Review of Privatization Contracts for Certain State and County Agencies

A Report to the Governor and the Legislature of the State of Hawaii

Report No. 02-21
December 2002

THE AUDITOR
STATE OF HAWAII

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.

2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.

3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.

4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.

5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.

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9. *Special studies* respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.

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OVERVIEW

Review of Privatization Contracts for Certain State and County Agencies

Report No. 02-21, December 2002

Summary

The U.S. General Accounting Office has defined privatization as "any process aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector." Since 1998, the Legislature has passed three privatization laws, the most recent being Act 90 in 2001. Among other things, Act 90 specifically allows the State and counties to contract with private entities when it is reasonable to believe that those private entities can provide equivalent or better quality services at lower cost than the government agency. Act 90 went into effect on May 3, 2001 and is scheduled for repeal on June 30, 2007.

Although Act 90 enabled the State and counties to utilize privatization as a management tool, the State is not adequately prepared to utilize this tool. We found that although more than a year has passed since Act 90 went into effect, privatization efforts across the State have been minimal. None of the agencies specifically cited in Senate Concurrent Resolution No. 103, Senate Draft 1, of the 2002 Regular Session have utilized Act 90 to privatize any services. The only agency specifically planning to privatize a service under Act 90 is the Department of Land and Natural Resources' Division of Boating and Ocean Recreation. Although agencies have entered into contracts with private providers since Act 90 went into effect, the lack of a specific definition of what privatization includes has allowed those agencies that untenable justification to "exempt" themselves from the act's requirements.

We also found that leadership and guidance needed to ensure consistent implementation of Act 90 are lacking. A framework to direct agency efforts is needed. Such a framework should, at a minimum, include the establishment of a privatization authority to ensure privatization goals are achieved, implementation of a process to identify potential privatization opportunities, and development of privatization guidelines to promote accountability and consistency. In addition, this authority could provide clarification regarding existing privatization provisions relating to employee displacement and the managed competition process.

Finally, we found that other privatization components could enhance the State's current privatization efforts. These components include identifying and comparing in-house and contractor costs and establishing adequate bid, contract, monitoring, and oversight requirements to provide safeguards and ensure quality services are received.

Recommendations and Response

We recommended that the governor designate an entity to implement Act 90, SLH 2001, and establish and enforce privatization guidelines. We also recommended that the governor ensure the establishment of comprehensive privatization guidelines. Finally, we recommended that the governor and mayors consider evaluating state and county agencies' privatization efforts after agencies have privatized services utilizing the privatization guidelines.

The University of Hawaii found our report to be thorough, objective, and informative. The university also expressed its willingness to support the State in its efforts to implement the recommendations.

The City and County of Honolulu also found our recommendations to be sound. The city and county agreed that an entity or commission should be designated to implement and oversee compliance with Act 90; however, it believes that the counties should not be governed by the State since their operations and budgeting, accounting, and procurement processes vary. The city and county also supports our recommendations to establish privatization guidelines and indicated that it believes that Act 90 is sound legislation and does not require any amendments at this time. The city and county also provided information on its current efforts to establish privatization guidelines.

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Review of Privatization Contracts for Certain State and County Agencies

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 02-21
December 2002

Foreword

This is a report of our review of any privatization contracts that were entered into pursuant to Act 90, Session Laws of Hawaii, by the following state and county agencies:

1. The Department of Human Services (specifically relating to case managers);

2. The Department of Public Safety;

3. The Department of Health;

4. The Department of Transportation;

5. The Department of Land and Natural Resources' Division of Boating and Ocean Recreation;

6. The University of Hawaii's former School of Public Health and its new Office of Public Health Studies, Department of Public Health Sciences and Epidemiology, John A. Burns School of Medicine; and

7. The City and County of Honolulu's Department of Environmental Services (specifically relating to wastewater services).

The review was conducted pursuant to Senate Concurrent Resolution No. 103, Senate Draft 1, of the 2002 Regular Session.

We acknowledge the cooperation of the seven state and county agencies and others whom we contacted during the course of the review.

Marion M. Higa
State Auditor

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Chapter 1
Introduction

During the 2002 Regular Session, the Legislature expressed concerns about certain state and county privatization contracts that were entered into pursuant to Act 90, Session Laws of Hawaii (SLH) 2001. A specific concern was that private contractor services were not of an "equivalent or better quality" or were not provided at a cost lower than the cost of doing the work with government employees. In response to this concern, the Legislature passed Senate Concurrent Resolution (SCR) No. 103, Senate Draft 1. The resolution requested the Auditor to conduct a review of privatization contracts entered into since the enactment of Act 90, SLH 2001, for the following state and county agencies:

1. The Department of Human Services (specifically in relation to case managers);

2. The Department of Public Safety;

3. The Department of Health;

4. The Department of Transportation;

5. The Department of Land and Natural Resources' Division of Boating and Ocean Recreation;

6. The University of Hawaii's former School of Public Health and its new Office of Public Health Studies, Department of Public Health Sciences and Epidemiology, John A. Burns School of Medicine; and

7. The City and County of Honolulu's Department of Environmental Services (specifically relating to wastewater services).

The resolution expressly asked the Auditor to review the following:

1. Contract requirements and how well or poorly contractors have fulfilled those requirements;

2. Reasons for failure if contractors have failed to perform according to contract terms;

3. Whether or not contractors have provided services "of equivalent or better quality" than could have been provided by a government agency at lower cost;

4. Whether contracts have been reviewed by a contract monitor, and resulting opinions regarding contract quality and cost for contracts have been subject to review;

5. Total direct and indirect contract costs;

6. The appropriateness of continuing to privatize contracted services; and

7. Legislation enacted by state and local governments in other jurisdictions with similar privatization laws to determine whether another approach might be applicable in Hawaii.

The resolution also asked that recommendations include any proposed legislation and criteria for privatization contracts.

Background

Privatization is generally defined as "any process aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector."[1] Privatization activities may include asset sales, contracting out, franchising, managed competition, public-private partnerships/joint ventures, subsidies, and vouchers. These methods are defined in Appendix A. Contracting out is the most commonly used privatization technique.

Hawaii's current privatization laws resulted from a 1997 state Supreme Court case, *Konno v. County of Hawaii*. Since that case, three laws have been enacted to provide the State and its counties with the authority to privatize, use experimental modernization projects, and include privatization as a management tool.

