

# AGENDA

## FREE MARKET PROTECTION AND PRIVATIZATION BOARD

**Thursday, April 10, 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 January 9, 2014 – *for consideration* *page 3*
  - b. Legislative Session Update *page 9*
  - c. Privatization Process Review Advisory Committee *page 11*
4. Commercial Activities Inventory
  - a. Board of Pardons and Parole *– no presentation* *page 35*
  - b. Financial Institutions *– no presentation* *page 41*
  - c. State Office of Rehabilitation *– presentation* *page 53*
5. Review Privatization of an Activity
6. Review Issues Concerning Agency Competition with the Private Sector
  - a. Competition Review Advisory Committee Update *page 71*
7. Other/Adjourn

Next board meeting: May 8, 2014, 2:00 PM, Room 20, House Building

Other meetings (advisory committees):

Competition Review – April 24, 2014 @ 10:00 AM, Seagull Room, Senate Building

Privatization Process – April 29, 2014 @ 2:30 PM, Room 240 Capitol Building

DTS Review – TBD

**Meeting Packet Contents**

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

Thursday, January 9, 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, Manuel Torres, Randy Simmons, Bob Myrick, Louenda Downs, and LeGrand Bitter; Thomas Bielen and Al Manbeian participated via telephone.

**Members absent:**

Rep. Lynn Hemingway, Sherrie Hayashi, Kerry Casaday, 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**

Kimberley Jones chaired the meeting. She noted that Randy Simmons was going to arrive late and Sen. Mayne would be leaving early. Tom Bielen and Al Manbeian are participating via telephone.

Sen. Mayne distributed a resolution she has prepared for the legislature. Entitled "Privatization of Government Services Joint Resolution", the resolution recognizes there are appropriate circumstances for privatizing a government service but urges it be done after all other possible delivery options are explored, the public good be identified and outcomes measured, and done transparently. She is seeking comment from board members who may contact her about it. The board did not discuss the resolution.

**2. Public Comment (10 minutes)**

Chairwoman Jones invited members of public to comment.

a. Nate Andelin, President, Relational Data Corporation, again addressed his complaint against the Utah State Office of Education (USOE) respecting student information systems. He reminded the board that he was asked when he presented in November if USOE had erected barriers against competition. He said the USOE board had effectively done that. Noted the dynamics between that board and its staff makes it difficult. He acknowledged that the board intends to review his complaint via advisory committee.

**3. Board Business/Minutes**

**a. Minutes from December 12, 2013**

*Motion:* Manuel Torres moved to approve the minutes of the December 12, 2013 meeting. CARRIED

**b. Advisory Groups or Committees**

Chairwoman Jones noted three advisory committees have been formed and appointed the following persons to them:

- **Privatization Process Advisory Committee:** Brian Gough (chair), Kimberley Jones, Randy Simmons, Rep. Lynn Hemingway, and Chad Whitlock (GOMB). This committee will work to develop the privatization review process, accounting method, and standards, rules, etc. required by state law.
- **Competition Review Advisory Committee:** LeGrand Bitter (chair), Rep. Johnny Anderson, Manuel Torres, and Louenda Downs. This committee will investigate complaints of unfair competition. To date, a review of student information systems at the Utah State Office of Education has been referred by the board.
- **Technology Services Review Advisory Committee:** Thomas Bielen (chair), Sen. Karen Mayne, Sherrie Hayashi, and Steve Fairbanks. This committee will look at the privatization opportunities at the Department of Technology Services, beginning with Application Development. This was previously moved by the board.

Unassigned board members were invited to serve on these or other advisory committees. Staff will contact the chairs to set up meetings.

**c. Request for Proposals (RFP)**

Bob Myrick reported on the results of the RFP issued on behalf of GOMB and the board. On December 17, 2013 four bids were received. After review by an advisory committee of GOMB staff, board members and one Division of Purchasing staffer, a request was made for a best and final offer (BAFO) from the offerors. Evaluation of the proposals is ongoing and the advisory committee has identified a leading candidate it wishes to interview.

*Motion:* Louenda Downs moved to authorize the advisory committee to recommend, pending satisfactory results of an interview, that GOMB award the bid. CARRIED

**d. Annual Report - due January 15, 2014**

The board reviewed the final draft prepared by staff. An earlier draft was previously distributed to the board for review and comment.

*Motion:* Bob Myrick moved to approve and issue the annual report. CARRIED

**3. Commercial Activities Inventory****a. Department of Agriculture and Food (UDAF)**

Kyle Stephens, Robert Hougaard, and Rob Larsen were present to address the board. Deputy Commissioner Stephens advised that the LuAnn Adams was recently appointed as the new Commissioner.

UDAF's eight divisions, 200-plus employees, and \$29 million budget exists to promote healthy growth in and protection of Utah's food supply. The department is guided by 78 administrative rules.

They shared an Organic Program case study concerning inspections. Noted the program had been reviewed for privatization years ago but the industry came to the legislature to keep it in state via UDAF. The case study provided data on the various costs to certify agricultural products as organic. Utah's costs are in line with one private organization and lower than another's. It certifies 61 of the 99 Utah producers.

During questioning, board members heard in response that:

- fees charged by UDAF cover most of the cost for the service but probably not training costs (about \$3,000 each training times three trainings); the state's inspectors have other duties;
- Utah agricultural businesses wanted the state to keep the program here because it trusted UDAF, costs were spent here, and inspectors were local; timeliness was similar to the outside certifiers.

**b. Department of Natural Resources (DNR)**

Dennis Carver, Finance Director, provided an overview of the department. DNR has a \$180 million budget, approximately 1,300 FTEs (which includes a large seasonal workforce), and several divisions. DNR, in practice, looks to see if the private sector does it better or cheaper than it can be done internally. By way of example, DNR noted that the tree nursery in Forestry, Fire and State Lands (FFSL) was privatized many years ago. Mr. Carver added that the Division of Wildlife Resources issues hunting tags and licenses through the private sector and the internet. Watershed Programs (pre-fire suppression projects) rely on private contractors to complete projects. There are concessionaires in every state park. Biological studies of wildlife are done with private partners. Mine closings are done with private contractors.

Fred Hayes, Division of State Parks and Recreation, discussed golf courses. Last year, the division did a request for information that had only one golf course management company respond. Billy Casper Golf's study showed a net loss to the state to have the private sector manage all four of its courses. Wasatch Mountain Golf Course is the only course to stand on its own. The division is trying to negotiate a modified management agreement for the courses that would split net fees. No private sector manager will want to cover debt services for state-owned golf courses.

To a question about private management of all state parks, Mr. Hayes stated that a trial study of two parks resulted in a loss. Commented that Park Rangers also manage OHV (Off Highway Vehicle) programs and perform law enforcement functions. Also noted that the division manages some parks for the US Bureau of Land Management (BLM) and some local entities. Another difficulty arises with a suggestion to sell parks lands (or golf courses) to the private sector in that some properties are encumbered by terms of property grants. Some require the state to operate a site in perpetuity; there is a legal problem created when changing the intended use of a property.

Board members requested a copy of the golf study.

Mr. Hayes noted also that in the OHV program all training is done by private sector.

**c. Department of Public Safety (DPS)**

Jeff Carr, Deputy Commissioner, with Amy Lightfoot and Alice Moffatt, discussed DPS' 11 divisions and 100 services, calling most inherently governmental and mostly of a law enforcement focus.

There have been limited privatization efforts in the department, most successfully where outsourcing was appropriate: Commercial Drivers' Licenses (CDLs), the Motorcycle Safety Program, and Concealed Weapons Permits were mentioned. There are over 200 private CDL examiners in the state, 65 motorcycle safety instructors, and the bulk of CWP holders are trained privately.

Of the six items in the Commercial Activities Inventory submitted that were questioned by the analyst, some fingerprinting functions can and are done privately but those are limited by an inability to access databases with high privacy standards, such as the Utah Criminal History Database. Such limitations leave operators able only to access court records.

**d. Department of Veterans' and Military Affairs (DVA)**

Todd Hansen, Director, talked about the three core services provided by the agency; veterans outreach, nursing homes, and the cemetery. The agency has 15 employees and a \$2.2 million budget. The programs are guided financially by the federal Veterans' Administration (VA). There are private sector competitors for all these services but the VA will pay costs only at state facilities. The state does not have the ability to designate more nursing homes and cemeteries as the VA sets limits based on state population.

**4. Review Privatization of an Activity**

None

**5. Review Issues Concerning Agency Competition with the Private Sector**

**a. Utah System of Higher Education (USHE)**

Commissioner Dave Buhler addressed the board concerning higher education encroaching on the private sector as discussed in Report 2013-05, A Performance Audit of Higher Education's Competition with the Private Sector, from the Office of the Legislative Auditor General.

The Board of Regents oversees eight public universities at low cost to the taxpayer and students. Those institutions actively implement privatization or outsourcing opportunities. He noted that there is a duty to fund the schools, and sometimes that brings competition with the private sector. Commented that there is irony in audit findings: in 2011, USHE was criticized for not raising enough money [see Report 2011-08: A Performance Audit of Higher Education Operating and Maintenance Funding]. USHE has addressed its policies R550 and R555 identified in the audit and will be taking recommendations to the Board of Regents.

During questioning, board members heard in response that:

- USHE policies do result in the creation of monopolies (e.g., food services) on campus but it is a balancing act to seek revenues (e.g., licensing fees) that fund universities' operations;
- Red Zone stores are not in compliance with policies; proposals will satisfy the audit, provide better private sector grievance procedures and encourage competition.

Rep. Anderson encouraged enterprises such as Red Zone to contract with private retailers to accomplish its mission off-campus.

Sen. Stephenson wondered about the culture of higher education, noting “degrees to nowhere” are universities’ profit centers which cover the specialized degrees. Noted premium fees for STEM-related (science, technology, engineering and math) degrees and suggested perhaps funding should focus there.

Discussion also touched on Western Governors’ University (WGU) which is accepted by other states but not included in Utah’s System of Higher Education. Commissioner Buhler noted that WGU does not receive state dollars but students can access PELL Grants.

**6. Other Business/Adjourn**

*Motion:* Bob Myrick moved to adjourn. CARRIED

Scheduled Board meetings:

- Thursday, April 10, 2014 at 2 pm in 20 House Building
- Advisory Committees will be scheduled as needed.



