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PRIVATIZATION INTERNATIONAL, INC.

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To: Richard Porter Date: 4/29/92
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A Summary of our CPP for the
U.S. Military Academy at West Point
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14 Wall Street New York, New York 10005

**The
Comprehensive Privatization Program
for the
City of Philadelphia**
Philadelphia, Pennsylvania

Office of the Controller

FINAL REPORT

February 3, 1992

Privatization International, Inc.

14 Wall Street

New York, New York 10005

(212) 385-0067

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PRIVATIZATION INTERNATIONAL, INC.

**Comprehensive Privatization Program
CPP
for the
City of Philadelphia
Final Report**

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Comprehensive Privatization Program

City of Philadelphia

I. EXECUTIVE SUMMARY

Privatization International, Inc. is pleased to present the Final Report of the Comprehensive Privatization Program ("CPP") prepared for the City of Philadelphia. This report 1) identifies the full range of privatization opportunities available to the City, 2) comprehensively analyzes twenty of the most viable opportunities, and 3) outlines implementation plans for five recommended privatization opportunities.

Our efforts indicate that 71 different privatization opportunities are available to the City of Philadelphia. If, as a first stage of a citywide privatization effort, only the five recommended privatization opportunities were implemented, the City of Philadelphia would receive over \$1.2 billion in economic benefits.

The City of Philadelphia is no stranger to privatization. City leaders have shown a great deal of foresight by successfully privatizing many services in an effort to reduce costs. Examples of privatized services include health care in prisons, solid waste disposal, trolley service in Fairmont Park, certain custodial services, and road resurfacing. Much more can be done, however. The privatization of services is only one of nine different types of privatization available to the City of Philadelphia.

Philadelphia is not alone in pursuing privatization. The Washington Post published an article on July 15, 1991, titled "*Privatization: The Idea is Catching On.*" This article described how Chicago Mayor Richard Daley, a Democrat, and Massachusetts Governor William Weld, a Republican, "*have become equally ardent advocates of privatization*" Furthermore, the article indicated that when Sharon Pratt Dixon, the new mayor of Washington, D.C., asked Daley for advice, his reply, officials say, was "*to privatize everything you can.*"

The City's Financial Condition

As a prelude to our comprehensive analysis of the City of Philadelphia's privatization opportunities, the City's financial condition was reviewed. Our review indicated that the City of Philadelphia can expect to incur continued budget deficits and significant reductions in its capital expenditure programs unless alternative sources of revenue are obtained.

As highlighted by the CPP approach, privatization provides the City of Philadelphia with a powerful source of alternative revenue.

Comprehensive Privatization Program

City of Philadelphia

Executive Summary, *continued*

The CPP Approach

The CPP approach to privatization was developed by our company to incorporate nine different types of privatization into the eight primary responsibilities of government. The material contained in Section IV of this report provides an overview of the CPP approach and its many advantages.

The most powerful features of a CPP are the breadth of its approach to privatization and its ability to identify and quantify certain synergies that are produced by implementing several methods of privatization concurrently.

An example of a privatization opportunity resulting from a more comprehensive view of privatization concerns the City of Philadelphia's real estate assets. Transferring underutilized or excess real estate assets to the private sector, either through an outright sale or a land-lease, would generate a substantial amount of revenue for the City. Additionally, if the property is sold to the private sector, the property would be returned to the tax rolls and the City's maintenance and administrative costs on the property would be eliminated.

The City of Philadelphia owns 10,767 real estate properties with an estimated value of \$2.4 billion. Carefully selecting just five percent of these assets for sale or lease, would generate an economic return and cost savings in the range of \$125 to 130 million.

Seventy-One Privatization Opportunities Identified

The CPP prepared for the City of Philadelphia identified 71 privatization opportunities ranging from contracting out the data processing services currently provided by the Philadelphia Computing Center to selling the Philadelphia Gas Works.

Several of the opportunities identified related to a single asset or responsibility. For example, when analyzing Veterans Stadium, three privatization types were applicable: 1) enhancing the economic performance of the stadium, 2) transferring the operation of the stadium to a private management company, and 3) pursuing the disposition of the stadium.

A schedule of all 71 opportunities is included in Section III of this report. For reference purposes, the opportunities are organized according to the City's eight primary responsibilities.

Comprehensive Privatization Program

City of Philadelphia

Executive Summary, *continued*

Twenty Most Viable Privatization Opportunities

Similar to the 71 privatization opportunities identified, our analysis of the twenty most viable privatization opportunities reflected the diverse nature of Philadelphia's privatization potential. In selecting the twenty opportunities for further analysis, we attempted to draw from all aspects of the City's responsibilities.

The criteria used to select the twenty opportunities included the magnitude of potential return, private sector interest level, cost of implementation, and time required to implement. We also took into account the sensitivities of various groups and organizations in making our selections. Our analysis of each of the twenty opportunities is included in Section V of this report. Additionally, we prepared detailed evaluation matrices for each opportunity outlining the costs of implementing, marketability, and sensitivity levels. The matrices are included in Section VII.

Implementation Plans for Five Priority Projects

Drawing on the results of our comprehensive analyses, we recommend that the City of Philadelphia implement five privatization opportunities as the first stage of a citywide privatization effort. These five are:

- 1) Establishing an airport authority and transferring the operation of Philadelphia International Airport to a private management company as a first step in selling the airport to the private sector.
- 2) Pursuing the disposition of Philadelphia Gas Works.
- 3) Pursuing the disposition of Veterans Stadium and surrounding grounds.
- 4) Establishing a Real Estate Management Board.
- 5) Transferring the operation of the Philadelphia Computing Center to a private company.

As shown in the table on the following page, implementing these five privatization opportunities, would generate \$1.2 billion for the City of Philadelphia. Implementation plans for the five recommended privatization opportunities are included in Section VI of this report.

Summary

In addition to implementing the five recommended privatization opportunities, the City of Philadelphia should actively pursue the concept of privatization on a citywide basis. Our analysis indicates that the City of Philadelphia can benefit significantly from aggressively pursuing privatization.

**ESTIMATED PROCEEDS FROM THE FIVE RECOMMENDED PRIVATIZATION
PRIORITY PROJECTS**

Philadelphia International Airport	\$496 Million
------------------------------------	---------------

We recommend the City establish an airport authority and transfer the operation of Philadelphia International Airport to a private management company as a first step in selling the airport to the private sector.

Philadelphia Gas Works	\$400 Million
------------------------	---------------

We recommend the City pursue the disposition of the Philadelphia Gas Works.

Veterans Stadium	\$153 Million
------------------	---------------

We recommend the City pursue the disposition of Veterans Stadium (\$70 million) and the stadium grounds (\$80 million) and add the Stadium and the grounds to the tax roll (\$3 million).

Real Estate Asset Management Board	\$125 Million
------------------------------------	---------------

We recommend the City establish a board to manage the City's \$2.4 billion in real estate. Sale and tax proceeds for 5% of the City's inventory totals \$125 million.

Philadelphia Computing Center	\$2 Million
-------------------------------	-------------

We recommend that the City contract out this function to the private sector.

ESTIMATED TOTAL REVENUE AND COST SAVINGS	\$1.2 Billion
---	----------------------

Privatization International, Inc.
04/29/92

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14 Wall Street New York, New York 10005

**Comprehensive Privatization Program
for the
United States Military Academy
West Point, New York**

**Phase I Report
June 1991**

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I. EXECUTIVE SUMMARY

"The purpose of this contract is to provide the USMA with advisory services in utilizing its marketable real estate assets. Consultant shall develop strategies which leverage these assets to create new financial resources to bring about the construction program envisioned by the Master Plan (for the year 2002)."

Work Statement for the Request
for Proposal NAFFPA2-90-R-0005

The Proposed USMA Privatization Program

The primary purpose of the USMA Privatization Program is to provide an inventory of their four types of assets and strategies to leverage those assets to generate additional revenues, reduce costs and create new sources of finance to facilitate the construction program envisioned by the USMA Master Plan for the year 2002.

One of the major assumptions underlying the proposed Privatization Program is that while the Academy currently is primarily serving as an institution of higher learning, in order to maximize the positive impact of the Privatization Program, selected facilities, both existing and proposed, will also serve the general public.

In order to provide the USMA with a continually useful tool to facilitate the purpose of the Privatization Program a Privatization Decision Matrix was developed to combine the asset inventory with established criteria to qualify and to prioritize privatization projects.