Konno v. County of Hawaii

In 1993, Hawaii's United Public Workers (UPW) union challenged the validity of a county contract that privatized landfill operations at Pu'uanahulu, Hawaii, and filed two complaints. In its first complaint, the UPW argued that the County of Hawaii (county) violated civil service laws and merit principles by privatizing landfill positions. Its second complaint alleged that the county violated collective bargaining laws by privatizing without participating in mandatory union negotiations.

The Hawaii Supreme Court reached its decision on the *Konno v. Hawaii* (*Konno*) case in 1997. In it, the State and local governments' authority to privatize was questioned. The court found that the State's civil service laws allow only civil servants to perform the services and fill the positions historically and customarily provided or filled by civil servants.

The court concluded that the county violated civil service laws and merit principles, but did not violate collective bargaining laws. The court voided the county's contract with the private landfill operator and ordered the circuit court to issue an injunction barring private operation of the landfill.

Privatization session laws

In response to the *Konno* decision, the Legislature passed Act 230 in 1998. The act provided the State and counties with the authority necessary to contract with the private sector. Although the act did not define privatization, it allowed agencies to contract with private entities for services customarily and traditionally performed by covered civil service employees (government employees not exempt from state and county civil service laws). In addition, agencies were not allowed to contract with private entities if covered employees were displaced or transferred to other positions without adequate training or assistance. This section of the act, however, was repealed on June 30, 2001.

Following passage of Act 230, a committee was created to develop a managed process that would enable the State and counties to implement public-private competition for government services. The committee submitted its recommendations to the governor and Legislature in 1999, but a complete working model of managed competition was never completed.

In 2000, the Legislature passed Act 253 (Civil Service Modernization Act), which, among other things, authorized public agencies to use experimental modernization projects to renovate and streamline operations rather than privatize. Act 253 also created the Office of Collective Bargaining and Managed Competition. The office serves to assist the governor with implementation of the managed competition process of public-private competition for particular government services.

The intent of the managed competition process described in Act 230, SLH 1998, and the experimental modernization project concept authorized in Act 253, SLH 2000, was to provide management with the tools necessary to effectuate government efficiency. The Legislature furthered this effort by passing Act 90, SLH 2001, which enables the State and counties to utilize privatization and managed competition as additional management tools.

Act 90 also attempted to deal with the uncertainty created by *Konno* regarding government's ability to utilize the private sector in providing government services. To do so, it addressed the negative impact privatization and managed competition could have on public sector employees' ability to negotiate fair and adequate compensation packages; it reinstated certain public employees' right to strike; and it

repealed the "essential" employee status. An essential employee was an employee filling a position designated as necessary to be worked in order to avoid or remove any imminent or present danger to the public health or safety.

Although Act 90 does not define privatization, it specifically allows the State and counties to contract with private entities (any individuals, companies or organizations that are not federal, state, or county government employees or agencies) when it is reasonable to believe that those private entities can provide equivalent or better quality services at lower cost than the government agency.

Act 90 requires state and county officials to consider whether contracting with a private entity will:

1. Jeopardize the government's ability to provide a particular service if the private entity fails to perform, or the contract becomes unprofitable or impossible for a private entity to perform;

2. Impact civil service employees, provided that the impact does not prevent the procurement of services pursuant to the chapter;

3. Affect the services the agency needs;

4. Increase the potential for achieving cost savings; or

5. Affect the extent to which a service is needed.

Additionally, officials must consider how the criteria to select a service provider can be described in objective specifications.

If a state or county agency contracts with a private contractor through a managed competition process authorized in Act 90, it must place, retrain, and provide voluntary severance incentives for any displaced employees. The agency may then use layoff provisions of civil service laws and collective bargaining contracts to release employees displaced.

Act 90 also requires state and county departments or agencies that use the privatization contracting process to submit a report to the Legislature no later than 20 days prior to the convening of the regular session of each year beginning in 2002. The report should include:

1. An itemization of services outsourced or subject to the privatization chapter;

2. Justification that determination standards were met;

3. The cost of services outsourced or subject to the privatization chapter;

4. A copy of all contracts entered into under the privatization chapter; and

5. An accounting of civil service employees displaced because of the privatization chapter.

The privatization chapter created by Act 90, SLH 2001, is scheduled for repeal on June 30, 2007.

Objectives of the Review

1. Assess the implementation of privatization under Act 90, Session Laws of Hawaii 2001.

2. Assess the adequacy of certain state laws on privatization.

3. Make recommendations as appropriate.

Scope and Methodology

Our assessment of privatization contracts entered into since the enactment of Act 90—May 3, 2001—included contracts of the Department of Human Services (relating to case managers); Department of Public Safety; Department of Health (including the Hawaii Health Systems Corporation); Department of Transportation; Department of Land and Natural Resources' Division of Boating and Ocean Recreation; University of Hawaii's former School of Public Health and new Office of Public Health Studies, Department of Public Health Sciences and Epidemiology, John A. Burns School of Medicine; and City and County of Honolulu's Department of Environmental Services (relating to wastewater services).

We reviewed contracts both for new services and contracts that replaced services historically and customarily performed by civil service staff. We also reviewed services that agencies are in the process of privatizing. We did not assess contracts for services privatized before May 3, 2001.

Our assessment of current state laws pertaining to privatization included an evaluation of the clarity, adequacy, and enforceability of the privatization law in Act 90, SLH 2001. We also reviewed Act 230, SLH 1998; Act 253, SLH 2000; and other pertinent laws. In addition, we reviewed privatization laws and guidelines from other states including Arizona, Colorado, Georgia, Massachusetts, Michigan, Montana, New York, Texas, and Virginia; and a variety of privatization publications

from entities including the U.S. General Accounting Office (GAO), the Council of State Governments (CSG), and the Reason Foundation. We also conducted interviews with agency staff and other professionals as necessary. Our review of services being considered for privatization included an examination of relevant privatization documents and interviews with agency staff to assess the privatization criteria and procedures used to date.

Our work was performed from June 2002 to September 2002 in accordance with generally accepted government auditing standards.