## Bills Affecting the Free Market Protection and Privatization Board (2014 General Session)

### **ADOPTED and SIGNED**

#### **SB 31, State Agency Reporting Amendments, (Osmond), amends UCA 63I-4a-203(h)(iii)**

Revises interim reporting requirement to an annual written report submitted before November 1 to the Government Operations Interim Committee.

Previously the report was oral, had no fixed deadline, and was delivered to two interim committees. There is no change to the annual reporting requirement to the legislature and governor.

#### **SB 86, Legislative per Diem Revision, (Hillyard), amends UCA 63I-4a-202(7)(a), adds (b)**

Clarifies that board members who are also legislators are subject to compensation and expense rules established for legislators; board members who are not legislators may receive per diem and travel expenses as before.

Previously, there had been some confusion as to compensation and reimbursements for legislators who serve also on boards and commissions.

#### **SB 95, Revisors Statute, (Okerlund), amends UCA 63I-4a-202(1)(a)**

Formally changes the name of the board to the Free Market Protection and Privatization Board.

Previously, the board was known as the Privatization Policy Board but HB 94 last year omitted the intended name change.

#### **SB 113, Public Meetings Amendments, (Mayne), amends the *Open and Public Meetings Act***

Requires specified bodies that include in their membership a legislator appointed to that body to provide public notice of meetings the body holds on the capitol hill complex.

We already do this for board and advisory committee meetings.

**SB 169, Public Meetings Materials Requirements, (Henderson),** amends the *Open and Public Meetings Act*

Requires certain public bodies to require an individual who publicly presents or provides electronic information at an open meeting of the public body to provide an electronic or hard copy of the electronic information at the time of the meeting.

**FILED**

**HB 91, Open and Public Meetings Act Revisions, (Poulson),** amends the *Open and Public Meetings Act*

Requires a public body whose membership includes a legislator appointed by the Speaker of the House or President of the Senate to post notice of its meetings on the Legislature's website.

It should be noted that this bill does not include the board as UCA 63I-4a-202(1)(b) states the governor appoints two member from each house "as recommended" by the Speaker or the President.

**HB 145, Privatization of State Golf Course Operations, (Christofferson),** enacts UCA 63A-2-106

Requires Purchasing and State Parks and Recreation to engage in a process to outsource operations of state-owned golf courses. Requires the latter to report monthly to the board on the process until a contract is signed and then annually thereafter. Carries a \$45,000 Fiscal Note affecting the division.

**SJR 5, Privatization of Government Services, (Mayne),**

Recognizes the value of privatization of government services in some circumstances and urges that decisions to privatize be conducted only after thorough and careful review to ensure that privatization is in the public's best interest.

HB House Bill  
 SB Senate Bill  
 HJR House Joint Resolution  
 SJR Senate Joint Resolution  
 (Sponsor)

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

Tuesday, March 26, 2014, 2:00 PM  
Room 240, Capitol Building  
State Capitol Complex

**Present:**

Brian Gough (Chair), Rep. Lynn Hemingway, Kim Jones, and Russ Anderson

**Absent:**

Randy Simmons, 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 first meeting of this advisory committee to order. Randy Simmons was excused.

Board members and guests from Sequoia Consulting Group introduced themselves.

**2. Board Business/Minutes**

**3. Sequoia Consulting Group - Ken Murray and Anita White**

Using a PowerPoint presentation to kick off the project, Dr. Ken Murray and Anita White talked the advisory committee members through an overview of the project for which they have been hired - to assist the board in developing a workable privatization process to identify and evaluate privatization opportunities. Dr. Murray and Ms. White inquired as to board expectations, discussed various forms of privatization and alternative service delivery, and discussed issues to be addressed, cost analysis, and performance measurement.

Discussion identified a need to avoid political pitfalls, address conflicts, result in action, achieve communication, and result in a road map ahead. Also noted were the lack of results since the board was established years ago along with a recognition that state agencies use more outsourcing and alternative delivery methods than many realize.

The process to be developed will provide a methodology that can be used throughout state government and beyond. Measures for success identified by the members included: understanding a collective clear path, knowing what has been done in other states and how successful those efforts were, finding opportunities despite agency noise, a recognition that the review process will be ongoing and subject to continual process improvement, that performance contracting may result in changing metrics, and a desire to prioritize on "low-hanging fruit".

Dr. Murray noted that the process will be written as a training manual of sorts - to enable the transfer of skills and processes. Either we transfer the skills as personnel and board members change or the state will need to start over or hire consultants to do the analysis required. The consultants intend to create the process as a template or tool. Dr. Murray and Ms. White added that industry standards such as the Institute of Internal Auditors' multiyear risk assessment tool can be used to identify value, the Committee of Sponsoring Organizations have a method to identify risk, and using those, the toolbox will include a matrix of mission criticality relative to performance.

In discussing what's next, advisory committee members were reminded of meetings already scheduled through August. The consultants will participate in those meetings electronically via video or telephone and via WebEx.

The consultants noted they met today with some state officials and are meeting tomorrow with several state agencies to better assess expectations, experience, and expertise in the alternative delivery of services.

Materials are shared on Google Drive with committee members, staff and the consultants.

#### **4. Other/Adjourn**

*Motion:* Kim Jones moved to adjourn. CARRIED

#### Scheduled meetings:

- Tuesday, April 29, 2014 at 2:30 PM in Room 240 Capitol Building
- Tuesday, May 27, 2014 at 2:30 PM in Room 240 Capitol Building
- 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 Privatization Review Process Project Steering Committee Kickoff

March 26, 2014



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# MEETING AGENDA

- **Introductions**
- **Overview of Project (CS)**
- **Steering Committee Expectations (KM)**
- **Privatization and Alternative Service Delivery (AW)**
- **Issues to be Addressed in Privatization (KM)**
- **Cost Analysis (AW)**
- **Performance Contracting (KM)**
- **Next Steps (CS)**
- **Questions and Answers**

# INTRODUCTIONS

## Sequoia Consulting Group

- We are Ken Murray, Anita White, Robin Haley and John Bower—experienced governmental managers and consultants with state and local consulting experience
- We pride ourselves on customer service and effective results
- We have helped clients analyze privatization and other alternative service delivery options
- We combine detailed skill sets (cost analytics, privatization expertise) with an understanding of the ways to ensure effective implementation (change management and process improvement)

*But, we are most interested in who you are . . .*



# OVERVIEW OF PROJECT

- Design and implement a privatization review process: outlines ways and means to identify potential opportunities and to value them quantitatively
- Design and implement an accounting method
- Draft privatization standards, procedures and requirements
- Test and evaluate the process (optional)

Project Tasks		Week of:																									
		3-Mar	10-Mar	17-Mar	24-Mar	31-Mar	7-Apr	14-Apr	21-Apr	28-Apr	5-May	12-May	19-May	26-May	2-Jun	9-Jun	16-Jun	23-Jun	30-Jun	7-Jul	14-Jul	21-Jul	28-Jul	4-Aug	11-Aug	18-Aug	
	Start and Manage Project	M			R		R			M		R		M		R			M			R					M
	Gain Understanding of State Services																										
1	Identify Relevant Factors for Decision Process						C	C	D1																		
2	Design and Implement Board Accounting Method						C	C	D2																		
3	Develop Standards/ Procedures / Requirements										C	C	D3														
4	Draft an Administrative Rule													This task will be performed by the State													
5	Test and Evaluate the Process (State Option)									Assist in identification of, and planning for, potential pilot projects								E		E		E		E		D5	

# STEERING COMMITTEE EXPECTATIONS

- **It is important to the success of any project, particularly one so visible as this, that we clearly understand your expectations.**
  - **What are your measures of success?**
  - **Once completed, how will you know that this project has been successful?**



# STEERING COMMITTEE EXPECTATIONS

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# PRIVATIZATION AND ALTERNATIVE SERVICE DELIVERY

- **Shifting aspects of service delivery to the private sector—profit or non-profit**
- **May include aspects of a service (fleet maintenance versus paint and body work only)**
- **Types of privatization might include:**
  - **Contracting, out-sourcing, managed competition**
  - **Use of vouchers**
  - **Shedding services or physical assets**
  - **Public-private partnerships**
  - **Vouchers**
  - **Shared services**
  - **Generally, any alternative service delivery strategy**
  - **Restructuring service costs/revenues to achieve better cost structure and higher service quality**



# PRIVATIZATION AND ALTERNATIVE SERVICE DELIVERY

- **Advantages of privatization vary based on the type of privatization or alternative delivery:**
  - **As-needed access to expertise, instead of paying full-time for that expertise**
  - **Competition may result in lower cost and/or better service quality**
  - **Government might avoid some risks such as cost overruns, strikes and service delays**
  - **Competition might spur innovation**
  - **Provides a way to meet peak demands without staffing and equipping for such peaks**
  - **Might result in better timeliness for services**
- **Need to recognize the difference between requiring that someone has to do something and that the law assigns responsibility for the action to be taken**



# ISSUES TO BE ADDRESSED IN PRIVATIZATION

- **Many different issues have to be addressed satisfactorily for privatization, or other alternative delivery, to be successful. Some of these are:**

Core State Service	Risks incurred if non-performance	Number of employees involved
Core Departmental Service	Ability to transfer liability to vendor	Potential impact on employees
Availability of vendors	Fixed costs in providing service	Vendor hiring of employees
Strategy for replacing non-performing vendor	Variable costs in providing service	Alternative work assignments for employees
Specialized requirements of vendor	Amount of government cost that can be saved or redirected	Adjusting standard terms and conditions to enable managed competition
Level of political support	Amount of government cost that would be retained	Unmet maintenance problems or unique equipment requirements
Level of public support	Difficulty in creating a performance contract	Access to confidential information
Successful privatization in other governments	Difficulty in managing a performance contract	Mission criticality
Rewards and penalties	Cost of contract development	Perceived current performance
Legal barriers	Cost of contract management	Contract management capability
Ability to overcome legal barriers	Integration of contract with other service delivery	Cross departmental service delivery
Quantifiable, verifiable performance measures	Cost of implementing contract	Exit strategy

# COST ANALYSIS

- **Accounting System—Is That Cost Analysis?**
- **Our approach will include:**
  - Careful definition of services
  - Identification of all direct and indirect costs associated with each service (salaries, fringes, operating costs, capital costs)
  - Consideration of specialized circumstances, such as Federal rules and regulations
  - Determination of fixed and variable costs (sometimes called avoidable costs)
  - Method for carefully assessing all elements of short-term costing, financing, and funding—for example, if a service had been fee-funded, contracting that service could result in the loss of revenues
  - There are sometimes costs associated with privatizing a service, if State employees are not used—termination pay
  - Does this approach need to be included in your accounting system—or is this a specialized financial analysis?