In order to maximize the potential impact of program incorporates the use of six methods. These methods provide the USMA with a privatization and allows the Academy to acquire facilities thereby delivering concrete results both

In addition, the Privatization Program includes a number of projects which could have a profound impact on the

- A \$100 million USMA Privatization Program. This pool of money is to provide a source of equity and/or debt, a multitude of projects.
- Ten privatization projects "bundling", or combining selected projects and new projects identified in Phase I. These ten projects are listed in the Privatization Decision Matrix.
- The use of the barter system in the implementation of the privatization program development and pre-closing costs.

Another aspect of the Privatization Program is the implementation plans for four privatization projects from the projects highly ranked by Privatization

The Privatization Decision Matrix

The driving force behind the development of this 5,650 cell matrix was to provide the USMA with one all inclusive document which they could use to make decisions regarding the public/private and development of the Academy now and in the future.

The matrix has been structured using the X-Axis for 50 criteria to qualify and prioritize the privatization projects, and the Y-Axis for the 113 projects and assets which have been identified as privatization opportunities for USMA consideration.

The matrix serves two purposes: 1) it provides USMA officials with the criteria and the data used to address each criteria, both of which provide insight into the rationale PI used for program recommendations; and 2) it provides a concise format for USMA officials to make their own assessments of the privatization opportunities now and in future years.

Privatization Strategies for Four Projects Selected by USMA

USMA officials selected four privatization projects from projects highly ranked by PI. The USMA believed these projects warranted analysis and specific implementation plans in Phase I. These projects include:

- The Galeville Property
- The Expansion of Michie Stadium
- The USMA Privatization Fund
- The Development and Operation of a New Retail Facility at Long Pond

All four of these projects have a high likelihood of proceeding through the privatization process. Each project has been funneled into the following subjects:

- Project Scope
- Marketability
- Potential Economic Impact
- Privatization Strategy

The implementation plans provide USMA officials with the information needed to privatize these projects.

Phase II of the Privatization Program

The final product generated from the analysis and evaluation is PI's recommendation for privatization projects to proceed to Phase II.

The purpose of Phase II is fourfold: 1) to prepare public/private deal sheets; 2) prepare public/private deal solicitations to be distributed to the appropriate agencies; 3) assist USMA officials with the evaluation and selection of projects; and 4) assist USMA officials with the evaluation and selection of projects as well as negotiations with selected private sector entities.

All eight projects recommended to proceed to Phase II are being reviewed by the USMA to accomplish the concept for the City of Boulder (CBB).

II. THE RECOMMENDED COMPREHENSIVE PRIVATIZATION PROGRAM

"The purpose of this contract is to provide the USMA with advisory services in utilizing its marketable real estate assets. Consultant shall develop strategies which leverage these assets to create new financial resources to bring about the construction program envisioned by the Master Plan (for the year 2002)."

Work Statement for the Request for Proposal NAFFA2-90-R-0005

The Privatization Program Meets USMA Objectives by Leveraging Assets and Being Responsive to Constraints and Opportunities.

USMA Has Two Primary Objectives

The USMA Privatization Program evolved from two primary needs: 1) The desire to better utilize USMA assets, and 2) the need to supplement governmental funds to accomplish the Master Plan for 2002.

The Constraints and Opportunities to Implement Privatization

Privatization is often a complex process to structure and implement. This is particularly true for privatization to work successfully in an arena involving various levels of government, especially when the federal government is involved. The complexity for this program is compounded for projects requiring the participation of local governments and/or concerned private groups.

In addition to numerous participants, private industry is governed by eleven sections of federal legislation, "Section" of the Privatization Decision Making

Both the participation of numerous groups and the legislation have a substantial impact on the structure and implement privatization program.

Another area of potential constraints is based on the Military Academy is a nationally recognized landmark, the USMA a historical landmark but it is "hallowed ground", which should be preserved at a cost.

While neither a constraint or opportunity, the privatization program is to provide the long term results. The privatization program is to provide economic return, cost savings, or needed services within the next one to two years on a continuing basis for the decade following.

Criteria to Qualify Privatization Opportunities Implementation of Recommended Privatization

In order for the USMA Privatization Program to be successful, it needs it has to be responsive to a host of factors organized into categories of criteria:

- USMA Issues
- Project Characteristics
- Privatization Issues
- Schedule Required to Produce Results
- Finance Sources
- Amount of Economic Return to USMA
- Implementation Issues

The purpose of identifying these factors was twofold: 1) to insure that the proposed privatization projects adequately met the comprehensive criteria deemed necessary by USMA and PI; and 2) to serve as a basis to prioritize the implementation of projects which met the criteria.

To Meet USMA Needs Requires Leveraging More Than Real Estate Assets.

Based on the anticipated substantial short fall to finance the proposed Master Plan and to identify a sufficient number of privatization opportunities, the inventory of USMA assets went far beyond real estate. In addition to USMA owned real estate assets the inventory of assets to leverage included three other asset categories: 1) infrastructure, 2) services and 3) soft assets. The inventory also included assets located on the Main Post and Off Post.

Real Estate Assets

This type of asset includes both land and buildings controlled by the USMA. Land assets can be vacant, underutilized, or currently not perceived by the USMA as a site for a more intense and/or commercial use.

Infrastructure Assets

These assets include a wide variety of projects such as power plants and roadways, or natural resources currently underutilized, and/or which could generate revenue from off post users.

Service Assets

The USMA provides a wide range of services for faculty and visitors. If selected services met established privatization criteria, they could be transferred to private operators with the stipulation that the service is maintained or enhanced at a level that shares revenue to the USMA.

Soft Assets

There are two basic types of assets: hard assets and soft assets. Hard assets include physical, or tangible assets such as infrastructure investments. Soft assets are intangible in character, such as the USMA Logo and the Department of Athletic's logo, all of which have the potential for rights of advertisement, etc.

The Proposed Program is a Break-Through in the Privatization Industry.

A combination of 1) The desire to leverage assets, 2) Minimize the constraints on privatization and 3) Generate economic results in the short and long term induced the innovation of applying six methods of privatization to a single project - the USMA project.

The following general methods of privatization have been used to provide the USMA with the means "to create new financial resources", some of which can produce results as early as the third or fourth quarter of 1992, as well as in the long term.

- Enhancing the revenue performance of existing facilities.
- Transferring services currently provided by the USMA to private sector companies which specialize in these services.
- Transferring facility operations and management responsibilities, which the USMA is currently burdened with, to private sector companies whose sole business is to operate facilities.
- Financing and developing needed facilities on a public/private partnership basis using the lease commitment as a basis of the deal structure.

- Financing and developing needed facilities on a public/private partnership basis using revenues to secure private financing and eliminate the need for approval by the USMA.
- Disposing of selected real estate in the defense sector for economic return, or financing the development of facilities.

In addition to using six methods of privatization, our team has introduced the concept of a USMA

The Proposed Privatization Program is the Methodical and Comprehensive Approach.

In summary, the USMA Privatization Program consists of the following part process:

- Meeting USMA Objectives
- Minimizing Constraints and Maximizing Benefits
- Implement Privatization
- Insuring That All Privatization Meets Established Criteria
- Inventorying Four Types of USMA Assets
- Applying Six Methods of Privatization

The Proposed Comprehensive Privatization Program

The Recommended Privatization Program for the USMA Consists of Two Major Parts

In order for the USMA Privatization Program to produce the needed results in the required time frame, the recommended privatization action includes leveraging four types of assets and creating new concepts for privatization projects.

A detailed description of the four types of assets was presented in Section II and can be found in Sections 1 through 7 in the Privatization Decision matrix. The "new" concepts for other privatization projects includes: 1) The USMA Privatization Fund; 2) complex and somewhat controversial projects, as well as 3) bundling of smaller, but similar types of assets. These projects are presented in Section 8 of the Privatization Decision Matrix.

By using a comprehensive and methodical project approach, the proposed privatization program provides the USMA with numerous projects which have a high likelihood of being successfully implemented in a satisfactory time frame.

THE PRIVATIZATION COUNCIL



4/29

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April 29, 1992

Mr. Richard W. Porter
Counsel to the Vice President
The White House
Washington, DC 20501

Dear Mr. Porter:

Enclosed are materials regarding the Privatization Council's Awards program from 1990 through 1992. Only the winning individuals and projects are included; I am able to give you information about other submissions if you are interested.