Chapter 2

Privatization Is a Management Tool for Which the State Has Not Adequately Prepared

Through careful planning and implementation, public functions and responsibilities can be shifted to the private sector and provided more cost efficiently. In 2001, the Legislature passed Act 90 to enable the State and its counties to utilize privatization as a management tool. However, though more than a year has passed since Act 90 went into effect, privatization efforts across the state have been minimal. None of the agencies specifically cited in Senate Concurrent Resolution No. 103, Senate Draft 1, have utilized Act 90 to privatize any services. We also found no evidence that the State has taken any steps to develop guidelines for future privatization efforts.

Successful privatization results cannot be guaranteed; however, key privatization components can support the privatization process. To ensure these components are in place and privatization efforts are adequately planned, implemented, and evaluated, strong leadership is needed. An entity designated as the State's privatization authority should create guidelines that specifically define privatization and clarify the privatization methods subject to Act 90. These guidelines should also contain components to assist agencies in analyzing privatization opportunities, comparing the costs of delivering public services, writing bid and contract requirements, and developing monitoring and oversight requirements. When such guidelines are in place and agencies have privatized services, further evaluation of Act 90 and privatization may be warranted.

Summary of Findings

1. Agency compliance with privatization requirements under Act 90, SLH 2001, has been minimal.

2. Leadership and guidance needed to ensure consistent implementation of Act 90 are lacking.

Privatization Efforts Under Act 90, SLH 2001, Have Been Minimal

Although Act 90 does not specifically define privatization, the term has generally been characterized as any process aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector. Although some agencies have entered into contracts with private providers since Act 90 went into effect, the lack of a specific definition has allowed agencies to utilize that untenable justification to

"exempt" themselves from the act's requirements. The only agency specifically planning to privatize a service under Act 90 is the Department of Land and Natural Resources' Division of Boating and Ocean Recreation.

The Department of Land and Natural Resources is the only agency planning to privatize a service under Act 90

The Department of Land and Natural Resources' Division of Boating and Ocean Recreation is planning to privatize some specific services and activities performed by Ala Wai Small Boat Harbor state employees. The division is proposing to privatize administrative support services, such as boat slip management and maintenance, which are currently performed by district, division, and department staff. As part of its privatization efforts, the division would enter into a long-term land lease for the ten-acre Ala Wai Small Boat Harbor. The private operator will be expected to perform the privatized services and activities under the lease's special provisions rather than under a separate services contract. Under the lease, the private operator will also develop, operate, manage, and maintain the land.

The department expects to advertise the Ala Wai Small Boat Harbor request for proposal in late 2002. The division will request a separate fee proposal for the services targeted for privatization, so it can evaluate compliance with Act 90's requirement that the private entity provide the services at a cost lower than a government agency could.

Agencies claim their private provider contracts are not subject to Act 90

Senate Concurrent Resolution No. 103, Senate Draft 1, requested that we conduct a review of particular state and county agency privatization contracts entered into since Act 90 went into effect on May 3, 2001. However, as shown in Exhibit 2.1, these agencies all claimed their contracts were not subject to Act 90 for one or more of the following reasons:

- No civil service positions were abolished;
- Contracts are ongoing;
- Contracts are for services never performed by civil service workers;
- Contracts are exempt under Section 76-16(b)(15), HRS; or
- Contracts are with a government agency, not a private entity.

Exhibit 2.1
Status of Act 90, SLH 2001, Privatization Contracts

Agency	Contracts Entered Into Since May 3, 2001	Agency's Justification Why Contracts Are Not Subject to Act 90, SLH 2001
Department of Human Services (relating to case managers)	Three case management contracts, exempt from Chapter 103F, HRS, for Medicaid waiver program services. These contracts have been ongoing since the 1980s.	The act applies only to services covered under the State's policy as promulgated by the governor through the Office of Collective Bargaining and Managed Competition.
Department of Health	Various purchase-of-service contracts entered into under Chapter 103F, HRS.	Contracts have been ongoing for many years.
Department of Transportation	Cleaning, emergency medical services, equipment maintenance, refuse collection and disposal, security, traffic control, vehicle towing, waste removal, and wastewater operations and maintenance contracts.	Services are exempt under Section 76-16(b)(15), HRS. When time devoted to state service is impracticable to ascertain or anticipate, this exemption applies. Positions filled by persons employed on a fee, contract, or piecework basis whose duties may be lawfully performed concurrently with their private business, profession, or other employment, and whose duties require only a portion of their time, are exempt.
Department of Public Safety	Substance abuse, laundry service, therapy, counseling, job development, water treatment, sewer, and other contracts.	Civil service workers, who historically or customarily performed services, were not replaced.
	Private prison contracts to house Hawaii prisoners.	Contracts are with public, not private, entities.
Department of Land and Natural Resources, Division of Boating and Ocean Recreation	Refuse, janitorial, and security and parking control contracts.	Civil service employees were not displaced.
Hawaii Health Systems Corporation	None identified by the corporation as "privatization."	N/A
University of Hawaii – Office of Public Health Studies	Normal part of regular departmental operations to fulfill deliverables of extramurally-funded project research.	Specialized skills cannot feasibly be obtained from within the university.
City and County of Honolulu, Department of Environmental Services –(relating to wastewater)	One janitorial service contract.	Civil service workers never performed the service.

Exhibit 2.1 reflects a need to identify the state contracts that are subject to, or exempt from, Act 90. Two agencies admitted confusion regarding which contracts are subject to Act 90, but other agencies appear to have questionable reasons for exempting their contracts from Act 90 requirements. Although the Department of Public Safety's contracts for out-of-state placement of prisoners are executed with other government units, those units in turn contract with private entities. Four other agencies thought that the privatization contracts subject to the act were clear, but disagreed with each other on the contract types subject to the act. For example, two agencies thought *all* contracts for services privatized since May 3, 2001 are subject to Act 90. Another agency thought only those contracts that result in the abolishment of existing state positions are subject to the act.

Some states have legally defined privatization and have identified the techniques and types of contracts subject to those laws. For example, Massachusetts stipulates that legal, management consulting, planning, engineering, and design service contracts are *not* considered privatized activities. Montana law defines privatization as including private sector contracts that displace five or more current state employees who originally performed the contracted service.