# PERFORMANCE CONTRACTING

- **Ultimately, the successful privatization of a public service depends on clearly established standards of performance and an effective monitoring system**
- **Two elements involved:**
  - Performance contracting
  - Performance auditing
- **Performance contracting is the establishment in advance of measurable, objective standards of performance, acceptable levels of variance, and method for government approval**
- **Performance auditing is the independent validation and verification of contractor performance, usually conducted by either an Internal Auditor or Quality Assurance Unit**



# PERFORMANCE CONTRACTING

- **The Aberdeen Group, a leading private sector performance assessment organization, has worked with several federal agencies to develop a standard format for a performance contract**
- **The following page shows a simplified example of a performance contract.**



# PERFORMANCE CONTRACTING -- EXAMPLE

## TASK 1: HIGHWAY GUARD RAILS WORK STEPS

**TASK DESCRIPTION:** Replace highway guardrails in a timely fashion

Work Step	Performance Objective	Performance Standard	Performance Threshold	Client Acceptance
1	Install or replace critical need rails	<ul style="list-style-type: none"> <li>90% of critical rails installed within 24 hours of notification each month</li> <li>95% of critical rails installed with 48 hours of notification each month</li> </ul>	<ul style="list-style-type: none"> <li>Achieving first standard will result in payment of 90% of contract amount.</li> <li>Achieving second standard without achieving the first standard will result in payment of 85%</li> </ul>	<ul style="list-style-type: none"> <li>Field engineer review and approval of work</li> <li>Internal audit review every two years</li> </ul>
2	Install guard rails according to standards set by FHWA and State of Utah	<ul style="list-style-type: none"> <li>100% of installations will meet regulated standards</li> </ul>	<ul style="list-style-type: none"> <li>Achieving standard will result in full payment</li> <li>Any failure will be penalized by 5% of the cost of installation and vendor will be required to reinstall the rail at vendor's cost</li> </ul>	<ul style="list-style-type: none"> <li>Field engineer review and approval of work</li> </ul>



## NEXT STEPS – FIRST PROJECT PHASE

- **Conduct interviews with key State staff**
  - Identify issues and concerns
  - Understand current approaches
  - Understand State's service mix
  - Understand current cost methodology used by State
- **Draft and review privatization assessment methodology**
- **Draft and review cost methodology**
- **Finalize assessment and cost methodology**



# NEXT STEPS – SUBSEQUENT PHASES

- **Phase Two:**
  - **Draft privatization standards, procedures and requirements**
  - **Assist in selection of pilot project(s)**
- **Phase Three:**
  - **Monitor performance of pilot projects**
  - **Recommend revisions**
  - **Prepare revised standards, procedures and requirements as necessary**



# QUESTIONS AND ANSWERS

- **Questions and Answers**

Our colleagues at Sequoia Consulting Group and we thank you for this opportunity to serve the State of Utah. We look forward to working with you.

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Director of Operations Consulting

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303-917-9812



## **ATTACHMENT B: DETAILED SCOPE OF WORK**

The scope of work is based on the Free Market Protection and Privatization Board's ("board") duties and requirements as outlined in the *Free Market Protection and Privatization Board Act* (UCA 63I-4a) and the *Utah Administrative Rulemaking Act* (UCA 63G-3). These can be accessed at <http://le.utah.gov/UtahCode/section.jsp?code=63I-4a> and <http://le.utah.gov/UtahCode/section.jsp?code=63G-3>.

### **A. Services or work to be performed**

#### *1. Design and implement a privatization review process*

Contractor, in cooperation with the board or its designee(s), will design and implement a privatization review process that:

- a. outlines ways and means to identify potential opportunities and to value them quantitatively;
- b. identifies and assesses qualitative factors to be considered;
- c. is streamlined, transparent, sustainable, structured but flexible, rigorous, and manages risk; and
- d. can be managed with the board's limited resources, including the Governor's Office of Management and Budget ("GOMB").

This process will be used to evaluate potential opportunities, review complaints of unfair government competition, or drill down on activities listed in the inventory required by UCA 63I-3a-402.

#### *2. Design and implement an accounting method*

Contractor, in cooperation with the board or its designee(s), will design and implement an accounting method as required by UCA 63I-4a-205. The accounting method should also provide for income analysis to determine feasibility and viability.

#### *3. Draft privatization standards, procedures and requirements*

Contractor, in cooperation with the board or its designee(s), will draft privatization standards, procedures and requirements, per UCA 63I-4a-203(1)(e), to be used

in privatizing government services; include analytical tools, evaluation methodologies, approval processes, and controls.

4. ~~Draft an administrative rule~~ (To be performed by the State)

~~Draft an administrative rule, consistent with the rule making procedure outlined in UCA 63G-3-301, to:~~

- ~~a. implement the accounting method as required by UCA 63I-4a-205; and~~
- ~~b. establish privatization standards, procedures, and requirements per UCA 63I-4a-203(1)(e).~~

~~(GOMB will file the proposed rule and conduct it through the state's administrative rule process.)~~

5. *Test and evaluate the process* (State option)

Using the process developed under this contract, the board or its designee(s), with cooperation of and guidance from the Contractor, will prepare a case study of an activity selected by the board from opportunities identified by the process; the Contractor will evaluate the process and make recommendations as appropriate.

**B. Timeline for completion of service or work**

The timeline for completion of service or work shall commence with the signing of the contract and the work shall be completed within the number of days indicated in parentheses below:

1. *Design and implement a privatization review process* (60 days)
2. *Design and implement an accounting method* (60 days)
3. *Draft privatization standards, procedures and requirements* (90 days)
4. ~~*Draft an administrative rule*~~ (120 days)
5. *Test and evaluate the process* (180 days)

Presentation(s) to the board of the completed work product should be no later than the next board meeting (usually the second Thursday of each month) following the end of each of the timelines above.

### Project Schedule

Project Tasks		Week of:																								
		3-Mar	10-Mar	17-Mar	24-Mar	31-Mar	7-Apr	14-Apr	21-Apr	28-Apr	5-May	12-May	19-May	26-May	2-Jun	9-Jun	16-Jun	23-Jun	30-Jun	7-Jul	14-Jul	21-Jul	28-Jul	4-Aug	11-Aug	18-Aug
	Start and Manage Project	M			R		R			M		R		M		R			M			R			M	
	Gain Understanding of State Services																									
1	Identify Relevant Factors for Decision Process						C	C	D1																	
2	Design and Implement Board Accounting Method						C	C	D2																	
3	Develop Standards/ Procedures / Requirements										C	C	D3													
4	Draft an Administrative Rule													This task will be performed by the State												
5	Test and Evaluate the Process (State Option)								Assist in identification of, and planning for, potential pilot projects								E		E		E		E		D5	
Project Days		7	14	21	28	35	42	49	56	63	70	77	84	91	98	105	112	119	126	133	140	147	154	161	168	175

#### Legend

- M Meeting with State's project leadership
- R Project status report
- C Submission of draft material for State review
- E Evaluation review
- D1 Deliverable: Recommended review process
- D2 Deliverable: Accounting methodology
- D3 Deliverable: Standards, procedures, and requirements
- D5: Deliverable: Project evaluation and summary report

### **C. How or where services or work is to be performed**

Generally, the work is to be performed at the contractor's usual place of business and work product may be transmitted electronically to GOMB. To avoid unnecessary travel, time and expense, meetings requiring face time with board staff or other state employees may be accomplished via video conference.

The State does not wish to incur unnecessary costs for travel by the contractor. Therefore, non-local travel should be limited to presentation(s) before the board or as approved by GOMB.

Contractor and state will share documents using Google Drive or other mutually agreeable method. Contractor is responsible for hosting conference calls or video conferences.

#### **D. Payments for service or work**

Payments for services or work to be performed (see A above) will be paid *after presentations of the completed work or service to the board are made* consistent with the projected timeline listed in B above.

The maximum amounts to be paid are:

1. *Design and implement a privatization review process (60 days) - \$15,660.00*

A progress payment of up to \$4,000 may be paid after 30 days, upon receipt of progress documentation from Contractor.

2. *Design and implement an accounting method (60 days) - \$12,880.00*

A progress payment of up to \$3,000 may be paid after 30 days, upon receipt of progress documentation from Contractor.

3. *Draft privatization standards, procedures and requirements (90 days) - \$19,880.00*

A progress payment of up to \$4,000 may be paid after 60 days, upon receipt of progress documentation from Contractor.

4. ~~*Draft an administrative rule (120 days)*~~

5. *Test and evaluate the process (180 days) – \$10,240.00*

The total costs of this project: \$58,660.00.

#### **E. Detailed Work Plan**

Services or work to be performed will be consistent with the Detailed Work Plan submitted December 17, 2013 by the Contractor for Bid MP14019 and as modified by Contractor's Best and Final Offer submitted January 8, 2014.

Contractor acknowledges that the State's staff person assigned to the project team to assist with the work while learning the privatization review system has other duties in addition to this project and will participate as his workload allows.

## **F. Key Contacts**

For the State of Utah:

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Governor's Office of Management and Budget  
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For the Contractor:

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Sequoia Consulting Group  
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<b>Commercial Services Inventory[1]</b>
-----------------------------------------

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.

