

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

Thursday, November 14, 2013 - 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, Thomas Bielen, Sherrie Hayashi, Bob Myrick, and LeGrand Bitter

Members absent:

Rep. Lynn Hemingway, Randy Simmons, Manuel Torres, Kerry Casaday, Al Manbeian, Steve Fairbanks, and Louenda Downs

Staff present:

Cliff Strachan, Governor's Office of Management and Budget

Note: Additional information including related materials and an audio recording of the meeting can be found at <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. Rep. Lynn Hemingway, Randy Simmons, Manuel Torres, Steve Fairbanks, and Louenda Downs were excused from the meeting. Katina Curtis has resigned from the board for professional reasons. .

[As a quorum was not present at the beginning of the meeting, the presentations under item 3. Commercial Activities Inventory were heard before item 2. Item 2 (both minutes and RFP) was heard only after a quorum was then present.]

2. Board Business/Minutes

a. Minutes from October 10, 2013

Added Bob Myrick to the lists of members absent and excused.

Motion: Sen. Mayne moved to amend and approve the minutes of the October 10, 2013 meeting. CARRIED

Sen. Stephenson called for the board's meetings to be recorded and broadcast like regular legislative meetings. Cliff Strachan noted the request was previously made to and rejected by legislative staff. Sen. Mayne said she is drafting legislation to enable any committee that includes legislators to be able to use the legislature's equipment and resources to post notices and minutes, record and broadcast those meetings.

b. Request for Proposals (RFP)

The board reviewed the draft Request for Proposals for the development of a privatization review process. Mr. Strachan and Mark Parry, Division of Purchasing, fielded questions. Proposals received will be evaluated with on a points basis with 70% of the points based on technical considerations and 30% based on cost. Technical considerations are weighted in favor of approach and tools to be provided. Proposals deemed to be insufficient technically will not be proceed to the cost evaluation. Mr. Parry noted it normally takes about three months from the issuance of an RFP to the signing of a contract. The RFP can be issued as early as next week with a deadline in mid-to-late December recommended. The Division of Purchasing will handle the RFP process and the Governor's Office of Management and Budget (GOMB) will be the owner on behalf of the board.

Motion: Sen. Mayne moved to approve the Request for Proposals and direct that it be issued with a December 17, 2013 deadline. CARRIED

The Chair appointed Bob Myrick, Sen. Stephenson, and herself to serve on an evaluation committee with Mr. Strachan and one additional staffer from GOMB. The evaluation committee will report to the board on January 9, 2014 with a recommendation.

3. Commercial Activities Inventory

a. Public Service Commission (PSC)

Ron Allen, Commissioner, and Gary Widerberg, Commission Administrator, gave an overview of the work done by the agency, which was described as quasi-judicial and established to protect the public from the adverse effects of utility monopolies. Noted that PSC has a tight budget (about 90% is personnel) and is funded by regulatory fees. Its work has helped to keep Utah's utilities' fees low.

PSC's responses to the survey unpinning the Commercial Activities Inventory indicated its functions were inherently governmental. protecting Utahns from monopolies' profit incentives, with little potential for privatization. PSC hires consultants where needed, even routinely, where expertise is needed. Talked about a phone program, Relay Utah, that is administered by the agency but delivered by contract.

b. Department of Technology Services (DTS)

Mr. Strachan noted the areas currently undergoing Operational Excellence reviews by GOMB. An updated summary for the Commercial Activities Inventory was provided in the meeting packet. Staff recommended the agency, particularly Application Development, for further review.

Ken Peterson, Chief Operating Officer, and Dan Frei, Finance Director, presented. Stated the agency runs on private sector principles and operate as an Internal Service Fund (ISF) relying on service agreements with other state agencies. Noted efficiencies are important to the agencies as is returning value to shareholders (taxpayers) and agencies. DTS provides about 1100 services to stakeholders (agencies) online. Figures it spends about 50 percent of its budget in the private sector. Hosts a regular "vendor day" to go over score cards and to see what wares they have to offer.

Talking about what the agency has done in recent years, talked about hosting services and commented on cloud hosting stating their top three issues are security, redundancy, and portability. Shared experience with the state's email migration to gmail.

On networking services, noted that the state owns zero fiber, relies on the private sector for it. The state does own a microwave system as a back up, primarily in public safety. Principle followed by agency is "right sourcing": what is the right place to source? On desktop support, agency is constantly looking to outside sources for cost competitiveness.

On application development, DTS figures its paying 60 percent of its are personnel related. Can't pay market for top or bottom personnel but needs to have a core group of people to work with. Uses a lot of software services outside. Noted income tax software comes from the private sector.