Agency justification for Act 90 exemption is unconvincing

Despite differing interpretations of what privatization includes, agencies should have adhered to Act 90's requirements as a measure of good business practice. Each agency's justification regarding exemption from Act 90 is tenuous. At a minimum, before entering into contracts, agencies should determine if contracting would result in cost savings and assess the impact on services if a private provider should default on its state contract. If the agencies under review did not comply with these Act 90 requirements for contracts entered into since May 3, 2001, it would be unclear, for example, whether case management services contracted out to private providers by the Department of Human Services is cost efficient. It would also be unknown whether the Department of Public Safety has considered contingency plans to ensure the continued delivery of substance abuse therapy should its private providers fail to perform.

National privatization guidelines could have been utilized by agencies

Some agencies reported that they are waiting for guidance on how to implement Act 90 before "privatizing" services, while others admitted they do not want to be the first to privatize under Act 90. However, the U.S. General Accounting Office (GAO), the Council of State

Governments (CSG), and the Reason Foundation have all published a number of readily available privatization guidelines, studies, and reports that could have been referenced by agencies.

For instance, in 1997 the GAO published a study, *Privatization: Lessons Learned by State and Local Governments,* based on actual privatization experiences in Georgia, Massachusetts, Michigan, New York, Virginia, and Indianapolis. These governments were specifically chosen because they had undertaken extensive privatization efforts. During its fieldwork at the six selected governments, GAO interviewed 117 officials to obtain information and insights on their privatization experiences, and conducted extensive document review. The six governments provided specific examples of their privatization efforts and results of those efforts.

A panel of eight privatization experts was used to enhance the GAO's fieldwork framework. The chosen experts agreed that ten states and one city were the most appropriate candidates to include in the GAO survey, which GAO subsequently narrowed down to five states and one city. The panel also assisted GAO with development of a list of key privatization factors considered critical when considering whether or not to privatize public functions; these factors gave GAO a framework for collecting information on privatization experiences. The eight experts were chosen based on either their practical knowledge of privatization or their scholarly knowledge and included:

1. The Council of State Governments' (CSG) director of the Center for State Trends and Innovations;

2. A professor at Harvard University's John F. Kennedy School of Government;

3. The Reason Foundation's director of Privatization and Government Reform;

4. PriceWaterhouse's Privatization and Infrastructure Group senior manager (and former director of a nonprofit organization devoted to developing and expanding the concept of privatization);

5. A labor economist from the American Federation of State, County, and Municipal Employees (AFSCME);

6. The (former) Phoenix public works director who developed the city's program on privatization;

7. The (former) director of Philadelphia's Competitive Contracting Office; and

8. A Colorado deputy auditor.

From the fieldwork conducted and information gathered, GAO compiled a listing of major lessons and actual experiences of the six governments' extensive privatization efforts.

Similarly, the Council of State Governments published a report in 1998 entitled *Private Practices: A Review of Privatization in State Government.* The study summarized findings on privatization activities of 19 executive agencies across the country. It also identified key issues in privatization and offered recommendations for successful privatization based on the experiences of officials who had privatized government services.

Finally, the Reason Foundation, which is a national research and educational organization providing federal, state, and local policymakers with practical research and analysis, published four privatization publications in 1993: (1) *Effective Bidding System and Monitoring System to Minimize Problems in Competitive Contracting*, (2) *How to Compare In-House and Contracted Services*, (3) *Designing a Comprehensive State-level Privatization Program*, and (4) *Social and Health Service Privatization: A Survey of County and State Governments*. We believe that state and county agencies could have utilized these publications to guide their privatization efforts.

Leadership and Guidance Are Needed to Ensure Consistent Implementation

To ensure that privatization is implemented consistently across all agencies, a framework to direct agency efforts is needed. Such a framework should, at a minimum, include establishment of a privatization authority, implementation of a process to identify potential privatization opportunities, and development of privatization guidelines to promote accountability. In addition, the authority could provide needed clarification regarding existing privatization provisions related to the managed competition process and employee displacement. Finally, the use of other components such as cost comparisons, bid and contract requirements, and monitoring and oversight provisions would support a uniform privatization process.

A framework directing privatization efforts is currently lacking

The appointment of a privatization authority has been identified as one of the keys to successful privatization. There is currently no such authority in Hawaii to ensure that privatization goals are achieved. Among other things, such an authority should establish privatization

guidelines, assist agencies with implementing those guidelines, review and approve agency privatization plans, and ensure that agencies comply with the guidelines.

Stronger oversight is needed to ensure privatization goals are achieved

According to the Reason Foundation, experience supports the designation of a single individual to oversee government-wide privatization programs. Sometimes referred to as the "privatization czar," this individual ensures that privatization goals are systematically carried out, coordinates agencies' privatization efforts, and serves as a legislative liaison on privatization issues.

Four states that were surveyed by the GAO created government-wide commissions to promote privatization, identify privatization opportunities, and establish policies and procedures to guide privatization initiatives. For example, in 1995, Georgia's governor established a Commission on Privatization to develop screening guidelines for assessing proposed privatization initiatives, assist departments in evaluating their initiatives, and develop procedures for contracting and eliminating associated state expenses. The commission is also responsible for undertaking pilot projects to demonstrate the value of privatization and better describe its advantages and difficulties.

Despite the importance of having guidance from a designee, Hawaii currently has no entity responsible for enforcing or assisting agencies with implementing Act 90. Agencies told us they are waiting for guidance from the state Department of Human Resources Development; however, that department's officials indicated they have no plans to establish guidelines to assist other departments with their privatization proposals. We also noted that the governor's Office of Collective Bargaining and Managed Competition, which has been charged with the responsibility of overseeing the State's 'managed competition' concept, has not established guidelines and only "informally" assists other departments.

Analysis is needed to identify likely privatization opportunities

An analysis framework would outline both the decision–making steps agencies can follow before privatizing a service and help justify additional privatization efforts. Framework steps would include: 1) identifying services for privatization, 2) analyzing whether services should be privatized, and 3) providing a written justification of why services should or should not be considered for privatization. A preliminary cost comparison between government service delivery and the potential private service delivery should also be conducted for all services identified as privatization possibilities.

Although Act 90 references a process similar to the framework steps described above, called determination standards, the act only requires agencies to *consider* the standards before contracting with a private entity. In addition, agencies that do use the standards are nevertheless required to report on them in an annual report, but only *after* services have already been privatized. Agencies' privatization plans, including a justification regarding how standards were met, should be reviewed and approved *before* an agency privatizes a service rather than reported *after* the service has already been privatized.