<b>Board of Pardons &amp; Paroles</b>
---------------------------------------

Services	Commercial	Inherently governmental	Already Privatized	Further Study Required	Privatization Study Recommended
Pardons		X			
Paroles		X			

<b>State of Utah Board of Pardons and Parole: 1/26/2010</b>	
<b>Parole and Pardons: these services have not be evaluated for Privatization</b>	
Parole: This service is to evaluate who have violated parole and must return to prison.	
The process for determining this service is outlined by Constitution and state statute.	
1. Private Industry Competition? Y/N	N
2. In Yellow Pages? Y/N	N
3. More than one competitor? Y/N	N/A
<b>Analyst Recommends Further Review</b>	
N	
<b>Pardons: this service is to decide who gets out of jail, and on what terms and conditions.</b>	
The process for determining this service is outlined by Constitution and state statute.	
1. Private Industry Competition? Y/N	N
2. In Yellow Pages? Y/N	N
3. More than one competitor? Y/N	N/A
<b>Analyst Recommends Further Review</b>	
N	

# Organization Chart (As of May 2012)



Board Member	Hearing Services	Support Services	Intake Services
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**FREE MARKET PROTECTION AND PRIVATIZATION BOARD****COMMERCIAL ACTIVITIES INVENTORY SURVEY 2013****BOARD OF PARDONS AND PAROLE****DIVISION: Board of Pardons and Parole****CONTACT: Greg Johnson****CONTACT PHONE: 801-261-6454****CONTACT EMAIL: Gregjohnson@utah.gov****Service/Function: Granting Parole**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The Board has jurisdiction over all inmates sentenced to the Utah State Prison system and makes decisions about the timing and conditions of release. The parole decision is based on information from law enforcement, the courts, corrections and treatment professionals. The Board conducts hearings to take the testimony of offenders and when applicable, victims. The Board determines restitution when it hasn't been determined by the Court.**
- B. What process does the division use to determine which services /functions will be provided? **The Board of Pardons and Parole is created by the Utah Constitution. The Governor, with the consent of the Senate, appoints the Board members. The function of granting parole is determined by statute and rule.**
- 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. **None.**
- 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? **Not Applicable**

**Service/Function: Parole Revocation and Violations**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The Board sets the conditions of release to parole supervision. When a parolee allegedly violates the conditions, the Board decides if a warrant will be issued or if alternative sanctions are appropriate. The Board conducts hearings to determine the truth of the allegation and whether the offender's parole will be revoked.**
- B. What process does the division use to determine which services /functions will be provided? **The process of parole is defined by statute and rule as well as the due process rights afforded to the accused by the Constitution.**

- 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. **None.**
- 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? **Not Applicable**

**Service/Function: Grant a Pardon or Commutation**

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

**A pardon is an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction.**

**Commutation is an act of clemency where the Board, acting under its powers as authorized under the Utah Constitution, may change or reduce the level of an offense or sentence.**

**The Board receives applications and information regarding the person's criminal history, employment history and rehabilitative efforts. The Board conducts a hearing and determines if a pardon will be granted. The Board also conducts commutation hearings.**

- B. What process does the division use to determine which services /functions will be provided?  
**The authority to pardon or commute a sentence is granted by the State's Constitution. The process is set forth by rule.**
- 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.  
**None.**
- 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? **Not Applicable**



**Commercial Services Inventory[1]**

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 Financial Institutions**

<b>Services</b>	<b>Commercial</b>	<b>Inherently governmental</b>	<b>Already Privatized</b>	<b>Further Study Required</b>	<b>Privatization Study Recommended</b>
Primary Purpose		X			
Charters		X			
Regulation		X			
Compliance		X			
Registration		X			
Credit Regulation		X			
Publications		X			

<b>DEPARTMENT OF FINANCIAL INSTITUTIONS</b>		
Board reviews: 04/10/2014		
<b>Primary Purpose: To charter, supervise, regulate and examine persons, firms, corporations, associations and other business entities furnishing financial services.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	Most regulation and supervision functions are conducted in cooperation, or jointly, with the federal agencies (Federal Reserve, Federal Deposit Insurance Corporation and National Credit Union Administration).
<b>Charters: Reviews financial institution applications to be state-chartered.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Regulation: Regulates and supervises state-chartered depository institutions.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	Commercial and private entities are not able to enforce the statutory mandate of regulating and supervising depository institutions
<b>Compliance: Performs on-site examinations and remedial action orders to determine an institution's financial strength or solvency and compliance with federal and state laws and rules.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Registrations: Registers persons or entities that provide financial services to the public.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Credit Regulation: Ensures that credit is extended to consumers on terms that are fair, lawful, and ea</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	

3. More than one competitor? Y/N	N		
<b>Analyst Recommends Further Review</b>	N		
<b>Publications: Publishes an Annual Report of the Commissioner of Financial Institutions and The Financial Institutions Laws and Rules of Utah (code book).</b>			
1. Private Industry Competition? Y/N	N	The code book is available commercially.	
2. In Yellow Pages? Y/N	N		
3. More than one competitor? Y/N	N		
<b>Analyst Recommends Further Review</b>	N		

**FREE MARKET PROTECTION AND PRIVATIZATION BOARD****COMMERCIAL ACTIVITIES INVENTORY SURVEY 2013****UTAH DEPARTMENT OF FINANCIAL INSTITUTIONS****DIVISION: Administration****CONTACT: Michael L. Jones****CONTACT PHONE: 801-538-8836****CONTACT EMAIL: mjones@utah.gov****Service/Function: #1**

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

*The primary "Service/Function" of the Utah Department of Financial Institutions ("UDFI") is to charter, supervise, regulate and examine persons, firms, corporations, associations and other business entities furnishing financial services to the people of the state of Utah.*

*For state-chartered depository institutions (commercial banks, industrial banks & credit unions), the statutory mandate is to charter, regulate/supervise, and safeguard the interest of shareholders, members, and depositors through on-site examinations and remedial action orders.*

*For persons or entities that provide financial services to the public, ( third party payment providers, independent escrow companies, check cashers, payday lenders, title lenders and mortgage loan servicers), the statutory requirement is to register these entities and ensure credit is extended to consumers in the state of Utah on terms that are fair, lawful and easily understood.*

*The primary activity of the UDFI is the examination of supervised depository institutions to determine their financial strength/solvency and compliance with all federal and state laws and rules.*

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

*Review of Utah statutory mandates and written State/Federal Agreements and State/State Agreements.*

*Most regulation and supervision functions are conducted in cooperation, or jointly, with the federal agencies (Federal Reserve, Federal Deposit Insurance Corporation and National Credit Union Administration).*

*Utah and Federal laws require confidentiality of almost all information received or prepared by the UDFI.*

- 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.

*None*

- 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**

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

*The UDFI **charters** state-chartered depository institutions. Prior to establishing a depository institution (e.g.; a commercial bank, a credit union, an industrial bank, or a savings and loan association), the organizers of the entity are required by statute to be authorized by the UDFI to "transact business." To obtain the required authorization, an application that includes all the information required by the UDFI about the source of the proposed original capital and about the identity, personal history, business background and experience, financial condition, and participation in any litigation or administrative proceeding of the organizers, the proposed members of the board of directors, and the principal officers, and any other information required needs to be submitted. Applications are reviewed and, based upon a preponderance of the evidence provided, are either approved or disapproved. In approving an application, the UDFI may establish conditions and other requirements considered necessary to protect depositors and the public; e.g., obtaining federal deposit insurance. Once an application is approved, and all of the conditions are met, an appropriate certificate of authority (a "charter") is issued and the person or entity is authorized to conduct business as a depository institution under the jurisdiction of the UDFI.*

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

*Review of Utah statutory mandates*

- 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.

*Commercial and private entities are not able to enforce the statutory mandate of chartering depository institutions. The UDFI is charged with providing this service/ function for institutions chartered by the State of Utah. The chartering process is evaluated by the UDFI, and other regulatory agencies, on a regular basis.*

- 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**

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

*The UDFI **regulates and supervises** state-chartered depository institutions. This is accomplished through various off-site activities, such as monitoring and analyzing an institution's financial condition; reviewing and approving an institution's request to: (a) exercise authority already granted, (b) expand or discontinue services offered to the public, and/or (c) establish or discontinue branch operations; and researching and appraising an institution's compliance with applicable state and federal statutes and regulations. Regulating and supervising includes receiving applications and requests for regulatory approval, analyzing quarterly corrective action plans, board reports, and financial statements, coordinating supervision with federal regulatory agencies, and meetings with an institution's senior management and directors.*

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

*Review of Utah statutory mandates and written State/Federal Agreements and State/State Agreements.*

- 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.

*Commercial and private entities are not able to enforce the statutory mandate of regulating and supervising depository institutions. The UDFI is charged with providing this service/function for Utah state-chartered institutions. The regulation and supervision process is evaluated by the UDFI, and other regulatory agencies, on a regular basis.*

- 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.

*The UDFI **safeguards the interest of shareholders, members and depositors** of state-chartered depository institutions. This is accomplished through on-site examinations and remedial action orders. This is the primary activity of the UDFI and is used to determine an institution's financial strength/solvency and compliance with federal and state laws and rules. As considered necessary or advisable, every depository institution subject to the jurisdiction of the UDFI is visited and examined. At every examination, a careful inquiry is made as to: (a) the condition and resources of the institution; (b) the mode of conducting and managing of its affairs; (c) the actions of its directors and officers; (d) the investment and disposition of its funds; (e) the security offered to depositors and other customers; (f) whether or not it is violating any provision of law relating to the institution or the business of the institution examined; (g) whether or not it is complying with its articles of incorporation and bylaws; and (h) any other matters considered necessary and appropriate.*

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

*Review of Utah statutory mandates, written State/Federal Agreements, and written State/State Agreements.*

- 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.

*Commercial and private entities are not able to enforce the statutory mandate of safeguarding the interest of shareholders, members, and depositors. The UDFI is charged with providing this service/function for state-charter depository institutions. The UDFI, and other regulatory agencies, evaluate this service/function on a regular basis.*

- 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**

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

*The UDFI **registers** persons or entities that provide financial services to the public. Any person or entity (third party payment provider, independent escrow company, check casher, payday lender, title lender and mortgage loan servicer), wanting to extend credit in the State of Utah must first file basic identification, location, and contact information with the UDFI. Annually, if these persons or entities want to continue providing financial services to the public, they must renew their registration and update the information on file with the UDFI. Identification, location, and contact information is entered into a database and made available for review. Notifications that a person or entity is offering financial services to the public are followed up on, verifying the accuracy of the information provided and ensuring proper registration where necessary.*

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

*Review of Utah statutory mandates.*

- 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.

