critical need for these program services and functions to protect the health and safety of the residents of Utah from sources of radiation.

- D.** Is the service/function available in the Private sector? **No**
E. Is the service/function advertised in the Yellow Pages or on the Internet? **No**
F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **No**

Service/Function #3: Indoor Radon Outreach

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

For over 20 years, the DRC has received a federal grant from the U.S. Environmental Protection Agency to support public education and outreach activities to increase awareness regarding the health risks, issues, and mitigation actions associated with indoor radon exposure in homes and public and private buildings. The DRC continues to enhance a network of partners interested in the objectives, efforts, and success of the indoor radon program to reach more and more Utahns. In addition, the DRC provides

training opportunities to realtors, builders and the public regarding indoor radon. This growing network of support is important in light of EPA's budget proposal to eliminate federal grant funding to all states. One of the primary focuses of the DRC is to promote and assist in the availability of radon test kits for use in homes and buildings because these test kits determine radon concentrations. Test results allow residents and building owners/managers to determine the extent and nature, if any, of mitigation measures to reduce or eliminate radon concentrations. The DRC is the primary agency for promoting and providing information regarding the availability of radon test kits. The DRC maintains extensive information on its Web site regarding statewide results of test kits as well as key contacts and links of local and national program partners. Information regarding radon resistant new construction activities is also captured on the DRC Web site. The overall importance of this program is underscored by the U.S. Surgeon General's and EPA's determination that exposure to indoor radon is a significant health risk and a source of lung cancer, second only to cigarette/tobacco use.

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

As a non-regulatory program focused on public education and outreach, the DRC identifies the most effective means to achieve this objective, especially utilizing the assistance and support of the various program partners. Various public service messages have been developed and used to broaden the coverage and enhance the public's awareness. In addition to federal and state agencies, the DRC benefits from national professional organizations, such as the Conference of Radiation Control Program Directors (CRCPD) and the American Association of Radon Scientists and Technologists (AARST), that serve to establish program benchmarks and standards of quality that can be applied in administering the indoor radon program.

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

As part of the reauthorization of the Radiation Control Act by the Legislature in 2012, a review of DRC and its primary services and functions was performed. During the 2012 General Session, the Legislature reauthorized the Radiation Control Act without a future repeal date because of the critical need for these program services and functions to protect the health and safety of the residents of Utah from sources of radiation. Also, EPA's potential elimination of federal grant funding has created the opportunity to evaluate program direction and partner assistance and support. In addition, the 2013 Legislature passed the Concurrent Resolution on Radon Gas (S.C.R. 11). This resolution urges business owners and managers, landlords, real estate licensees, home

inspectors, home builders, mortgage lenders, real estate appraisers, trade organizations, government agencies at the local and state level, community groups, schools, colleges, universities, the medical establishment, and outlets in print media, television, and radio to educate the citizens of the state in protecting themselves from the dangers of elevated radon gas levels.

- D. Is the service/function available in the Private sector? **Partially, but the DRC serves as the central program manager.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **No**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Private participants are partners, not competitors.**

FREE MARKET PROTECTION AND PRIVATIZATION BOARD SURVEY
DEPARTMENT OF ENVIRONMENTAL QUALITY

Please provide written summaries for A, B, and C questions and Circle either Yes/No for D, E, and F for each of the major services/functions performed by your Department:

Service/Function #1: Permitting

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

The Division of Solid and Hazardous Waste implements the following permitting programs under the Solid and Hazardous Waste Act (19-6-101), the Used Oil Management Act (19-6-701) and the Waste Tire Recycling Act (19-6-801).

1. **Hazardous Waste Treatment, Storage and Disposal Permits:** Facilities which store, treat or dispose of hazardous waste are required to obtain a permit prior to construction and operation.
2. **Solid Waste Disposal Permits:** Facilities which dispose of solid waste are required to obtain a permit prior to construction and operation.
3. **Used Oil Permit/Registration:** Facilities which store, process or re-refine used oil or operate a used oil transfer facility or transport used oil are required to obtain a permit prior to construction or operation. Individuals who market used oil are required to obtain a registration number.
4. **Waste Tire Transporter and Recycler Registration:** Individuals or facilities which transport or recycle used tires are required to obtain a registration number prior to operation.

Potential permittees/registrants submit a permit/registration application. The Division reviews the application for technical completeness and compliance with permitting/registration standards. Deficient applications are revised and re-submitted at the Division's direction. A draft permit is prepared when the application is determined complete and subjected to public comment if required. Final permit/registration is issued by the Division Director.

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

By statute, rule and in accordance with state primacy requirements, all permit/registration programs must be implemented. The Division does not have the discretion to NOT issue the permits/registrations referenced above.

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

N/A. See Item B. The permit/registration programs must be administered by the Division.

- D. Is the service/function available in the Private sector? **No.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **No.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A.**

Service/Function #2: Compliance/Enforcement.

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

Facilities/companies which generate, transport, treat, store or dispose of hazardous waste, generate or dispose of solid waste, store, transport, transfer, process, re-refine or market used oil, and transport or recycle used tires are routinely inspected to evaluate compliance with applicable statutes, rules and permits. Inspection findings are evaluated against applicable standards. Enforcement actions are issued as appropriate. Enforcement actions may include civil penalties.

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

By statute and in accordance with state primacy requirements, the compliance/enforcement programs must be implemented. The Division does not have the discretion to NOT inspect regulated facilities/individuals and compel compliance through enforcement actions.

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

N/A. See Item B. The compliance/ enforcement programs must be implemented by the Division.

- D. Is the service/function available in the Private sector? **No.**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **No.**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A.**

Service/Function #3: Corrective Action

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

Facilities which hold hazardous waste operating permits are required to identify and remediate areas within property boundaries where solid or hazardous waste has been managed or disposed in the past. The nature and extent of contamination is determined and cleanup or other management remedies are selected and implemented.

Companies/individuals who have had releases or spills to the environment of solid or hazardous wastes or contaminants from regulated activities or regulated waste management units are also required to assess nature and extent of contamination and perform corrective action to ensure that human health and the environment are protected.

The Division performs technical and compliance reviews of contamination assessments, sampling and analysis data, risk assessments and cleanup proposals to ensure compliance with applicable cleanup/remediation standards. Public comment is conducted if required. Final approvals are issued by the Division Director.

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

By statute, rule and in accordance with state primacy requirements, the corrective program must be implemented. The Division does not have the discretion to NOT require cleanup or remediation of areas impacted by releases or spills of solid waste, hazardous waste, hazardous constituents, used oil or other regulated contaminants to the environment.

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

N/A. See Item B. The correction action program must be administered by the Division.

- D. Is the service/function available in the Private sector? **No.**
 E. Is the service/function advertised in the Yellow Pages or on the Internet? **No.**
 F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A.**

Service/function #4:

- A. Please describe the service/function so there is a clear understanding of the service and how it operates.
 B. What process does the division use to determine which services /functions will be provided?
 C. Which services have been evaluated in the past 5 years, to determine if the service/function can be provided by commercial/private companies? Please provide information regarding the evaluation conclusion.
 D. Is the service/function available in the Private sector? **Y/N**
 E. Is the service/function advertised in the Yellow Pages or on the Internet? **Y/N**

- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Y/N**