Agencies need privatization guidelines to promote accountability and consistency

A formalized implementation structure is needed to guide privatization efforts. Guidelines provide instructions, formats, and forms that promote consistent implementation of privatization laws. They also clarify the roles and responsibilities of those involved in the privatization process. In its 1997 report, *Privatization in Hawaii*, the Legislative Reference Bureau recommended that the Legislature develop comprehensive guidelines to address appropriate rationale for private sector contracting, provide detailed cost comparison methods, and identify alternative privatization techniques.

Some of the agencies that we reviewed, as well as the Department of Budget and Finance, suggested that privatization guidelines might be forthcoming from the Department of Human Resources Development. However, the human resources department, which is not required to develop privatization guidelines, indicated to us that it has no privatization guidelines or plans to develop such guidelines. Similarly, the City and County of Honolulu's Department of Human Resources has no privatization guidelines and no plans to develop any.

A number of publications outline how to contract out services and avoid mistakes. Such privatization "how-to" books and state privatization guides often provide step-by-step instructions for implementing contracting out on a day-to-day basis. For example, Massachusetts's guidelines provide instructions on documenting planned privatized services; bid and contract requirements; and instructions on how to compute in-house costs, contract costs, and compare costs. The guidelines also provide cost calculation and comparison forms and a checklist similar to those recommended by the Reason Foundation. Clear guidelines can help clarify the law's ambiguities, help agencies implement the law by providing specific instructions, and also establish necessary management controls.

Existing privatization provisions require clarification

Although Act 90 addresses managed competition and employee displacement, these sections of the law require clarification. Unclear provisions cause state and county agencies to interpret and implement privatization requirements inconsistently, leaving the privatization process open to question and possible liability.

Managed competition process requirements need to be delineated

"Managed competition" is government-endorsed competition between public-sector and private-sector entities to conduct business. Act 230, SLH 1998, created a committee to develop a managed competition process that would enable state and county agencies to implement public-private competition for government services. Although the committee submitted recommendations to the governor and the Legislature in 1999, a complete working model of managed competition was never completed.

Act 90 provides layoff provisions for employees displaced by managed competition; however, the act fails to define the process requirements for that competition. In such a process, agencies must coordinate and negotiate managed competition terms and conditions with affected public employee and private contractor representatives. One state agency told us that it would be helpful to have a template with which to evaluate managed competition requests.

Although the act designates the state's Office of Collective Bargaining and Managed Competition and its county counterpart as responsible for overseeing and formulating a managed process philosophy for government public-private competition, the act does not require the office to develop written guidelines on managed competition. Such guidelines would assist agencies in implementing their requirements and ensure that the requirements are met. We found no evidence that the office has developed any guidelines.

Employee displacement should be addressed

Act 90 specifies that agencies contracting with a private contractor through a managed competition process must place, retrain, and provide voluntary severance incentives for any displaced employees. Agencies may then use the layoff provisions of civil service laws and respective collective bargaining contracts to release employees displaced from their positions by the managed competition. However, the act does not address employees displaced as a result of other privatization measures. Since other privatization methods exist, potential employee displacement should be addressed for all privatization methods subject to the act.

Other privatization components are needed to support the process

Based on our review of various privatization publications and privatization laws, criteria, and guidelines from other states, we identified other privatization components that can enhance the State's current privatization efforts. These components include identifying and comparing relevant in-house and contractor costs and establishing adequate bid, contract, monitoring, and oversight requirements.

Comparisons of in-house and contract costs support privatization's cost effectiveness

Prior to contracting with a private entity, agencies are required to determine that the entity's costs will be less than the agencies' in providing such services. However, Act 90 does not explain what costs an agency should consider when making the comparison. It is also unclear how the costs should be compared, how the comparison should be documented, and whether or not a particular level of savings should be achieved before deciding whether to privatize.

The Department of Human Resource Development presented an overview of Act 90's requirements to departmental officials. The department also provided a price model, which it thought would be a useful tool in comparing government and private entity costs. The model identifies relevant costs such as overhead and labor, and provides a comparison example. However, one state agency said the model was too confusing and could be improved. As of July 2, 2002, the Department of Human Resources Development reported that departments have yet to use its optional model.

Determining contractor versus in-house costs may be difficult and detailed, and accurate cost comparisons can be time-consuming and complicated; however, it is crucial in determining whether privatization will save the State money. Many publications provide cost comparison guidelines. Exhibit 2.2 outlines the cost analysis steps recommended by the Reason Foundation. Similar steps are used by Texas and Massachusetts. In order to support privatization decisions, and to make decisions easier to implement and justify to potential critics, reliable and complete cost data are necessary to assess the overall performance of activities considered for privatization.

The Texas Council of Competitive Government has demonstrated the benefits of having a cost analysis process. The council has been able to recommend that certain services considered for privatization not be privatized because significant savings were not identified. It has also been able to calculate the actual savings realized by privatizing services. For example, the council determined after reviewing bids from private vendors that the state would not save money by outsourcing its

Exhibit 2.2
Basic Cost Analysis Steps

Cost Component	Description
Step 1: Identify cost components	
Total in-house (fully allocated) costs	• Direct costs – 100 percent chargeable to service targeted for privatization. This can include salaries, wages, fringe benefits, supplies, materials, travel, printing, rent, utilities, communications, and other costs consumed or expended for the exclusive benefit of a target service. Other direct costs, which are often overlooked, include interest costs, pension costs, and facility and equipment costs. • Indirect or overhead costs – benefit the target service and at least one other government service, program, or activity. This can include salaries, wages, fringe benefits, supplies, materials, travel, printing, rent, utilities, communications, interest, pension, and depreciation that benefit the target service and at least one other government service, program, or activity. State and local governments frequently develop overhead or indirect cost rates that are simply applied to the personnel or total direct costs of a target service.
Total contracting costs	• Contractor costs – cost to perform target service. • Administration costs (the most difficult to compute) – procurement, contract negotiation, contract award, amendment and change order processing, dispute resolution, contractor invoice processing, and contract monitoring and evaluation. • Conversion costs (personnel, material, and other costs resulting from conversion from in-house to contracted service), and off-setting revenue (new or enhanced revenue stream resulting from contracted service).
Total avoidable costs	• Costs that will not be incurred if a target service or portion of service is contracted out. All direct costs are avoidable; however, determining what portion of indirect/overhead costs is avoidable requires professional judgment and largely depends on three factors: 1) How effectively resources are reallocated; 2) The time period in which resource allocation will occur; and 3) The extent of the privatization effort.
Step 2: Identify potential savings	
Potential savings	Subtract “total contracting costs” from “total avoidable costs.”