*Commercial and private entities are not able to enforce the statutory mandate of registering persons or entities providing financial services to the public. The UDFI is charged with providing this service/function in the State of Utah. The registration process is evaluated periodically by the UDFI.*

- 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: #6**

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

*The UDFI ensures credit is extended to consumers in the state of Utah is on terms that are fair, lawful, and easily understood. Written complaints from consumers are forwarded to the appropriate person or entity (third party payment provider, independent escrow company, check casher, payday lender, title lender and mortgage loan servicer) for review and response. When it's determined, based upon the response provided, that credit terms may not be fair, lawful, or easily understood, the UDFI requests that the appropriate person or entity take the action necessary to correct the problem. A written response is provided to the consumer.*

*Examinations of a person or entity providing financial services to the public, those not classified as depository institutions but otherwise subject to the jurisdiction of the UDFI, are of a nature and extent necessary and appropriate to determine whether or not the business is be conducted in accordance with the laws and regulations of the UDFI.*

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

*Review of Utah statutory mandates.*

- 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.

*Commercial and private entities are not able to enforce the statutory mandate of ensuring credit is extended on terms that are fair, lawful, and easily understood. The UDFI is charged with providing this service/function in the State of Utah. An evaluation is performed with each written complaint received.*

- 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: #7**

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

*The UDFI makes available to the public copies of **publications** produced. The public may purchase copies of the Annual Report of the Commissioner of Financial Institutions (Annual Report) and/or copies for The Financial Institutions Laws and Rules of Utah (Code Book) from the UDFI.*

*The Annual Report is prepared for the Governor and the Legislature, as required in statute, and is made available to the public for informational purposes. It is produced internally by the UDFI and published using State Printing. The Annual Report is available to the public. Copies can be obtained from the UDFI's website on the internet or by requesting a printed copy from the UDFI. The electronic version is free. The price of the printed version covers the UDFI's production and shipping costs.*

*The Code Book is produced and published annually by a commercial entity. To keep current on applicable statutes and administrative rules, the UDFI purchases approximately 300 copies of the Code Book from the publisher each year. A copy of the Code Book is given to UDFI employees and each depository institution under the UDFI's jurisdiction. The book is used for reference and research. Copies of the Code Book are available to the public from the commercial publisher. A limited number of the books are available to the public, upon request, at the UDFI's office.*

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

*Review of Utah statutory mandates and internal decisions.*

- 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.

*The Code Book is available commercially. The UDFI purchases its copies of the book commercially. Code Books from the UDFI are offered only as an auxiliary service. The Annual Report is not available from a commercial or private company.*

- 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**



## Commercial Services Inventory[1]

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.

### State Office of Rehabilitation

<i>Services</i>	<i>Commercial</i>	<i>Inherently governmental</i>	<i>Already Privatized</i>	<i>Further Study Required</i>	<i>Privatization Study Recommended</i>
<b>Rehabilitative Services</b>					
Vocational Rehabilitation		X			
Assistive Technology		X			
Independent Living Centers		X			
<b>Services for the Blind and Visually Impaired</b>					
Federal Older Blind Program Services		X			
Vision Screening Utah Children		X			
Business Enterprise Program		X			
Vocational Rehabilitation		X			
Older Blind Specialist/Trainer		X			
Training and Adjustment		X			
<b>Disability Determination Services</b>					
Disability Determination Services		X			
<b>Services for the Deaf and Hard of Hearing</b>					
Certification Testing for American Sign Language Interpreters		X			
Case Management and Counseling	X	X		N	
Training and Adjustment Services		X			
Assistive Technology		X			

<b>State Office of Rehabilitation</b>		
<b>Board reviews 04/10/2014</b>		
<b>Division of Rehabilitative Services</b>		
<b>Vocational Rehabilitation: Provides counseling, guidance and services to enable individuals with disabilities to enter the workforce or to remain in the workforce.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Assistive Technology: Provide assistive technology for individuals with disabilities to increase their independence.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Independent Living Centers: Provide services to individuals with disabilities to increase their independence.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Division of Services for the Blind and Visually Impaired</b>		
<b>Federal Older Blind Program Services and Training: Provide ongoing services to the blind and visually impaired in rural communities to increase independence.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Vision Screening Utah Children: Provides training for school health nurses and volunteers to perform vision screening of pre-school and school aged children up to eight years old.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Business Enterprise Program: Administers the program which provides services such as screening, licensing and training, maintaining contracts, and providing advice and evaluation.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites

3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Vocational Rehabilitation: Provides counseling, guidance and services to enable individuals with disabilities to enter the workforce or to remain in the workforce.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Older Blind Specialist/Trainer: Provide ongoing services to the blind and visually impaired along the Wasatch Front to increase independence.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Training and Adjustment: Offers a set of classes for individuals who are blind or visually impaired to teach them home management skills, cane travel, Braille, shop and home repair, crafts, keyboarding, and adaptive technology. Also provides instructors known as Support Service Providers to teach the same skills to individuals who are deaf and blind.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Only on the DRS/USOR and IL Center websites
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Division of Disability Determination Services</b>		
<b>Disability Determination Services: Processes and adjudicates Social Security Administration disability claims respecting benefits.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	Through SSA and other government websites only.
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Division of Services for the Deaf and Hard of Hearing</b>		
<b>Certification Testing for American Sign Language Interpreters</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	On the DSDHH website only
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	

<b>Case Management and Counseling: Provides case management and counseling services to deaf clients.</b>		
1. Private Industry Competition? Y/N	Y	No private sector services without insurance or funds.
2. In Yellow Pages? Y/N	Y	
3. More than one competitor? Y/N	Y	Yes, if the individual has insurance or sufficient income to pa
<b>Analyst Recommends Further Review</b>	N	Would grants be a viable option?
<b>Training and Adjustment Services: Provides classes, job support services, and socialization activities for deaf individuals.</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	On the DSDHH website only
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	
<b>Assistive Technology: Provide assistive technology for individuals with disabilities to increase their inde</b>		
1. Private Industry Competition? Y/N	N	
2. In Yellow Pages? Y/N	N	On the DSDHH website only
3. More than one competitor? Y/N	N	
<b>Analyst Recommends Further Review</b>	N	

**FREE MARKET PROTECTION AND PRIVATIZATION BOARD****COMMERCIAL ACTIVITIES INVENTORY SURVEY 2013****UTAH STATE OFFICE OF REHABILITATION**

**DIVISION:** Division of Rehabilitation Services (DRS)

**CONTACT:** Kyle J. Walker, Division Director

**CONTACT PHONE:** 801-538-7837

**CONTACT EMAIL:** kjwalker@utah.gov

**Service/Function:**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **DRS provides vocational rehabilitation counseling, guidance, and services that enable eligible individuals to enter or retain gainful employment and maximize independence and self-sufficiency. The division funds the costs of vocational training, placement, physical and mental restoration, assistive technology, and worksite accommodations. This program is funded 78.7% by federal funds through the U.S. Department of Education with the remaining 21.3% funded by the State of Utah. The program is the result of the Rehabilitation Act as amended within the Workforce Investment Act. Our regulations are found in 34 CFR 361.**
- B. What process does the division use to determine which services /functions will be provided? **Individuals applying for services must meet eligibility criteria including the existence of a disabling condition which creates a vocational impediment and a need for services. The initial process is to determine eligibility for the VR program. For those found eligible a comprehensive assessment of rehabilitation needs is conducted by a state licensed Vocational Rehabilitation Counselor. Services are then individualized to meet each eligible client's needs. Services provided must be necessary for the individual to gain employment, must be reasonable, and must be provided at the least possible cost. A search for any comparable benefit or method of payment is conducted. If DRS funds are determined to be the only source available, the VR Counselor determines if the service is necessary, appropriate, and researches least possible cost options. Once a service is approved an Individualized Plan for Employment (IPE) is written between the VR Counselor and the eligible individual which details the vocational goal and services required to achieve the vocational goal. DRS counselors make eligibility determinations, provide assessment, counseling and guidance and write IPEs. Other services necessary for a client to reach their vocational goal may be purchased by DRS for the client from public or private providers. For example, Supported Employment and Supported Job Based Training, (both "Place then Train" job placement models), are currently purchased by DRS from commercial/private companies. In addition, all vocational training and educational programs are purchased by DRS from state and/or private educational institutions. All durable or tangible goods such as occupational tools, work clothing, etc. are purchased by DRS from commercial/private companies.**
- 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.  
**No formal evaluation has taken place as Federal Code requires that funding be allocated to and administered through a Designated State Agency (DSA) (per CFA 361.13) and outlines what obligations belong to the DSA and what services can be purchased through a DSA from outside vendors. Vocational**

rehabilitation counseling, guidance, assessment, career exploration, and disability adjustment and awareness counseling are core services offered by DRS counseling staff which are generally not available from commercial/private companies.

- 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? **Only on the DRS/USOR website**
- 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:**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The DRS receives State funding to purchase assistive technology for individuals with disabilities in order to increase their independence.**
- B. What process does the division use to determine which services /functions will be provided? **Individuals apply for services through statewide Independent Living Centers (ILC). Individuals who meet eligibility criteria work with ILC staff to assess individual needs and write plans which include goals for increased independence. If ILC staff members determine a need for assistive technology and believe the request to be appropriate it is forwarded to DRS for possible purchase.**
- 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.  
**No formal evaluation has taken place. Funding for this program is allocated to DRS by the Utah State Legislature.**
- 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? **Only on the USOR/DRS and IL center websites**
- 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:**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The DRS receives State and Federal funding which is then given to Statewide Independent Living Centers to provide services to individuals with disabilities to increase their independence. Money is allocated to IL Centers according to formula. DRS provides oversight per Federal Regulation to make sure money is spent appropriately following State and Federal guidelines. Independent Living Centers and Independent Living services are authorized by the Federal Rehabilitation Act and must be community based and non-profit.**
- B. What process does the division use to determine which services /functions will be provided? **Individuals apply for services through statewide Independent Living Centers (ILC). Individuals who meet eligibility criteria work with ILC staff to assess individual needs and write plans which include goals for increased independence. These plans include services to be provided. Services might include counseling and guidance, information and referral, training and education, skills training, peer support, advocacy services and assistance purchasing assistive technology items.**
- 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.