Also enclosed is a new study done by one of our sponsor firms, Apogee Research. I thought it might be of interest to you, as it is the most recent statistical information that we have.

I enjoyed meeting you yesterday, and hope that I can be of assistance to you in your work. Please do not hesitate to call if you require more information.

Sincerely,

Kate Krewatch
Assistant to the
Executive Director

File -
Privatization

*Founding Member



For Immediate Release: April 22, 1992

CONTACT: Kate Krewatch
202/857-1142

NEWS RELEASE

PRIVATIZATION COUNCIL AWARDS PARTNERSHIP LEADERS

Leadership and Project Awards Selected

Washington, D.C. -- The Awards Committee of the Privatization Council has announced the winners of its Annual Awards competition. Mr. Ron Jensen, Director of Public Works in Phoenix, Arizona, will be the sole recipient of a Leadership Award. The Project/Program Awards will go to a Canadian airport, a Louisiana child Medicaid program, a Washington waste hauling system, and a Massachusetts solid waste composting project. The awards will be presented at a luncheon on Monday, April 27 at the Council's Sixth Annual National Conference at Loews L'Enfant Plaza Hotel, when U.S. Department of Housing & Urban Development Secretary Jack Kemp will be speaking to conference attendees.

- ◇ *Ron Jensen, Public Works Director of Phoenix, Arizona* receives the Leadership Award for his nearly career-long contributions to the field of privatization. A professional civil engineer, Mr. Jensen also had experience as a city manager and maintenance services director before joining the City of Phoenix in 1978. His accomplishments include holding a seat on the Privatization Council Board, past presidency of the American Public Works Association, and Vice Chairmanship of the Rebuild America coalition. Mr. Jensen developed a city program on privatization for Phoenix that initiated an innovative process of city operations bidding competitively against private contractors. He has appeared on national and local television shows and at numerous conferences promoting privatization, and holds a seat on the Privatization Council Board of Directors as a representative of the public sector.
- ◇ *Trillium Terminal 3*, located at Toronto's Lester B. Pearson International Airport, opened in February 1991, after only 3 and 1/2 years of planning/construction. Financed totally by the private sector, the facility is managed and operated by Lockheed Air Terminal of Canada for the profit of the Canadian government. In the case of Trillium Terminal 3, partnership provided the capital funds and efficiency that the Canadian government was unable to provide without a public fund burden, and is currently generating revenue for the government.
- ◇ *The Long Haul System* that provides solid waste disposal for the city of Seattle, Washington, uses the technical and financial resources of the private sector to provide a necessary service for the city. The

Privatization Council 1992 Awards

Press Release, Page Two

system involves the hauling of solid waste in containers to a landfill/recycling center in Oregon. A cost-reduction incentive for recycling is included in the agreement, which began on April 4, 1992. Annual savings to the city of Seattle are estimated at over \$2 million yearly.

- ◇ *The Holyoke, Massachusetts Sludge Composting Facility* provides an economical solution to the difficult problem of a financially troubled city in Massachusetts. In order to discontinue the landfilling of sludge from the existing treatment plant, the city solicited bids for alternative processes. A privately financed, designed, constructed, and owned composting facility was built on Main Street in the city, across from the waste treatment facility in a space much smaller than usually required for such a facility. Unique design, environmental efficiency and government revenue generation are achieved as a result of this partnership.

- ◇ *The KidMed Program* of Louisiana combines public and private responsibilities and resources to provide child and maternal health care services to poor residents of Louisiana. Its success lies in correcting longstanding deficiencies in the previously government regulated and delivered program. Making recipients aware of the services that they are eligible for through Medicaid, introducing financial incentives for performance, and creating an exemplary program that other states have already shown interest in emulating make KidMed a partnership program worthy of attention.

For more details on the winners of the 1992 Privatization Council Awards, or for information about the Council's Sixth National Conference, please call Kate Krewatch at 202/857-1142.

□ □ □ □ □ □



NEWS RELEASE

ANNUAL PUBLIC-PRIVATE PARTNERSHIP AWARDS SELECTED

Washington, D.C. - The Privatization Council has awarded its Fifth Annual Public-Private Partnership Awards to four projects and two individuals demonstrating an outstanding commitment to cooperation between the public and the private sectors. The Awards will be presented at the Council's Fifth National Conference to be held on June 24-25 at the Stouffer Concourse Hotel in Arlington, VA.

The Council's Leadership Awards recognize individuals who have demonstrated a lifelong commitment to developing public-private partnerships. The 1991 Privatization Leadership Awards have been awarded to the following individuals:

- Mr. Carl Williams, as Assistant Director for Federal Fiscal Planning at Caltrans, has been instrumental in navigating the early stages of the California AB (680) projects. His leadership was crucial to the passage of the AB (680) legislation and the negotiation of the franchise agreements. Mr. Williams has also provided leadership in the national debate on public-private partnerships in highway development.
- Mr. John Simmons has been a leader for over a decade in public-private partnerships at the Community Planning and Development Division of the Department of Housing and Urban Development. Mr. Simmons has been a driving force behind many of the Department's public-private initiatives and has been instrumental in some of the Department's most innovative community development initiatives such as the Entrepreneurial American City Demonstration Program.

The Council's Project Awards recognize projects at the federal, state, and local level that illustrate successful partnerships between the government and the private sector. From many qualified nominations, the Council has selected the following Project Awards:

- Brea-Olinda High School - a partnership between the Brea-Olinda Unified School District, the City of Brea, and the Lowe Development Company. The partnership resulted in a new high school financed without the need for state funds or a local bond issue.
- Maple Grove Yard Waste Drop-Off Site - a partnership between the City of Maple Grove, Minnesota and Lynde and McLeod Development Company. The project provides an all-weather collection site for yard waste that is used by eight cities and results in a cost savings of \$213,997 for the cities involved.
- Racine Harbor/Marina Project - a partnership between Racine County, Wisconsin and Racine Marina Associates. The partnership employed a variety of innovative financing and development techniques and resulted in the development of a new harbor, marina, and festival park that has stimulated the revitalization of the downtown business district.
- IMAGIS (Indianapolis Mapping and Geographic Infrastructure System) - a partnership between several Indianapolis city departments, County agencies, private utilities, and a local university. The partnership resulted in the creation of a geographic-based information system that saved a substantial amount of money for all of the public and private partners.

1990 Privatization Council Awards

Certificates of Continuing Achievement:

Kemmons Wilson, Inc.

Memphis, TN

Contact: Kemmons Wilson, Jr. 901/346-8800

City of Houston, TX

Contacts (in 1990): Kathy Whitmire, Mayor, or Daniel Bragg

Governmental Leadership Awards:

Development Authority of the North Country

Contact: Ramon F. Bradham, Watertown, NY 315/785-2593

County of Los Angeles

Contact: Christopher Goodman, 213/974-1101

Project Awards:

The York Water Company/ York County, PA

Contact: Elaine Krawiec/ Jim Good, National Association of Water Companies, 202/833-8383

Synergics, Inc. Lahontan Dam Project

Contact: Wayne Rogers, Synergics, Inc. 301/268-8820

1991 Privatization Council Awards

Leadership Award:

Carl Williams
California Department of Transportation

John Simmons
U.S. Department of Housing & Urban Development

Project/Program Awards:

Racine County (WI)/Racine Marina Associates
Contact: Dennis Kornwolf,

Brea-Olinda (CA) Unified School District/Lowe Development Co.
Contact: Wayne Wedin, 714/990-7718

City of Maple Grove, MN/Lynde & McLeod Development Co.
Contact: Frank Kampel, 612/420-4000

IMAGIS (Indianapolis Mapping & Geographic Infrastructure System)
Contact: J. Darell Bakken, 317/263-6301

1992 Privatization Council Awards

Leadership Award:

Ron Jensen

Director of Public Works, City of Phoenix, AZ

602/262-7251

Project Awards:

Trillium Terminal 3

Contact: Victor Gill, 818/972-1902

Louisiana Kid-Med

Contact: Clint Gardner, 301/589-6760

Seattle Long Haul System

Contact: Lorie Parker, 206/684-7639

Holyoke Sludge Composting Facility

Contact: Richard Elander, 315/437-8800

 Apogee Research, Inc.

State Government Privatization 1992

An Updated Opinion Survey of State Governments
on Their Use of Privatization

Prologue

This report is the second on the use of privatization by state governments co-sponsored by the National Association of State Comptrollers; it is the fifth research report and monograph by Irwin T. David dealing with infrastructure finance and privatization. For copies of the prior reports, *The Infrastructure Crisis*, *Financing Infrastructure in America*, *Privatization in America* and *State Government Privatization in America*, please contact Mr. David, Senior Vice President of Apogee Research, Inc., at (301) 652-8444.