Source: Reason Foundation, Massachusetts Office of the State Auditor, and Texas Council on Competitive Government.

Department of Transportation's El Paso auto parts warehouse. However, the council determined it should outsource the department's San Antonio fueling facilities, which saved the state $74,244 in FY2000-01.

Government officials need to also consider keeping cost data confidential. For example, Massachusetts requires that cost estimates remain confidential until the final day that sealed privatization contract bids are received by agencies. The Department of Human Resources Development also reported that maintaining confidentiality of cost data before awarding privatization contracts needs to be addressed. In addition, if cost savings are not identified, or if agency personnel submit a successful bid for the target service under the managed competition process, the service should continue to be performed in-house.

Bid and contract requirements provide safeguards

Act 90 requires that procurement laws be appropriately applied to privatization contracts entered into under the act; however, the act does not specifically describe other bid or contract safeguards. For example, bids and contracts should contain clear and measurable goals. Performance outcomes should be specific in terms of service quality, service levels, timeframe, reporting requirements, and tolerance ranges. Contract monitoring requirements, contract reporting requirements, evaluation criteria, corrective action plans, and cost adjustments for inflation and unexpected workload increases are other elements that should be included in privatization contracts. These elements provide agencies with an ability to ensure contracted services are properly provided. Vague contracting requirements can make evaluating contractor performance difficult.

Monitoring and oversight requirements ensure quality services are received

Public officials remain accountable for public funds even when services are provided through private entities. Therefore, strong oversight of privatization efforts is critical, and agencies should closely monitor and periodically evaluate private providers' performance. Unsuccessful efforts are usually caused by government mistakes made in the implementation and monitoring of privatization efforts.

We found that Arizona's statutes include specific contract monitoring and oversight requirements. For example, the Arizona Department of Corrections is required to compare the cost of operating state prisons with private contractors to the operating cost incurred by the state to operate other prisons. The department must also biennially compare each contractor's performance in operating prisons with the state's

performance in operating similar facilities. The department's oversight activities have ensured that facilities run by contractors function like state-operated facilities but at a lower cost.

The lack of contract monitoring or oversight requirements in Act 90 is a cause for concern. State agencies must devote appropriate resources to effectively monitor contract specifications and assess the quality of services provided. Basic contract monitoring and oversight elements include performing periodic inspections, conducting citizen questionnaires and addressing complaints, determining whether performance standards are adequately met, and conducting cost-benefit analysis to determine whether identified savings are realized and maximized.

Conclusion

In 2001, the Legislature gave state and county agencies the ability to utilize a management tool to promote government efficiency through Act 90. Although agencies have contracted with private providers since Act 90 went into effect, none consider their contracts subject to the requirements of the act. Some agencies report that they are waiting for guidance on how to implement the act before "privatizing." However, we found no evidence that the State has taken any steps to plan or provide guidance for future privatization efforts.

While there are no guarantees that privatization will improve government efficiency, steps can be taken to support the privatization process. Most importantly, a privatization entity must be appointed to lead the State's privatization efforts. The entity's responsibilities would include development of guidelines to assist agencies and implement other components to safeguard the privatization process. Once these guidelines and components are in place and agencies have privatized some of their services, further evaluation of privatization efforts should be considered.

Recommendations

1. The governor should:

    a. Designate an entity to implement Act 90, SLH 2001, and establish and enforce privatization guidelines.

    b. Ensure the establishment of comprehensive privatization guidelines that include:

        - A clear definition of privatization;

- Clarification of privatization methods, including contract types, subject to Act 90;
- Delineation of state and county agency privatization roles and responsibilities;
- Review and approval controls to ensure state and county compliance;
- An analysis framework process;
- Managed competition process requirements;
- In-house and contract cost comparison requirements;
- Bid and contract requirements;
- Monitoring and oversight requirements; and
- Provisions for employees displaced as a result of privatization.

2. The governor and mayors should consider evaluating state and county agencies' privatization efforts after agencies have privatized services utilizing the privatization guidelines.

Notes

Chapter 1

1. *Privatization - Lessons Learned by State and Local Governments*, U.S. General Accounting Office, 1997, p. 1.

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Appendix A
Privatization Techniques

Technique	Description
Asset Sale	Ownership of government assets, commercial-type enterprises, or functions is transferred to the private sector through the selling of such assets.
Contracting Out	Government enters into contractual agreements with a private firm(s) to provide goods or services.
Franchising	Government grants a concession or privilege to a private-sector entity to conduct business in a particular market or geographical area.
Managed Competition	A public-sector agency competes with private-sector firms to provide public-sector functions or services under a controlled, or managed, process.
Public-Private Partnership or Joint Venture	A contractual arrangement is formed between government and private-sector partners that can include a variety of activities including development, financing, ownership, and operation of a public facility or service.
Subsidies	Government encourages private-sector involvement in accomplishing public purposes through direct subsidies, such as funding or tax credits.
Vouchers	Government subsidies are given to individuals for the purchase of specific goods or services from the private or public sector.

Source: Office of the Auditor, Report No. 99-11, *Study of Privatizing Adult Mental Health Program Services*.

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Responses of the Affected Agencies

Comments on Agency Responses

On December 5, 2002, we transmitted drafts of this report to the Department of Health; Hawaii Health Systems Corporation; Department of Human Services; Department of Land and Natural Resources; Department of Public Safety; Department of Transportation; University of Hawaii; and City and County of Honolulu. A copy of the transmittal letter sent to the Department of Health is included as Attachment 1. Similar letters were sent to the other agencies. A copy of the University of Hawaii and City and County of Honolulu responses are included as Attachments 2 and 3, respectively. The Department of Health, Hawaii Health Systems Corporation, Department of Human Services, Department of Land and Natural Resources, Department of Public Safety, and Department of Transportation did not submit written responses.

The University of Hawaii found our report to be thorough, objective, and informative. The university indicated its willingness to support the State in its efforts to implement the report recommendations.