**No formal evaluation has taken place. Funding for this program is allocated to DRS by the Utah State Legislature and by the Federal Rehabilitation Services Administration.**

- 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? **Only on the DRS/USOR and IL Center websites**
- F.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A**

**DIVISION:** Division of Services for the Blind and Visually Impaired  
**CONTACT:** William G. Gibson  
**CONTACT PHONE:** 801-323-4345  
**CONTACT EMAIL:** bgibson@utah.gov

**Service/Function:** **Federal Older Blind Program Services and Training**

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

**The function of this program is to provide ongoing services to the blind and visually impaired in rural communities to allow them to increase their independence. Services include home management, orientation and mobility training and cane travel and adaptive technology training, etc. Federal funding for this program comes from the Rehabilitation Services Administration (RSA). Only state agencies which are identified by RSA as a "Designated State Agency" (DSA) to provide Rehabilitation Services can apply to receive this federal grant funding. Services must be provided by certified instructors.**

- H. What process does the division use to determine which services /functions will be provided?  
**Applicants must be visually impaired or blind to receive services. According to federal guidelines only those 55 and older may receive services from this program. Eligible individuals receive a needs assessment and help developing a plan outlining needed services to help them reach individual goals.**
- I. 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.  
**Evaluation has not occurred because of Federal guidelines described above. Services are not available through private companies.**
- J. Is the service/function available in the Private sector? **No**
- K. Is the service/function advertised in the Yellow Pages or on the Internet? **Only on the USOR/DSBVI website**
- L. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **n/a**

**Service/Function:** **Vision Screening/Utah Children**

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

**Under Utah Administrative Rule R384-201 the DSBVI manages the vision screening program for children in the state of Utah. School districts are encouraged to screen preschool and school-aged children through the age of 8. The Division provides training for school health nurses and other volunteers performing the screening. We also collect and evaluate the data and present a report to the Utah State Board of Education. There are special cameras provided for screening of special needs children. The Division encourages volunteer organizations to be involved in screening activities. For example the Lions' Club has accepted vision screening for one of their major projects for 2014.**

- B. What process does the division use to determine which services /functions will be provided?  
**Services are provided as outlined in the Rule listed above.**
- 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.  
**No evaluation has occurred as services are provider per Rule listed above with funding from the Utah State Legislature.**
- 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: Business Enterprise Program (BEP)**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates.  
**The federal BEP program is designed to provide employment opportunities to qualified persons who experience blindness. DSBVI is responsible for the administration of the program in Utah, providing services such as applicant and business screening, training and licensing of new managers, maintaining contracts and agreements for existing facilities, providing follow-up business advice and ongoing evaluation to determine equipment, food and vending needs for facilities. Each business is an owner-operated program and therefore requires the active and continuous involvement of the licensed vendor in the daily operation of the BEP facility. It is the licensed vendor's responsibility to ensure the best quality and delivery of service is met as well as to maintain compliance with all licensing and taxing agencies.**
- B. What process does the division use to determine which services /functions will be provided?  
**Clients interested in the BEP are interviewed and assessed by a Selection Committee. They must be legally blind, at least 18 years of age, in good physical and mental health and they must pass a criminal background check and a credit check. If they are chosen to participate in the BEP training program, they will train both in a classroom setting and with a licensed BEP manager on location for 6 months, learning all aspects of operating a small business. Ongoing monitoring and assistance varies based on the needs of the vendor and/or facility.**
- 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.  
**None - The program is administered based on 34 CFR 395 which includes that only the State Licensing Agency has legal authority to administer the program; and only the State vocational rehabilitation agency may submit an application for designation as the State Licensing Agency for this program.**
- 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? **Only on the USOR/DSBVI website**

- 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: Vocational Rehabilitation Program**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The Vocational Rehabilitation Program within DSBVI provides vocational rehabilitation counseling, guidance, and services that enable eligible individuals to enter or retain gainful employment and maximize independence and self-sufficiency. The program within DSBVI provides these services specifically to individuals who are blind or visually impaired as compared to the DRS program which serves individuals with all types of disabilities described on another survey. Services provided include specialized counseling and guidance, training and adjustment services related to vision loss, vocational training, job placement services, physical and mental restoration, assistive technology, and worksite accommodations. The funding structure for Vocational Rehabilitation is also discussed in another survey.**
- B. What process does the division use to determine which services /functions will be provided? **Individuals applying for services must meet eligibility criteria including the existence of a disabling condition (in this case blindness or visual impairment) which creates a vocational impediment and a need for services. After eligibility is determined a comprehensive assessment of rehabilitation needs is conducted by a state licensed Vocational Rehabilitation Counselor. Services are then individualized to meet each eligible client's needs. A search for any comparable benefit or method of payment is conducted. If DRS funds are determined to be the only source available, the VR Counselor determines if the service is necessary, appropriate, and researches least possible cost options. Once a service is approved an Individualized Plan for Employment (IPE) is written between the VR Counselor and the eligible individual which details the vocational goal and services required to achieve the vocational goal. The DSBVI counselors make eligibility determinations, provide assessment, counseling and guidance and write IPEs. The DSBVI employs an Assistive Technology Specialist to work directly with Vocational Rehabilitation clients to demonstrate, recommend, and provide basic training in both individual job and educational settings. This position also works directly with potential employers, educational disability resource centers, independent living centers, and the Utah Schools for the Deaf and Blind to provide technology demonstrations and training wherever needed. The DSBVI also employs job placement specialists to provide services such as job coaching, job development, employer relations, and employer training. Other services necessary for a client to reach their vocational goal may be purchased by DSBVI counselors for the client from public or private providers. For example some vocational training and educational programs are purchased by the DSBVI from state and/or private educational institutions and all durable or tangible goods such as assistive technology items are purchased by DSBVI from commercial/private companies.**
- 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. **No formal evaluation has taken place as Federal Code requires that funding be allocated to and administered through a Designated State Agency (DSA) (per CFA 361.13) and outlines what obligations belong to the DSA and what services can be purchased through a DSA from outside vendors. Vocational rehabilitation counseling, guidance, assessment, career exploration, and disability adjustment and awareness counseling specifically designed for individuals who are blind and visually impaired are services offered by the DSBVI counseling staff which are generally not available from commercial/private companies.**
- 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? **Only on the USOR/DSBVI website**

- 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: Older Blind Specialist/Trainer**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates. **The function of this program is to provide ongoing services to the blind and visually impaired to allow them to increase their independence. Services include home management, orientation and mobility training and cane travel and adaptive technology training. Unlike the Federal Older Blind Program described earlier this program is funded by the Utah State Legislature and is designed to provide services to individuals along the Wasatch Front. Services delivered through this program must also be provided by certified instructors.**
- B. What process does the division use to determine which services /functions will be provided? **Applicants must be visually impaired or blind to receive services. According to federal guidelines only those 55 and older may receive services. Eligible individuals receive a needs assessment and help developing a plan outlining needed services to help them reach individual goals.**
- 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.  
**None. Services are provided through funding from the Utah State Legislature and there are no specific services for Senior Blind (over 55) available across the state of Utah through the private sector.**
- 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? **Only on the USOR/DSBVI website**
- 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: Training and Adjustment**

- A. Please describe the service/function so there is a clear understanding of the service and how it operates.  
**This program offers a set of classes for individuals who are blind or visually impaired to teach them home management skills, cane travel, Braille, shop and home repair, crafts, keyboarding, and adaptive technology. DSBVI also provides instructors known as Support Service Providers (SSPs) to teach these same skills to individuals who are deaf and blind. SSPs are specially trained to meet the unique needs this group of people who have both loss of sight and audible functioning. This program is administered with funding provided by the Utah State Legislature**
- B. What process does the division use to determine which services /functions will be provided? **Individuals must meet the definition of blind or visually impaired as outlined in Utah State Law to receive services. Individuals must also meet the definition of deaf in order to receive**

**services from a SSP. Eligible individuals then receive a needs assessment to determine what individual services are appropriate to meet their needs.**

- 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.  
**No evaluation has been conducted. In the state of Utah no private company provides these comprehensive and interconnected services.**
- D. Is the service/function available in the Private sector? **N**
- E. Is the service/function advertised in the Yellow Pages or on the Internet? **Only on the USOR DSBVI website**
- F. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **n/a**

**DIVISION: Disability Determination Services****CONTACT: Paul Clingo, Administrator****CONTACT PHONE: 801-321-6501****CONTACT EMAIL: Paul.Clingo@ssa.gov****Service/Function:**

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

**The Disability Determination Services (DDS) is a fully federally funded program that adjudicates all Social Security Administration (SSA) disability claims including Title II and Title XVI claims. The DDS adjudicates all levels of claims, including initial applications, reconsiderations, Continuing Disability Reviews (CDR), and conducts CDR hearings. Additionally, the DDS has a federally funded fraud unit (CDI) that works with both the Office of Inspector General and the State Attorney General's office.**

**The basic process is a claimant files for SSA disability benefits at a Federal SSA Field Office. The claim then transferred to the DDS where the case is receipted in and assigned to a DDS claims examiner. The examiner develops the claim by requesting medical information from hospitals and medical providers, and obtaining other collateral information such as daily activities, educational and vocational history. If there is insufficient information to make a decision, a consultative examination (CE) is scheduled. After the CE report is obtained, the claim is then reviewed by both the examiner and an in-house medical consultant(s) depending upon the type of claim (child, adult) and the claimant allegations (mental/ physical). The in-house medical consultants range from mental and physical specialty medical consultants and pediatricians. When the medical rating is obtained, the examiner then uses a SSA directive Sequential Evaluation Process to determine if the claimant meets the SSA qualifications for disability benefits. This Sequential Evaluation process is rather extensive. However, the basic steps are to analyze the mental and physical severity, working abilities, age, and education mix to reach SSA rules and regulations. After the decision is made, the claim is then sent to SSA for Quality Assurance reviews of the decision and then normally returned to the SSA field offices.**

**If the initial claim is denied, the claimant can then file for a reconsideration claim and the process begins over with a new set of examiner and medical consultants making the final decision.**

**If during any stage of any of the above types of claims, there becomes a question of possible fraud, the claim is investigated by the CDI unit which includes one DDS examiner, two Attorney General Investigators and one Office of Inspector General Special Agent.**

- B. What process does the division use to determine which services /functions will be provided?  
**SSA program determines the functions of the processes involved. The disability process is determined by Federal Rules and Regulations established by Congress. The DDS operates by through a publication called the Program Operations Manual System (POMS) which is frequently changed and updated.**

- 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.