During questioning, board members heard in response that:

- the network is about 85 percent migrated to Microsoft.
- keeping employees up to date on standards and products is a priority of the Chief Information Officer, uses vendor days, an architectural review board, the business solutions requirement, surveys of the agencies, and embedding of IT directors to meet the priority.
- uses an IT resource committee to prioritize agency requests.
- reduced the number of employees by 170 since DTS was reorganized several years ago, relied on attrition and early retirements to make reductions.
- the agency finds it is a training ground for the private sector as it cannot pay market prices for IT professionals; but noted DTS is an innovative place to work.
- DTS uses two practices to pave the pathway to privatization: asks "buy or build" for every project, and follows "rightsourcing"; says price, security, redundancy are three factors.
- virtual desktop services are available to agencies through the cloud.
- agency is zero base minded, to determine costs and of benefit to the agencies, compares rates with private sector and other states.

Sen. Stephenson noted he is working on a bill to combine data systems (Utah Futures and Utah Data Alliance) and wondered whether the board should review a decision to build it or buy it. The Chair called it a business case assessment.

4. Review Privatization of an Activity

None

5. Review Issues Concerning Agency Competition with the Private Sector

a. Nathan Andelin - Petition

Mr. Andelin's petition, was provided in the agenda packet (see [Privatization Proposal Summary](#)), alleges that the Utah State Office of Education "engages in "unfair competition" against private enterprise', "raises barriers" and other practices that limit or exclude private sector entities from providing student information systems to schools and school districts in the state. Mr. Andelin requests that the board investigate USOE under its authority.

Nathan Andelin and Kendall Andelin discussed their information system, used in two charter schools, and the state's funding of SIS2000, which is provided free to school districts. Noted several school districts have gone to the private sector for other student information systems [eg., PowerSchool and Skyward] , which raises question of need for taxpayer funding for SIS2000. Notes state does not need to recoup the funding from school districts or users.

b. Utah State Office of Education (USOE) - student information systems

Judy Parks, Associate Superintendent, and Jerry Winkler, IT Director, provided a three-page handout titled Student Information Systems (SIS) that described the SIS framework in Utah and noted there are nine SISs in operation in Utah. USOE indicated that data needs be defined and standardized to be useful, and has to meet standards set by USOE. Gave a history of SIS development.

During questioning, board members heard in response that:

- requirements are online, programs are about data aggregation
- agency still provides the program, noted many states still operate under one state system though Utah opts for local control
- it is worth looking at why some school districts opted to buy programs from the private sector rather than taking the free program provided by the state
- user groups set the priorities for the product
- USOE doesn't understand the complaint about "barriers" but do have some user meetings excluding vendors to get users input; even so, USOE works with providers and LEAs
- system was never statewide

Motion: Thomas Bielen moved to set up a committee review to explore this [the student information systems] privatization proposal. CARRIED

Mark Ursic, Executive Director, Renaissance Academy, was invited to speak by USOE. He called student information systems "the lifeblood of [its] operation".

Jennifer Andelin was given opportunity to comment: alleged Renaissance Academy transitioned to state system under threat by USOE of funding reductions. In rebuttal, Mr. Ursic said USOE had not bullied, but had been supportive.

Other Business/Adjourn

Advisory groups or committees - Noting that UCA 63I-4a-203(4)(a) allows the board to appoint advisory groups [or committees], the board discussed a suggestion to create specific ad-hoc committees for various studies. In addition to the committee appointed to review the RFP, it was noted that committees could be formed: 1) to work with a consultant to build the privatization review process, 2) review the unfair competition complaint against USOE, 3) review privatization opportunities at an agency, and others. Staff will survey board members to find out on which committee(s) each would like to serve. Sen. Mayne noted that it will be difficult for the four legislators on the board to do committee work during the legislative session.

Public comment - The board also discussed whether or not to include a regular public comment period in meetings. The board's consensus was to provide such a period. Staff will research and report to the board

on procedures for public comment used by the legislature and by Utah's local governments. Time will be provided at the beginning of the board's meetings until directed otherwise.

Future meetings - Mr. Strachan advised that he has scheduled the board's regular meeting room for the regular monthly meeting date and time from April 10, 2014 through January 8, 2015. With the legislature in session, the meeting room will not be available in February and March. Committee work would be a good fit during that period.

Motion: LeGrand Bitter moved to adjourn. CARRIED

Next two meetings:

Thursday, December 12, 2013 at 2 pm in 20 House Building

Thursday, January 9, 2014 at 2 pm in 20 House Building