The City and County of Honolulu also found our recommendations to be sound. The city and county agreed that an entity or commission should be designated to implement and oversee compliance with Act 90; however, it believes that the counties should not be governed by the State since their operations and budgeting, accounting, and procurement processes vary. The city and county also supports our recommendations to establish privatization guidelines and indicated its belief that Act 90 is sound legislation and does not require any amendments at this time. Finally, the city and county reported that its Department of Human Resources has a draft privatization policy. However, during the period we conducted fieldwork, the city and county's human resources department reported it had no privatization guidelines and had no plans to develop any.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

MARION M. HIGA
State Auditor

(808) 587-0800
FAX: (808) 587-0830

December 5, 2002

COPY

The Honorable Loretta J. Fuddy
Acting Director of Health
Department of Health
Kinau Hale
1250 Punchbowl Street
Honolulu, Hawaii 96813

Dear Ms. Fuddy:

Enclosed for your information are three copies, numbered 6 to 8 of our confidential draft report, *Review of Privatization Contracts for Certain State and County Agencies*. We ask that you telephone us by Monday, December 9, 2002, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Friday, December 13, 2002.

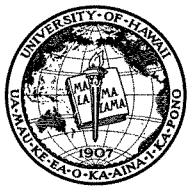
The Hawaii Health Systems Corporation, Department of Human Services, Department of Land and Natural Resources, Department of Public Safety, Department of Transportation, University of Hawaii, City and County of Honolulu, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
State Auditor

Enclosures



UNIVERSITY OF HAWAI'I

VICE PRESIDENT FOR ADMINISTRATION
AND CHIEF FINANCIAL OFFICER

December 12, 2002

RECEIVED
DEC 13 4 14 PM '02
OFC. OF THE AUDITOR
STATE OF HAWAII

Ms. Marion Higa
State Auditor
State of Hawai'i Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawai'i 96813-2917

Dear Ms. Higa:

Thank you for the opportunity to review your draft report, *Review of Privatization Contracts for Certain State and County Agencies*. We appreciate the thoroughness of your report, which we found to be objective and informative.

The University of Hawai'i will provide any assistance in support of the State of Hawai'i in its efforts to implement the recommendations contained in your report.

Sincerely,

James R. W. Sloane
Vice President for Administration
and Chief Financial Officer

c: Internal Auditor Uyeda

2444 DOLE STREET • BACHMAN HALL • HONOLULU, HAWAI'I 96822
TEL (808) 956-8903 • FAX (808) 956-9212
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION INSTITUTION

ATTACHMENT 3

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10TH Floor
HONOLULU, HAWAII 96813

JEREMY HARRIS
MAYOR

CHERYL K. OKUMA-SEPE
DIRECTOR

December 12, 2002

RECEIVED
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OFC. OF THE AUDITOR
STATE OF HAWAII

Ms. Marion M. Higa
State Auditor
Office of the Auditor
State of Hawaii
465 S. King Street, Room 500
Honolulu, HI 96813-2917

Dear Ms. Higa:

Subject: Draft Report -- Review of Privatization Contracts for Certain State and County Agencies

Thank you for sharing the draft report and allowing us to comment on your recommendations. We have comments in three areas.

I. <u>The City supports privatization and has developed a Privatization Policy and Guidelines</u>.

The City and County of Honolulu (City) supports privatization as a management tool to not only reduce costs and streamline government, but to increase efficiencies of non-privatized services. Contrary to the statement on page 14 of the draft report, the City's Department of Human Resources (DHR) has prepared a Privatization Policy and Privatization of City Services Form for departments to utilize when considering privatization (attached). DHR has been consulting over the past two months with various labor unions over the policy and our intent to privatize specific City services that have been usually and customarily been performed by civil service employees.

Moreover, the City has reviewed national privatization studies and hired a consultant to assist in a cost analysis framework and managed competition process.

The City currently has privatized many of its services such as the operation of its refuse derived fuel power plant, its landfill operations, its bus and Handi-Van operations, as well as dozens of other contracts.

Two additional City services are targeted for privatization: refuse front-end loader operations in the Department of Environmental Services and food service operations in the Honolulu Police Department cellblock. We are actively pursuing other privatization opportunities throughout the City.

II. City supports home rule.

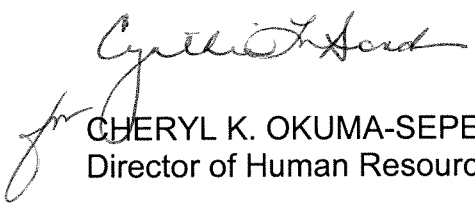
Many studies have shown that leadership and guidance are necessary to ensure successful privatization outcomes. While we agree with your recommendation to designate an entity or commission to implement and oversee compliance with Act 90, SLH 2001, we believe the City (as well as other counties) should not be governed by such a State entity. Our experience has shown through participation in the Act 230 Committee that each jurisdiction's budgeting, accounting, and procurement processes vary. Moreover, county operations are vastly different from State functions. While we would welcome leadership and guidance, we believe that each jurisdiction should be responsible for the governance of our own privatization efforts.

III. No changes to law necessary.

The City believes Act 90 is sound legislation and there is no need for any amendments to the law at this time. Much effort has gone into the passage of Act 90, and we feel it is premature to consider amendments at this point. We believe each jurisdiction should have the flexibility to establish its own guidelines or rules within the framework of the law. However, we support your recommendations to establish privatization guidelines.

Thank you for meeting with us and allowing us to comment on your draft report. We feel your recommendations are basically sound and we look forward to your final report.

Sincerely,



for CHERYL K. OKUMA-SEPE
Director of Human Resources

Attachments

cc: Mayor Jeremy Harris
Managing Director Benjamin B. Lee, FAIA
Mr. Frank Doyle, Department of Environmental Services

Title:	Privatization Policy	
Purpose:	City agencies shall consider privatizing government service as a management tool to increase government efficiency.	
Issued by:	Department of Human Resources	Date:
References:	Act 90 Session Laws of Hawaii, Twenty-First Legislature, 2001 (Note: Act 90 shall be repealed on June 30, 2007)	

City departments and agencies may enter into a contract financed by public funds when there is a reasonable basis to believe that a private entity could provide equivalent or better quality services at a lower cost. All new or existing contracts (that are re-bid) for services, including services contained in conjunction with procurement of goods and construction shall be subject to this review process.