**The Social Security Administration uses state agencies to perform the tasks related to disability determination. It is unknown if the SSA has or would consider privatization of this service.**

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

**DIVISION: Division for the Deaf and Hard of Hearing (DSDHH)****CONTACT: Marilyn Call, Division Director DSDHH****CONTACT PHONE: 801-971-3047****CONTACT EMAIL: mccall@utah.gov****Service/Function:**

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

**The DSDHH provides Certification Testing for American Sign Language (ASL) Interpreters in Utah as required by Utah Law 53A. Money for this service is allocated to the DSDHH by the Utah State Legislature.**

- H. What process does the division use to determine which services /functions will be provided?  
**A Certification Board and task force decided the functions of the testing process and description of services under the direction of the State Board of Education. Individuals who wish to become certified apply for testing through the DSDHH.**

- I. 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.

**These services have not been evaluated during the past five years for privatization**

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

- K. Is the service/function advertised in the Yellow Pages or on the Internet? **On the DSDHH website only**

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

**Service/Function:**

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

**DSDHH receives funding from the Utah State Legislature to provide case management and counseling services to Deaf individuals. Counseling is only available to for Deaf clients who use ASL and do not have health insurance or Medicaid/Medicare.**

- H. What process does the division use to determine which services /functions will be provided?  
**Counseling services are only available to for Deaf clients who use ASL and do not have any health insurance including Medicaid or Medicare. DSDHH uses Strategic planning, surveys, and individual needs assessments based on requests for assistance by Deaf individuals to determine appropriate services for eligible individuals.**

- I. 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.

**These services have not been evaluated during the past 5 years for privatization. However traditionally these social services provided for low function, low income deaf people have not been attractive to private counselors because there would be no third party payment for services.**

- J. Is the service/function available in the Private sector?  
**Counseling is available for Deaf people with insurance in the community private sector but not for those without insurance like the individuals served by DSDHH. Case management services are not available elsewhere. Case management is not an insurance reimbursable service.**
- K. Is the service/function advertised in the Yellow Pages or on the Internet? **Yes**
- L. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **Yes if individuals have insurance or income to pay, see above**

**Service/Function:**

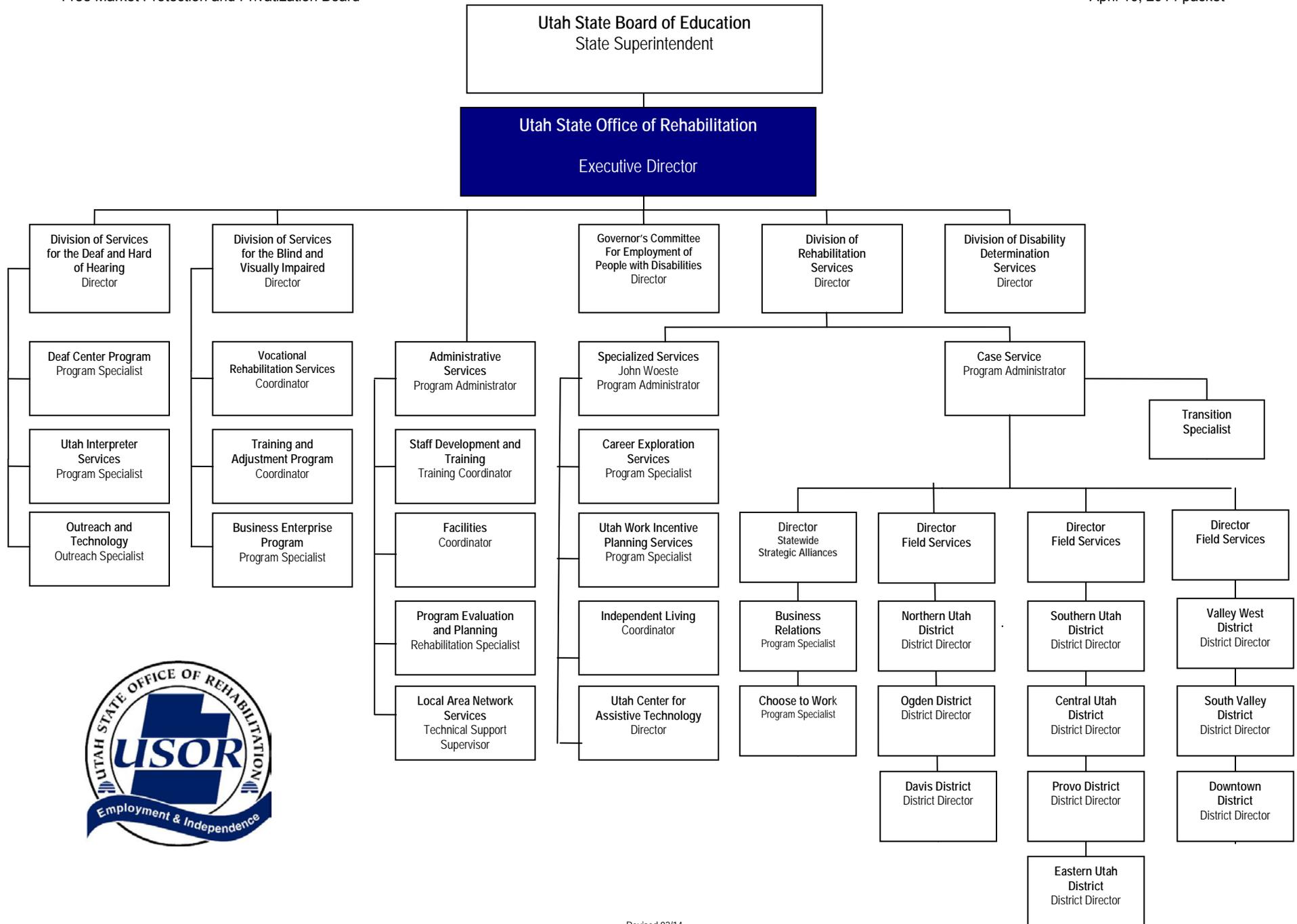
- G. Please describe the service/function so there is a clear understanding of the service and how it operates.  
**DSDHH provides training and adjustment services to the Deaf and severely hard of hearing adults. These services include classes, job support services, and socialization activities as well as one on one training, advocacy and networking with clients to other available services. DSDHH receives money from the Utah State Legislature to carry out these activities.**
- H. What process does the division use to determine which services /functions will be provided?  
**DSDHH uses strategic planning, surveys, and an assessment of access fairness to services to decide what types of services to provide. Individual needs assessments which consider client requests are used to determine one on one services.**
- I. 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.  
**These services have not been evaluated during the past 5 years, for privatization. These social services provided for low function, low income deaf people are traditionally not attractive to private counselors because there would be no payment for services.**
- J. Is the service/function available in the Private sector? **No**
- K. Is the service/function advertised in the Yellow Pages or on the Internet? **On the DSDHH website only**
- L. If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A**

**Service/Function:**

- G. Please describe the service/function so there is a clear understanding of the service and how it operates.  
**DSDHH has assistive technology demonstration labs which provide loaned equipment and training. DSDHH has specialized technology labs in Salt Lake City and St. George and limited**

**part time staff in rural areas. Available technology is specific to hearing disabilities such as flashing doorbells, flashing fire alarms, baby cry alert systems that flash, as well as amplified phones, captioned phones and a large variety of assisted listening systems for hard of hearing individuals. People with hearing loss can try a variety of devices before they buy to help them decide what works best. DSDHH does not sell devices but staff does provide clients with information about internet resources where they can purchase assistive technology. Funding for the labs is provided by the Utah State Legislature.**

- H.** What process does the division use to determine which services /functions will be provided? **DSDHH uses surveys, community needs assessments and client requests to determine the types of equipment to purchase and training to provide.**
- I.** 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.  
**These services have not been evaluated during the past 5 years for privatization.**
- J.** Is the service/function available in the Private sector? **No**
- K.** Is the service/function advertised in the Yellow Pages or on the Internet? **On the DSDHH/USOR website only**
- L.** If the service/function is available in the Private Sector, is there more than one competitor within the Private Sector? **N/A**



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

Wednesday, February 19, 2014  
Room 240, Capitol Building  
State Capitol Complex

**Members present:**

LeGrand Bitter (Chair), Rep. Johnny Anderson, Manuel Torres, and Louenda Downs

**Members absent:**

None

**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**

LeGrand Bitter called the meeting to order, noting all were present save Rep. Anderson [who arrived during the first presentation].

**2. Board Business/Minutes**

**a. Purpose of the advisory committee**

This committee will investigate complaints of unfair competition. A review of student information systems at the Utah State Office of Education has been referred by the board.

Cliff Strachan discussed the time frame and process for the committee, noting that the committee is advisory only, and that it will report to the board which can then forward recommendations to the governor, the legislature and the agency involved. There is sufficient time to conduct a review, make recommendations, and for either the governor, the legislature or the agency to act before or in time for the next legislative session. He opined that he thought the committee can complete the current project by summer.

Being the first meeting of this advisory committee there are no minutes to review.

**3. Review Issues Concerning Agency Competition with the Private Sector**

**a. Nathan Andelin and Kendall Andelin, Relational Data**

Messrs. Andelin owns Relational Data, a small software company which products is intended for use by charter schools, currently used by one school in Utah - Legacy Preparatory Academy. Having previously presented to the board, the Andelins want the committee to focus on the Privatization Proposal Summary given to the board at the November 14, 2013 meeting and a Request that USOE Stop Engaging in Unfair Trade Practices dated January 22, 2014. The documents outline the issues and ask for specific results.

Quoting the *Utah Antitrust Act* (UCA 76-10-3102), the Andelins take the position that the Utah State Office of Education (USOE) is unlawfully promoting its services and products in a monopolistic way. USOE cannot appropriately conduct arms length transactions because it competes in same areas. Calling USOE a taxpayer funded business (in regard to student information systems) they feel private sector companies are being “muscle out”.