Apogee Research, Inc. is a consulting firm concentrating on economic, financial, privatization, policy and marketing analyses for governments and the private sector. In the area of privatization, we assist governments and private parties to identify opportunities for additional private participation, to evaluate the potential benefits to both parties, and if appropriate, to implement the privatization initiative. Our privatization services cover the broad activities of government operations.

In preparing this 1992 report on the Use of Privatization by State Governments, we gathered a great deal of information, much of which we could not include in the report. For additional information or for additional copies of the report, please contact Mr. David. In addition, we are interested in continually updating our information base about privatization initiatives by state and local governments. Please call or write Mr. David (at Apogee Research, Inc., 4350 East West Highway, Suite 600, Bethesda, Maryland 20814) with any information that might be of interest.

We want to express our appreciation to the National Association of State Comptrollers for their assistance and cooperation in conducting this survey. Special thanks go to Dr. Relmond Van Daniker, Executive Director, and to Ms. Pat O'Connor, Research Assistant, for their support and encouragement.

Introduction

State governments face enormous fiscal pressures today due to current economic conditions, demands for new services, continually increasing costs of providing services, mandates from the federal government and the significant need for infrastructure repair and maintenance. Newspapers are full of stories of budget and fiscal pressures faced by states; even when the economy improves, many states forecast continued fiscal pressures as they deal with demands for services and revenue/cost pressures.

State governments are responding with new and innovative approaches to providing services. Executive and Legislative leaders and Statewide Commissions are considering many alternatives for downsizing, rightsizing and changing the "shape" of state government today. Privatization is receiving increased attention as one way to help "reshape" state government; several states have appointed privatization commissions or are considering privatization as part of statewide efficiency or productivity commissions.

There are many definitions of privatization. The one we like best is:

Privatization is a variety of techniques and activities to promote more involvement of the private sector in providing traditional government or public services. It enables each party to do what it does best and results in a "win-win" solution to providing public services.

In 1989, the National Association of State Comptrollers (NASC) sponsored the first ever survey of the use of privatization by state governments. Because of the increased interest in privatization by state officials and to provide a data base for sharing of information, NASC, together with the consulting firm of Apogee Research, Inc., has updated and expanded that survey.

We recognize the complexity of state government and the fact that no one agency or individual has full knowledge of how alternative service delivery methods, including privatization, are used by the broad range of state agencies. To obtain such information, we asked each state comptroller to complete a questionnaire covering the entire state, just as we did in 1989. To gather more information, we also requested that the comptroller distribute specially tailored questionnaires to at least one corrections, health

care, higher education, transportation and other agency (of their choice); we also asked the comptrollers about their own use of privatization. The questionnaires asked state officials for their opinions about privatization, how their state or agency has used or plans to use the techniques, and the results of such use.

As a practical matter, privatization is not one or a limited set of techniques (as was demonstrated by the survey responses), but is a number of management techniques to be evaluated by state policy makers. Recognizing the diversity, for purposes of this survey we concentrated on perhaps the three most widely used privatization techniques:

- Contracting services out. The government contracts with a private sector organization to provide a specific service, such as processing Medicaid claims or janitorial services, instead of providing the service itself.
- Construction or acquisition and operation of facilities. A private sector organization builds or acquires a facility, such as a prison or a tollroad, and then owns (usually) and operates the facility for the government.
- Sales of assets. The government sells assets, such as a hospital or an airport, to a private investor. The buyer then operates the asset for public purposes.

The report does not directly deal with other forms of privatization, such as vouchers, lease-purchase transactions, service sharing, service shedding or other methods (although many respondents reported such use). Nor does the report include the activities of independent state authorities.

We received responses from 158 agencies, including 19 comptrollers, in 29 states. Many respondents not only answered the questionnaire, but provided thoughtful comments. Some of those comments are quoted in the report; other are summarized.

In summary, there appears to be marked increase in the use of privatization since 1989. Understandably, there is also a divergence of opinion, with some states using the concept extensively and others hardly at all. Many respondents expressed the view that privatization is not a panacea (we agree), but a technique to be

The definition of Privatization we like best is: A variety of techniques and activities to promote more involvement of the private sector in providing traditional government or public services. Enables each party to do what it does best and results in a "win-win" solution to providing public services.

used when appropriate (we also agree). Regarding it as one way to provide needed services, they examine the private option carefully, alongside other methods, service by service and facility by facility. Indeed, many states reported techniques not contemplated by the survey.

Other respondents, maintaining that government can provide services just as effectively as can the

private sector, questioned whether the supposed advantages of privatization are real. On the whole, however, the comments reflected an open-minded attitude on the part of the respondents.

The comments also emphasized a point that a tabulated survey can only suggest: the need to educate citizens and policymakers on alternative methods to provide services to citizens.

Many respondents expressed the view that privatization is not a panacea (we agree), but a technique to be used when appropriate (we also agree). Regarding it as one way to provide needed services, they examine the private option carefully, alongside other methods, service by service and facility by facility.

Highlights

Throughout this report, references to "statewide" results reflect comptrollers' responses for the state; "agency" results reflect responses from individual corrections, health, higher education, transportation and other agencies, as well as comptrollers' responses for their agency.

- Approximately 85% of the survey respondents believe that some form of privatization will represent a prominent tool to provide state government services and facilities in the next decade. This is a significant increase over the 1989 survey, when just over 50% of the respondents indicated that privatization would be a prominent method.
- All of the responding states have used and plan to use privatization techniques in one or more agencies. All have and plan to contract out services; approximately 80% have privatized facilities or plan to; and 11 states or over 55% plan to sell assets. The use of privatization for facilities acquisition and asset sales are significantly up from our 1989 survey.
- Over 90% of the responding agencies use privatization techniques. Of those that have or will use privatization, all have and plan to contract out services; nearly 30% have or plan to privatize facilities; and over 15% have or plan to sell assets. (We have no comparative 1989 data for specific agencies.)
- While operating and/or cost savings are among the main advantages to privatization, there is also widespread interest in other benefits, at both the statewide and the agency levels. Such other advantages as higher quality service, shorter implementation time and providing unavailable services were very strongly supported.
- Respondents noted several potential impediments to privatization -- key among them being loss of government control, need for enabling legislation, political problems and creating labor problems.
- Employee attitudes continue to appear negative toward privatization. In fact, of the 54% of the respondents who knew about union attitudes in their states, nearly 90% indicated an unfavorable opinion by the unions. This viewpoint by employee unions demonstrates the

need for continuing communication on potential privatization transactions.

- We were impressed that over 20% of the states and of the responding agencies have or are preparing a state-wide or agency-wide privatization strategy. We had the opportunity to review several of those strategies and were indeed impressed with the thoughtfulness and thoroughness of the plans. In 1989, no state reported such a strategy.
- On a statewide basis, over 70% of the responding states report that corrections, health, higher education and mental health functions contract out services. (This was confirmed by the agency specific responses.) We continue to be surprised that several agencies which appear to have significant privatization opportunities do not use the technique to any great degree.
- Approximately 80% of responding states acquire facilities through privatization. This is significantly higher than in 1989. Over 30% of the states acquire corrections, health, higher education and mental health facilities through the private sector; many other agencies were mentioned by specific states. In addition, recently, several notable facilities projects have been undertaken, including the acquisition of tollways and prisons through the private sector. The recently enacted Intermodal Surface Transportation Efficiency Act of 1991 provides significant incentives to state governments to involve the private sector in the ownership of toll facilities and in providing design and engineering services.
- More states plan to sell assets than in 1989. Several agencies also reported innovative use of asset sales in their particular circumstance.
- Responding agencies successfully embraced the privatization concept, particularly contracting services. This result matches the "statewide" response. On the other hand, responding agencies did not report the same extent of facilities acquisition or asset sales as reported by the comptrollers. This reflects the widespread use of facilities acquisition and asset sales in the states.
- Several agencies reported that they privatize to build "profits." To us, another innovative use of the techniques.

Approximately 85% of the survey respondents believe that some form of privatization will represent a prominent tool to provide state government services and facilities in the next decade. This is a significant increase over the 1989 survey, when just over 50% of the respondents indicated that privatization would be a prominent method.