I. Privatization Standards and Determination

Departments shall review and assess the following when deciding to privatize City services:

1. Whether contracting with a private entity will jeopardize the City's ability to provide the service if the private entity fails to perform, or the contract becomes unprofitable or impossible for a private entity to perform.

2. Whether contracting with a private entity will impact on any civil service employees.

3. Whether contracting with a private entity will affect the nature of the service the agency needs including whether:

   a. The service is self-contained or part of a larger service delivery system;

   b. The service is geographically dispersed;

   c. The service is a core or ancillary government service and if in-house resources are available or needed;

   d. Government control is necessary;

   e. Government accountability can be shared; and

   f. Governmental authority will be diluted.

4. Whether contracting with a private entity will increase the potential for achieving cost savings including:

   a. The need to abandon or repurchase capital improvements or equipment that are not fully depreciated;

   b. The extent to which the service is available in the private sector marketplace; and

   c. The extent to which federal or state restrictions may reduce private sector interest in providing or performing the needed or required service.

5. Whether contracting with a private entity will affect the extent to which the services are needed or required, and how the criteria to select a service provider can be described in objective specifications.

II. Employee Displacements

Any employee displaced from their current position as a result of privatization may be subject to the layoff provisions of the civil service law or collective bargaining agreements. Prior to implementing any layoff procedures, departments should explore the following methods to minimize the adverse effects on affected employees:

1. Coordination with the private service provider to continue a displaced employee's employment as an employee of the contractor.

2. Reassignment to another civil service position the employee is qualified to fill.

3. Retraining to qualify the employee for reassignment.

4. Severance incentives including voluntary separation incentives.

III. Departmental Responsibility

A. Departments considering privatizing government services including reprocuring existing contracts shall prepare a report (see attached form) to the Director of Budget and Fiscal Services and Human Resources. Final approval for privatization of any City service shall be granted by the Director of Budget and Fiscal Services.

B. Departments who have procured private contracted services shall be responsible for monitoring the performance of the contractor for the duration of the contract period.

IV. Annual Reports

Any City department or agency that privatizes any services shall prepare an annual report by December 31 of the calendar year, to the Managing Director, Director of Budget and Fiscal Services and Director of Human Resources which shall include:

1. An itemization of all services that were outsourced or subjected to the processes set out in this policy;
2. The department's or agency's justification that standards for determination were met;
3. The cost of services obtained through the process set out in this policy;
4. A copy of all contracts entered into under this policy; and
5. An accounting of civil service employees displaced as a consequence of this policy and a summary of placement efforts pursuant to II. above.

Privatization of City Services Form

Part I

Department/Division
Requesting Privatization of Services: _____

Contact Person and Phone No. _____

Specific and detailed description/location of services to be privatized:

_____
_____
_____
_____
_____

Does this determination involve: [ ] services that have not been contracted out previously;
[ ] a previous contract that is being reprocured; or
[ ] other _____
_____
_____

Part II Privatization Determination

1. Will contracting with a private entity jeopardize the City's ability to provide service if:

   a. the contractor fails to perform

      [ ] Yes _____
      _____

      [ ] No _____
      _____

      If no, check if applicable:

      [ ] sufficient vendors available to re-bid contract
      [ ] contractual remedies available against defaulting contractor
      [ ] other _____
      _____
      _____

b. the contract becomes unprofitable or impossible for the private entity to perform

[ ] Yes _____

_____

[ ] No _____

_____

2. Will contracting with a private entity impact on civil service employees? [ ] Yes [ ] No

a. If yes, indicate number, type and bargaining units of employees who will be displaced:

Nature of Work	Job Title	Bargaining Unit	Number of Employees

b. If yes, are placement alternatives available within the department for affected employees? List all positions that may be potential placement alternatives.

Nature of Work	Job Title	Bargaining Unit	Number of Vacancies

3. Will contracting with a private entity affect the nature of the service the agency needs, including whether:

a. The service is self-contained (not a part of a larger service delivery system).

[ ] Yes _____

_____

[ ] No _____

_____

b. The service is geographically dispersed?

[ ] Yes _____

_____

[ ] No _____

_____

c. Is the service a core government service?

[ ] Yes _____

_____

[ ] No _____

_____

d. In-house resources are available or needed?

[ ] Yes _____

_____

[ ] No _____

_____

e. Government control is necessary?

[ ] Yes _____

_____

[ ] No _____

_____

f. Government accountability can be shared?

[ ] Yes _____

_____

[ ] No _____

_____

g. Government authority will be diluted?

[ ] Yes _____

_____

[ ] No _____

_____

4. Will contracting with a private entity increase the potential for achieving cost savings, including:

   a. Need to purchase capital improvements or equipment?

      [ ] Yes _____

      _____

      [ ] No _____

      _____

      Need to abandon or repurchase capital improvements/equipment not fully depreciated?

      [ ] Yes _____

      _____

      [ ] No _____

      _____

   b . Extent to which service is available in the private sector marketplace.

      [ ] Fully _____

      _____

      [ ] Other _____

      _____

   c. Extent to which federal or state restrictions may reduce private sector interest in providing or performing the needed or required service.

      [ ] None _____

      _____

      [ ] Other _____

      _____

5. Will contracting with a private entity affect the extent to which the services are needed or required?

   [ ] Yes _____

   _____

   [ ] No _____

   _____

6. Can the criteria to select a service provider be described in objective specifications?

   [ ] Yes _____

   _____

   [ ] No _____

   _____

7. Cost Analysis (see attached samples)

   a. Existing costs for in-house salaries and fringe benefits for past two (2) fiscal years.

_____

_____

   b. Existing costs for current expenses and equipment, vehicle/maintenance for past two (2) fiscal years.

_____

_____

   c. Capital Costs

      Initial Capital Costs _____

      Amortized Annual Capital Costs _____

   d. Projected in-house costs _____

   e. Projected out-source costs for privatizing _____

8. Summary and Recommendation:

_____

_____

_____

_____

_____

9. Based on the foregoing, there is a reasonable basis to believe that a private entity:

( ) **could** provide equivalent or better quality services at a lower cost.

( ) **could not** provide equivalent or better quality services at a lower cost.

RECOMMEND APPROVAL:

_____

Requesting Department Director Date

APPROVED:

_____

Budget and Fiscal Services Director Date

REVIEWED:

_____

Department of Human Resources Director Date