In discussion with the committee, the committee heard that SIS2000+ has been rebranded as Aspire. In trying to compete in the area of student information systems (SIS), some Local Education Authorities (LEAs) and some USOE staff have commented “how can you compete with free?”. The Andelins charge that USOE “vigorously promotes their products” even supplying to LEAs a marketing tool showing how SIS2000+ compares to PowerSchool and Skyward. Claims that the document is not a comprehensive list of SIS features but which favorably highlights SIS2000+’s features. Alleged that if an LEA is already using SIS2000+ and looks to change, an inference is made that the LEAs funding can be challenged.

With reference to unfair competition, Board of Education rules have been “fomented” by Judy Park and Jerry Winkler (of USOE) to give them power to grant approvals. Mr. Andelin feels that they make it hard for new vendors to enter the market. Another requirement to have a three-month parallel processing requirement (i.e., run two systems) to evaluate and validate new software is difficult and costly for LEAs.

The Andelins admitted they have been approved but later rules have made it more difficult, called it “USOE IT [Information Technology] is protecting their turf”, and asked that barrier raising rules be removed.

A brief discussion of the history of SIS in education ensued but it was noted that USOE had provided a simple history in their documents. Respecting computer services in the annual budget, most legislators and others don’t know about SIS costs.

Another discussion ensued on how and what the questions are respecting SIS development and provision to LEAs and how to address issues of competitiveness.

**b. Judy Park and Jerry Winkler, Utah State Office of Education**

Judy Park, Associate Superintendent, and Jerry Winkler, IT Director, presented. Ms. Park declared that the role of the Utah State Office of Education (USOE) is to follow state and federal laws - requirements that are always evolving. USOE is responsible for data collection, record keeping, storage of records, etc. related to students and schools in Utah.

Its programs are funded by taxpayers but many programs are spend on smaller LEAs than the larger, especially where there are fewer resources and the agency can fill a need. USOE works with eight other entities (Relational Data is one) to provide SIS services to Utah’s LEAs. USOE welcomes opportunities to improve processes and products but they and LEAs must always comply with federal and state laws.

Mr. Winkler noted the history of SISs in Utah dates to 1967 and he reviewed the document titled Student Information Systems (SIS) originally presented to the board at the November 14, 2014 meeting. He noted that some states operate with only one SIS. Referencing a 1991 Task Force, the current SIS program is based on a statewide effort to create an SIS. User groups continue to provide input into the SIS.

Asked how much the IT budget line was he noted that SIS2000+/Aspire requires 6-7 employees.

Ms. Park commented that the current year's budget requests [i.e., new money] is for financial software and data security issues.

With respect to a specific SIF (schools interoperability framework) data exchange concern raised by Mr. Andelin [outside this meeting], Mr. Winkler expressed a concern about data security because Relational Data had wanted to email the information.

He said USOE wants LEAs to have the best product available and admitted they have previously encouraged legislators to go with one system. Asked whether USOE considers pricing differences for supplying SIS2000+ to larger or smaller LEAs, he noted USOE dropped charges for hosting.

Improvements to SIS2000+/Aspire are in response to requests for improvements to services.

Asked about the culture at USOE, specifically the IT Department, Mr. Winkler responded that they look to see how something can be done cheapest, best or most effectively, the IT Department is already burdened and can't really take on more without adding people. The decision has been made that SIS2000+/Aspire continues to be a valued resource for LEAs.

Asked about advertising or limits on advertising at USOE-hosted data conferences twice a year, which are held to discuss changes to software, requirements, new legislation, etc., he said that the representatives of LEAs don't want the meeting to be a marketing event for outside groups. He said there are specific trade events for such things.

He acknowledged that if USOE's IT Department weren't supporting SIS2000+/Aspire, there are plenty of other things those employees could be doing.

#### **4. Other/Adjourn**

The committee began to discuss what must be done, including reviewing budgets and costs of the programs, and even some technical matters such as addressing data security needs for SISs.

Staff suggested that the budgets be gathered and scrutinized, that flowcharts be developed to illustrate the processes involved. There appears to be two parts to the matter - whether it makes financial or economic sense for USOE to be providing the SIS and whether USOE is impeding a free market in the provision of SISs in the state. If committee members have specific questions or additional information they wish gathered, please contact staff.

Members scheduled the next committee meeting for 10:00 AM on Thursday, March 27, 2014; staff will arrange for a meeting room.

*Motion:* Manuel Torres moved to adjourn. CARRIED

Scheduled meetings:

- Competition Review Advisory Committee, 10 AM on Thursday, March 27, 2014 [in the Seagull Room of the Senate Building].



**Minutes of the  
Free Market Protection and Privatization Board:  
Competition Review Advisory Committee**  
Wednesday, March 27, 2014, 10:00 AM  
Seagull Room, Senate Building  
State Capitol Complex

**Members present:**

LeGrand Bitter (Chair), Rep. Johnny Anderson, Kim Jones, Manuel Torres, and Louenda Downs

**Members absent:**

None

**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**

LeGrand Bitter called the meeting to order.

**2. Board Business/Minutes**

**a. Minutes of the February 19, 2014 meeting**

*Motion:* Manuel Torres moved approve the minutes of the February 19, 2014 meeting. CARRIED

**3. Review Issues Concerning Agency Competition with the Private Sector**

**a. Kelly Francis, Aero-Graphics re UGS and LASSI**

Mr. Francis described his business and concern over competition by the LASSI Service Center at Utah State University for aerial geographic photography and mapping type services. He commented that such service is unfair because university enterprises have access to state and federal funding, can get sole source contracts more easily, do not pay the same taxes and insurance requirements as do private sector firms. He said he has a good relationship with LASSI, does not object to the research component but does not think it fair to have to compete with them on non-research jobs.

Referenced a project proposed by the Utah Geologic Survey (UGS), the Utah Automated Geographic Reference Center (AGRC), where both entities and four others competed for a project mapping hundreds of square miles for the state. Neither won the bid, it was awarded to an Oregon firm.

Did not know what share of market LASSI has but noted they have done a number of projects for UGS [a division of the Utah Department of Natural Resources] and the National Parks Service. Says he has

documents showing that LASSI markets its services.

In discussion board was informed that LASSI started as a USTAR (Utah Science Technology and Research) program. USTAR is an incubator program with a goal to put university-developed technology into the private sector.

**b. Bob Pack, LASSI Service Center**

Mr. Pack is an engineer, formerly a formal part of the LASSI Service Center and a professor at Utah State University. As a key part of the LiDAR imagery program at LASSI, having obtained USTAR funding for the program and operating the program for several years, he was knowledgeable about the program.

He noted that two universities (USU and UT-Houston) run LiDAR technology making it a rare research topic. The objective is to develop technology and spin it off to the private sector. It has resulted in multiple patents for the university. To keep the program running, LASSI uses contracts to generate funds. Says many of the contracts come because entities approach LASSI. Jobs like the National Parks Service include aspects that result in the development of better capability over other technology and includes applied research into other areas such as ecology. Says multiple research projects tag to other research projects (for example, multi-spectral camera technology). Says UGS came to LASSI to do work for it on the Great Salt Lake water systems.

LASSI built its own LiDAR system which has resulted in two papers presented at three conferences; the technology and the work done to develop it can accrue to the benefit of the public. Noted some small firms have asked for help and they did it but noted that the projects were non-competitive. The big project in Utah is UGS-work, they were approached and did not solicit it.

Noted the UGS project they bid on was originally going to be sole sourced but UGS went to bid.

Noted Aero-Graphics uses a different platform - OpTech.

Commercial enterprises have made inquiries into turning the technology in a marketable turn-key project. USTAR funding is limited and patents go through the Technology Commercialization Office at USU.

LASSI seeks research contracts over commercial contracts. People come to LASSI to do work which supports their own research mandates.

Asked if there can be collaboration with other firms, Mr. Pack noted that data is not the focus but building the technology. Noted LASSI has not been under USTAR for some time. Revenue supports the students in the program.

The advisory committee's discussion became free flowing involving all the parties.

Staff will invite the current head of LASSI and someone from USTAR to a future meeting. The committee wants to know about costs and revenues for the LASSI program as well as patent information. A presentation from USTAR will help the board members understand how USTAR works and its expectations. Noted one member, this will not likely be the last time a USTAR program attracts the board's attention.

A suggested follow-up is to understand if there is a difference between public universities and private

universities competing in the marketplace.

**c. Utah State Office of Education**

Mr. Strachan distributed financial information received from USOE and noted there is much work to be done to evaluate it.

Data supplied by USOE indicates that about 24 percent of the state's LEAs use Aspire (aka SIS2000) with the rest using private sector applications or applications custom made by or for a LEA. 20 percent of Utah school districts use Aspire while 70 percent of charter schools do.

He also advised that a survey has been sent to all LEAs (Local Education Authorities) in Utah seeking information as to costs for running private sector applications for those who do and why do they spend the funds when Aspire is free. Survey asks Aspire-using LEAs if they would use private sector applications if the state's student information system were not free. Noting a 20 percent response rate so far, anecdotal evidence suggests the non-Aspire users either pre-date the state's development of SIS2000, the LEA's student populations is too large for Aspire, or Aspire is not as good as other options. Some charter schools opine they had no choice either by policy or by cost considerations. There are some LEAs that would not switch no matter the cost, others that would like to see what is available in the market. Staff will prepare a summary when the survey period is complete and more surveys have been received.

Acknowledging that Judy Parks and Jerry Winkler from USOE were present and Mr. Andelin, too, Mr. Strachan indicated he would like to see first hand the USOE IT operation up close.

**4. Other/Adjourn**

Mr. Strachan provided an update on the activity of the Privatization Process Advisory Committee and the consultants. He noted that the process being developed should be available to use in working on this review. Members want to see guiding principles and best practices state clearly.

Members scheduled the next committee meeting for 10:00 AM on Thursday, April 24, 2014; staff will arrange for a meeting room.

*Motion:* Rep. Anderson moved to adjourn. CARRIED

Scheduled meetings:

- Competition Review Advisory Committee, 10 AM on Thursday, April 24, 2014 [location to be determined].