- More than just the numbers, we were impressed by the initiative and innovative use of the private sector demonstrated by some of the agencies. It is very clear that the ways in which agencies use private resources do not fit any limited definition of privatization. The responding agencies did what was right for them, such as building toll and prison facilities, recruiting and retaining specialized skills, servicing remote and small locations, providing choice to citizens, meeting community needs and solving the myriad of other problems faced by state agencies. We were indeed impressed both with the initiative taken and by the fact again that the term "privatization" embraces a very broad range of management opportunities to solve problems.
- We were also impressed by the diversity of opinion among state officials of their view of privatization. The comments range from "we need to keep state employment up" to "privatization helps us minimize state employment." It seems that careful analysis of specific opportunities for private involvement can "bridge" the differences in philosophy.
- We were also impressed that both the impetus for and the resistance to privatization comes from both the legislature and the executive branch. In fact, from the time of completing the survey until we talked with him, one respondent went from never using privatization to implementing it under legislative direction.
- Speaking of legislation, 90% of the respondents who were knowledgeable, indicated that the legislative environment in their state was positive toward contracting, 60% positive toward facilities acquisition and over 50% positive toward asset sales. Many respondents were, however, unaware of the legislative climate in their states.
- Several responding states and agencies use privatization techniques extensively; others hardly at all. In talking with several of the respondents, however, we found that privatization is used even in states which claim not to use it. This emphasizes again the lack of central information about use at individual agencies. It also emphasizes that "privatization" is not new to state government; many agencies have used the private sector for so many years that it is routine.
- Overall we were impressed with the knowledge of the respondents of the value and the potential use of the techniques. However, as in 1989, the results continue to suggest an urgent need for more communication and education. Many states have still not considered the wide range of potential privatization alternatives available to them. While private involvement certainly will not be appropriate in all cases, we believe that it should be examined, along with other methods, to provide public services. Knowledgeable public officials should examine alternative service delivery methodologies and make their decisions from a base of knowledge and analysis of available opportunities.

*Responding states
and agencies
demonstrated
innovative uses of
the private sector.*

Privatization Extent Types Opinions

On an overall state basis, approximately 85% of the survey respondents expect privatization, in one or more forms, to be very prominent or somewhat prominent in providing or financing government services or facilities in the next decade. The opinion varies by type of privatization, from 85% for contracting services, to 59% for construction and operation (facilities acquisition) to over 40% for the sale of assets (Figure I). This result is a significant increase from the 1989 survey, which found that approximately 52% of the respondents believed that privatization would be a prominent form of financing services or facilities, irrespective of type of privatization. Similarly, responding agencies view privatization as being a prominent method of providing services and facilities in the next decade (Figure II).

Of the responding states, all had used and plan to use one or more forms of privatization over the next two years. The extent of use by states, and by individual agencies, varies by state, with several states reporting that nearly all of its agencies or functions use some form of privatization, while other states use privatization in only a few areas. The survey again demonstrated the lack of central information in

most states. For example, a few comptrollers reported that their state did not use privatization at all; however, based on the knowledge of the research team, in fact there were one or more privatized operations in the state, in some cases very extensive.

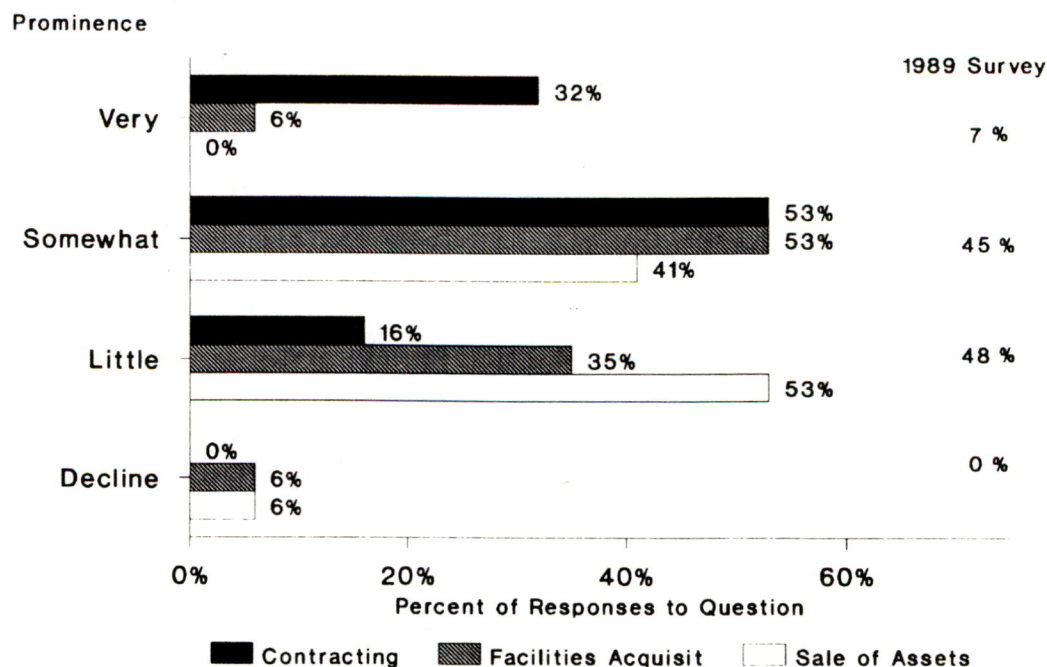
All of the responding states have contracted-out services and plan to continue to do so (Figure III), nearly 80% have or plan to acquire assets using privatization, and over 55% plan to sell assets. Seven states reported sales of assets to the private sector (up from 2 in 1989), and 11 states plan to do so in the future.

Responding agencies all contracted out; fewer use facilities acquisition or asset sales than reported statewide (Figure IV).

Most of the responding Comptrollers indicated that contracting services will increase in their states over the next decade, whereas approximately 44% believe that infrastructure acquisition and 28% that asset sales will increase over that time (Figure V). These results indicate more of an interest in privatization than in the 1989 study, particularly in the facility and asset sale area.

Figure I

Future Prominence of Privatization
Statewide (Comptroller) Response
(Next Decade)



All responding states and most agencies had used and plan to use privatization techniques.

Figure II

Future Prominence of Privatization
Agency Response
(Next Decade)

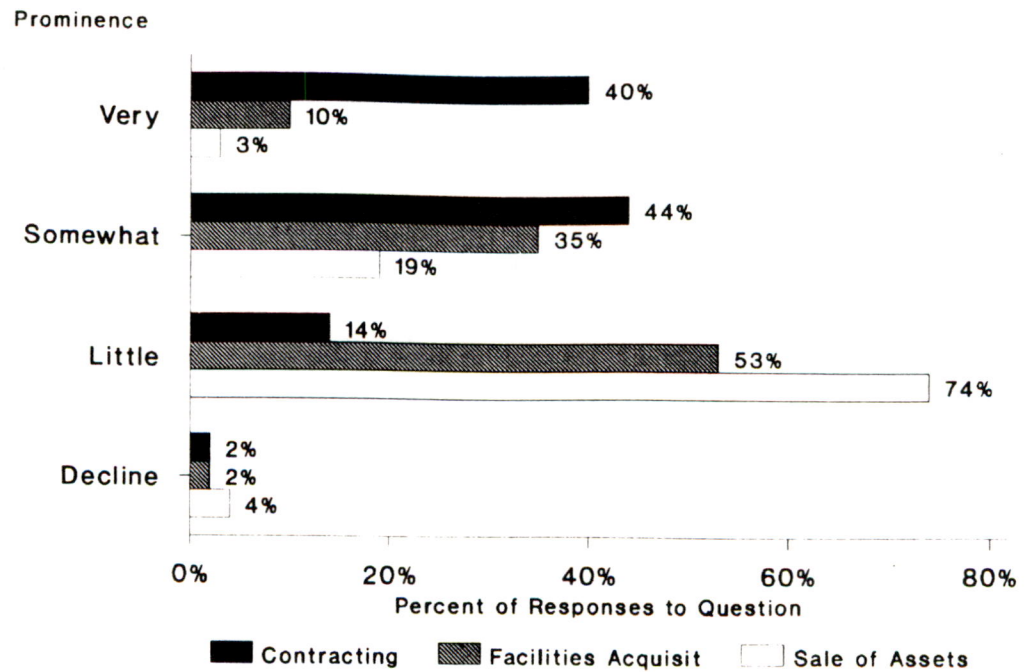


Figure III

Use of Privatization by Type
Statewide (Comptrollers)

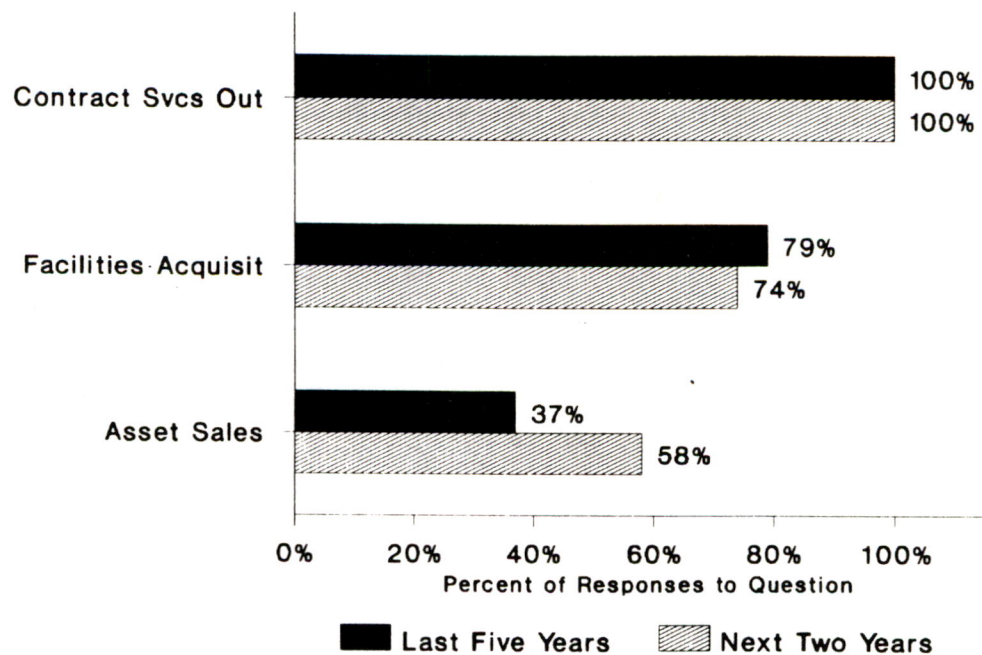


Figure IV

Use of Privatization by Type
Responding Agencies
Total

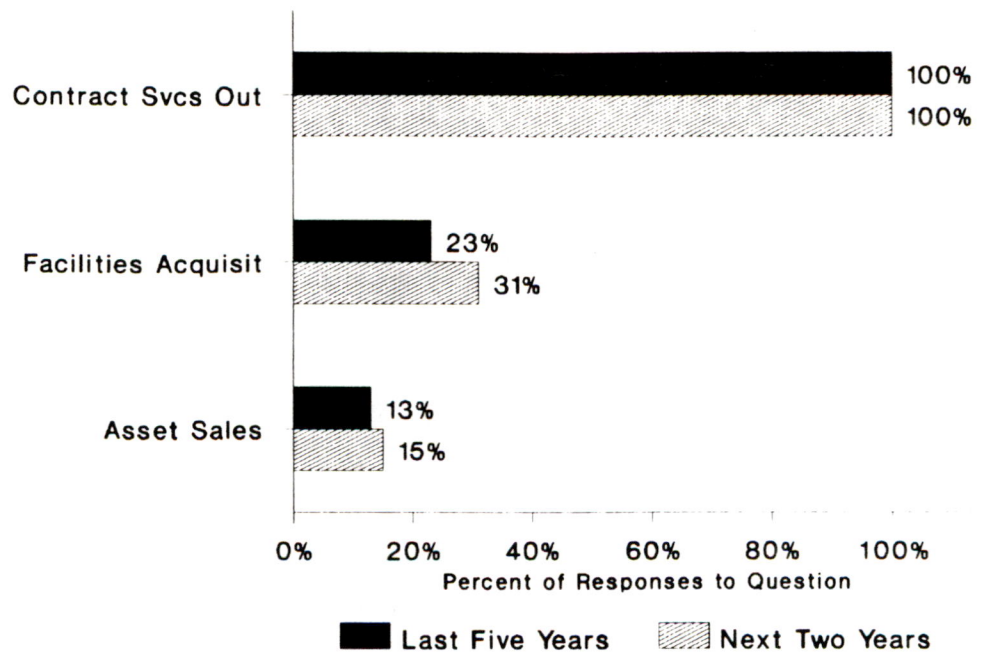
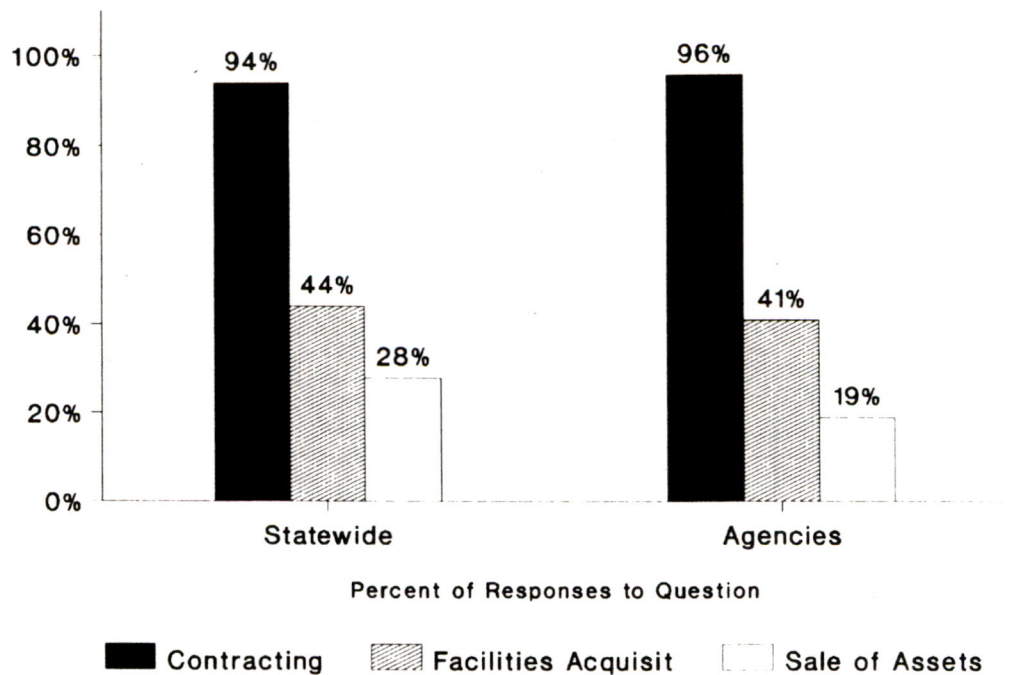


Figure V

Forms of Privatization That Will Grow



Of the responding agencies, most believe that contracting will grow over that ten-year time horizon, approximately 40% believe asset acquisition will increase and nearly 20% reflect an increase in asset sales (*Figure V*). As will be noted later, there are differences by type of agency in forecasts for future growth.

We also asked the comptrollers and the agencies whether their states or agencies have an overall privatization strategy. Interestingly, over 20% of the responding states and agencies have or are developing such a strategy. This is a marked increase from the 1989 study, when no statewide strategies were reported. Perhaps a central information source will be developed in those states which have and implement such a strategy.

As in our prior survey, we asked the respondents about the advantages of privatization; this time we gave them a scale for responding (very important, some importance, no importance), rather than just a "yes-no" response. Both the overall results and the agency responses are interesting, as much for the diversity of response between agencies as anything else.

As with our 1989 study, the advantages vary by type of privatization and between the state and individual agencies (*Figure VI*). (The individual agency responses are discussed in the "Agency"

section of the report.) While operating cost savings are very important factors for all forms of privatization, other advantages and reasons for privatizing were very important, and in some cases, even more important than the cost factors.

Statewide, for contracting out, operating cost savings was the most important advantage followed closely by higher quality services and shorter implementation time. Compared with the 1989 study, current advantages of privatization were consistent "sequence wise," with continued emphasis on reducing costs and reducing implementation time (*Figure VII*). Somewhat more emphasis was placed on providing higher quality services and less on solving labor problems.

When privatizing facilities through acquisition from and operation by the private sector, statewide results indicated that operating and capital cost savings, providing services and reduced implementation time were seen as the most important advantages of privatization (*Figure VI*). Interestingly, risk sharing was not seen as an important factor for either privatizing services or facilities. We discuss this further in the "Analysis" section. For facilities acquisition, agency results do not differ from statewide results.

Figure VI

Advantages of Privatization

	Statewide			Agencies - Total		
	Contract	Facilities	Sales	Contract	Facilities	Sales
Capital Cost Savings	2.1	1.9	2.5	2.1	1.6	2.3
Operating Cost Savings	1.5	2.0	2.1	1.5	2.0	2.0
Higher Quality Services	1.7	2.2	2.3	1.8	2.2	2.2
Provides Svcs Otherwise Unavailable	1.9	2.0	2.3	1.8	2.0	2.2
Risk Sharing	2.5	2.4	2.4	2.5	2.4	2.5
Shorter Implementation Time	1.8	2.0	2.3	2.0	1.8	2.3
Solves Labor Problems	1.9	2.3	2.6	2.1	2.4	2.6
Solves Political Problems	2.4	2.6	2.8	2.3	2.3	2.5

Weighted average on three-point scale: 1 - Very Important, 3 - No Importance
Shaded areas represent most important factors

Cost savings, shorter implementation time, higher quality services and providing unavailable services were viewed as major advantages of privatization.

For asset sales no single advantage was viewed, on average, as being of more than "some importance" (Figure VI). On both the statewide and agency basis, operating cost savings were the most important advantage, with providing services not otherwise available and higher quality services as the next most important advantages. We will discuss this method of privatization in the "Analysis" section, since it has recently received publicity as a potential method of helping state and local governments to deal with fiscal issues.

We also asked the respondents to identify the impediments to privatization in their states (Figure VIII) or their agencies. It appears that the impediments appeared to be less strongly felt than in our 1989 survey, as reflected in the fact that practically all of the responses, on average, were between "some importance" or "no importance."

Statewide, for contracting services, the potential for loss of control was the most serious impediment, followed by the need for legislation and potential labor problems. Interestingly, in the 1989 survey, political problems were viewed as a major impediment; in the current survey, politics was not viewed as a major problem (Figure IX). For acquisition and operation of facilities, need for legislation was viewed as the most serious impediment, followed by loss of control and the lack of awareness of the methods to be used. While politics was not seen as a problem

statewide, individual agencies viewed politics as a potential issue. As we will discuss later, however, in several cases, it appears that politicians are driving agencies to look at privatization options. Finally for asset sales, the need for legislation, the perceived lack of benefits and the need to better understand methods of privatizing were viewed as the most pressing hindrances to privatization.

We asked the agency respondents what factors most influenced their interest in privatization. By far, the most important factors were those specific to a particular state. Of the other factors, the most important influence were needs for additional services and state needs to downsize operations.

We also tried to get a feel of the reasons that states or agencies do not use privatization at all. Since so few of the respondents do not use some form of privatization, there were relatively few responses to this question. However, of those who did reply, the potential loss of control and the lack of perceived benefits were by far the most important reasons for lack of interest, followed by the need for legislation. A few also indicated that the private sector was not interested in serving them. Of those who do not use the concept, all indicated that future budget cutbacks would encourage them to consider the potential of privatization.

Figure VII

Advantages of Privatization
Sequence of Importance - Comparison with 1989 Survey
Statewide

	Contract		Facilities		Sales	
	1992	1989	1992	1989	1992	1989
Capital Cost Savings	6	6	1	1	6	3
Operating Cost Savings	1	1	2	3	1	1
Higher Quality Services	2	4	5	8	2	4
Provides Svcs Otherwise Unavailable	4	4	2	4	2	4
Risk Sharing	8	7	7	6	5	6
Shorter Implementation Time	3	2	2	1	2	6
Solves Labor Problems	4	2	6	6	7	2
Solves Political Problems	7	8	8	5	8	6

Potential loss of control, the need for enabling legislation and lack of perceived benefits were among the major impediments to privatization.

Figure VIII

Impediments to Privatization

	Statewide			Agencies - Total		
	Contract	Facilities	Sales	Contract	Facilities	Sales
Bureaucratic Inertia	2.3	2.4	2.5	2.4	2.3	2.4
Creates Labor Problems	2.1	2.8	2.8	2.3	2.6	2.5
Creates Political Problems	2.4	2.6	2.4	2.3	2.2	2.2
Lack of Awareness of Methods	2.4	2.3	2.1	2.5	2.3	2.4
Lack of Faith in Methods	2.2	2.5	2.4	2.4	2.4	2.3
Loss of Control	1.9	2.2	2.3	2.0	2.1	2.1
Need for Enabling Legislation	2.1	2.0	2.0	2.4	2.1	2.2
No Perceived Benefits	2.5	2.6	2.1	2.2	2.3	2.1
No Confidence in Private Sector	2.8	2.8	2.7	2.6	2.7	2.6
No Interest by Private Sector	2.7	2.8	2.5	2.5	2.5	2.5
Public Opinion	2.6	2.8	2.6	2.4	2.4	2.5

Weighted average on three-point scale: 1 - Very Important, 3 - No Importance
Shaded areas represent most important factors

Figure IX

Impediments to Privatization
Sequence of Importance - Comparison with 1989 Survey
Statewide

	Contract		Facilities		Sales	
	1992	1989	1992	1989	1992	1989
Bureaucratic Inertia	5	4	4	4	7	3
Creates Labor Problems	2	3	8	7	11	6
Creates Political Problems	6	2	6	4	5	8
Lack of Awareness of Methods	6	6	3	1	2	5
Lack of Faith in Methods	4	n/a	5	n/a	5	n/a
Loss of Control	1	1	2	1	4	2
Need for Enabling Legislation	2	7	1	6	1	1
No Perceived Benefits	8	5	6	1	2	3
No Confidence in the Private Sector	11	9	8	10	10	10
No Interest by Private Sector	10	8	8	7	7	6
Public Opinion	9	9	8	9	9	8

A number of survey respondents indicated the need for enabling legislation as an impediment to privatization. However, when asked about the legislative climate for privatization in their states, the responses were more positive than in the 1989 study (Figure X). As expected, the legislative environment differs by state and by type of privatization. For contracting services, statewide, 91% of the respondents with knowledge indicated a positive environment; for asset acquisition, nearly 90% statewide indicated a positive legislative environment; and for asset sales, statewide, 57% indicated a positive environment. For individual agencies, the results were comparable except for facilities acquisition. Many respondents did not know the legislative environment for privatization in their states or agencies.

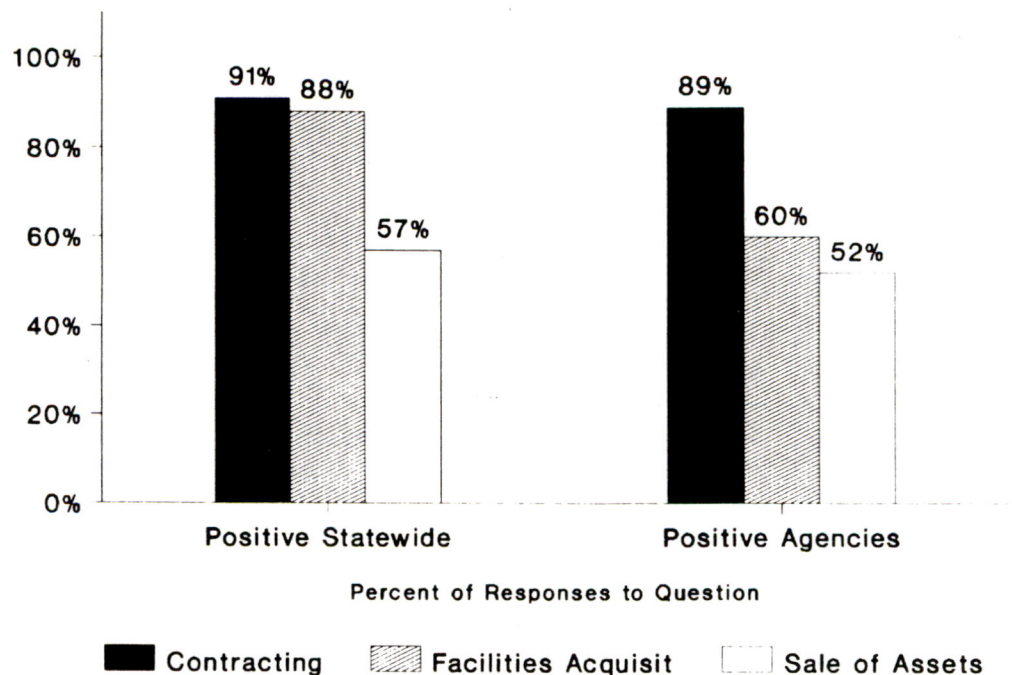
Union and employee resistance has always been viewed as a major impediment to privatization.

And, such resistance is reflected in the survey responses as well as actions in several of the responding states. As examples, one state reported that the state supreme court had blocked certain attempts to privatize based on an employee union action; another state has had legislation blocked for several years by employee union pressure.

Employee resistance continues strong. Of the respondents, 46% claimed to have no knowledge of the feelings of organized labor in their states toward privatization. Of the remaining respondents, 90% indicated that unions were strongly negative or somewhat negative; 10% were either mildly or strongly positive toward privatization. Other portions of the survey, as well as other comments on the returned survey instruments, tend to place less emphasis on employee resistance. Even so, such resistance is very strong.

Figure X

Legislative Environment



Union and employee is both a perceived and real impediment to privatization.

Comment and Analysis

Many states, but certainly not all, are beginning to view privatization as we believe it should be viewed -- as a management technique to be evaluated along with other management techniques as a method of improving the efficiency and effectiveness of government operations.

Education, training and communications continue to be highlighted as a significant need when considering privatization options.

The statewide and individual agency results, conversations with selected respondents and our observations of state governments lead us to several conclusions as to the use of and interest in privatization in states today.

As in our 1989 survey, it is apparent that privatization concepts are used widely by state governments, but with significant differences between states and within specific types of agencies. What we find encouraging is that many states, but certainly not all, are beginning to view privatization as we believe it should be viewed -- as a management technique to be evaluated along with other management techniques as a method of improving the efficiency and effectiveness of government operations. This is reflected in the fact that states and individual agencies are developing strategies for identifying, evaluating and implementing privatization techniques. It is also reflected in the stated advantages of privatization.

On the matter of advantages, we were surprised that operating and capital cost savings were not more universally viewed as the major reasons for privatizing, particularly in these difficult economic times. Perhaps the other stated advantages -- reduced implementation time, providing services not otherwise available and higher quality services -- are just different reflections of cost pressures. They do however, indicate the breadth and diversity of reasons that states and specific agencies look at privatization options.

The survey confirms again the diversity of opinion on the nature of and value of privatization. The survey results make it quite clear that "privatization" is not a single, well defined concept, but is used differently in every state and agency. Thus, privatization can be viewed as an umbrella of techniques to promote private involvement, when that is appropriate to do.

While for survey purposes we identified three methods of privatization, we recognize and applaud the different techniques that states and agencies use to encourage and support more positive private involvement. The diversity of techniques is perhaps captured by the comments of two of our respondents:

- "The privatization of the two new prototypical

medium security prisons encompassed a little of all three of your privatization concepts. The state Correctional Facility Corporation sold bonds and built the prisons, leasing them back to the state. The state bid and contracted for the turn key operation of the facility. Our state has an optimum case study in that there are three identical prisons, one run by the state, one by a private corporation and one by another private corporation."

- "In addition to contracting with certain institutions for services on a limited basis, the Department of Health has many public/private partnerships where there is no specific contract, sale/lease of assets or facilities involved. Instead the Department of Health provides technical assistance for health programs run by the private sector; or the private sector donates/commits resources to specific public health initiatives or to provide services otherwise not available. We have used these methods to expand or maintain services in the face of shrinking funds."

In addition, respondents mentioned voucher programs, construction without operation, demonstration programs and other methods of private involvement.

The diversity of opinion as to the value of the concepts can again be summarized by quotes from four of the respondents, representing opposite views of the concept:

- "Contracting keeps size of government down"
- "I firmly believe Universities, including ours, will be significantly increasing the use of privatization over the next 10 years"
- "I see a decline in privatization due to fiscal concerns and the need to keep government employees working"
- "We would not consider it. State government does a better job at running prisons than any private concern."

The driving force for privatization initiatives differs by state agency. While we are unable to identify the key driver in most of states, some were obvious, either from the survey or from other knowledge. Certainly, the current economy is prompting much of the interest in privatization.

Legislatures in several cases prompted agencies to review and examine privatization options; in other cases, the legislature has specifically prohibited the use of privatization. In those states that are developing active privatization strategies, the impetus is from the executive branch, in most cases as part of an overall "downsizing" strategy.

Education, training and communications continue to be highlighted as a significant need when considering privatization options. Many respondents indicated that they did not believe there were benefits from private involvement or that they did not understand the techniques and methods involved. In addition, in conversation with several respondents, we found a lack of understanding of the wide array of options available under the umbrella of "privatization." Several respondents also indicated that they do not believe that the private sector would be interested in possibilities in their state. All of this highlights the significant continuing need for education and communication about the reasons for and the potential value of privatization options.

Many respondents indicated a need for enabling legislation as an impediment to privatization; and, we know in certain states that impediment exists. However, the respondents also indicated that by and large, the legislative environment is positive, particularly for contracting services. Perhaps this is another manifestation of the need for more communication and analysis at the individual state level.

The potential loss of control is a real impediment to privatization since the public official retains responsibility for providing a service or function, and incurs the wrath of the electorate if the service is not provided properly. This potential for loss of control can be dealt with by well structured performance measures and monitoring of the private vendor by the government. Public officials cannot abdicate their responsibility for providing a service to the private sector; the appropriate controls must be established and maintained to provide the control required by public officials.

Union and employee resistance is both a perceived and a real impediment to privatization at all levels of government. That, perhaps, is to be expected, since employees may lose their jobs. However, to the extent that services are provided

that might have been eliminated without the private sector, the private involvement is a way to retain jobs. Many governments have wrestled with the most appropriate ways to deal with employees who may be impacted by a privatization transaction, and they have found very innovative solutions. Our perception is the need for more communication between labor and management and joint efforts to deal with the inevitable labor issues that arise.

Contrary to the 1989 survey, there was considerably more interest expressed in sale or lease of assets for subsequent operation by the private sector for the public benefit. This is an area that is receiving increased attention by several states as they seek methods of reducing costs and perhaps improving their cash flow. Assets that have been and are being considered for such sale include airports, tollways, hospitals, office buildings and stadiums. These will be very slow transactions to consummate, even if they make financial and economic sense. It is an area that states might consider for potential long term benefits.

One significant opportunity for states or agencies using privatization is to engage the private sector in sharing risk and benefits in a privatization transaction. The idea of risk/benefit sharing is not widely used by those entering privatization transactions. However, if properly structured, the private sector will enter into incentive based contracts with risk and benefit sharing with the state. Such incentives can be tied to performance measures or to revenue opportunities. We believe that as the privatization concept matures, more innovative arrangements will provide an increased feeling of partnership between the public and private participants.

On the whole, the survey indicated an increased interest in privatization opportunities, partially driven by the fiscal condition of state governments and the needs for services far outstripping the resources. While significant diversity continues, we have the impression that states are approaching privatization as potential management techniques, rather than as a fad. Most importantly, it confirms our view that education and communication with policymakers is important in the ability of our governments to use or consider private involvement in dealing with cost and service pressures.

Many respondents indicated a need for enabling legislation as an impediment to privatization; and, we know in certain states that impediment exists. However, the respondents also indicated that by and large, the legislative environment is positive, particularly for contracting services.

Contracting Services Out

We asked the state comptrollers to identify the agencies or functions in their states which have used contracting-out or "out sourcing" as a method of privatization. Based on the 1989 survey, comptrollers, or other central state agencies, are often aware of which agencies are using contracting techniques, even though they may not be aware in detail of which services are being contracted. We also asked the comptroller whether his or her agency used privatization techniques; these responses are included in the separate "Agency" section of the report.

Figure XI summarizes the extent of contracting-out by specific agencies or functions and compares the results of the current survey with the 1989 survey for contracting of services.

The agencies which most frequently contract out services are Corrections, Health, Higher Education and Mental Health. These agencies contract out even more frequently now than they did in prior years. In fact, most agencies appear to contract out more frequently than in 1989.

A few agencies appear to be contracting out less often than in the earlier survey. Several agencies

or functions use private contracting relatively infrequently. Some of these agencies surprise us, since, based on local government experience, they are ideal candidates for contracting.

For agencies or functions which may use privatization in the future, many respondents noted that such use was "possible" or "probable," depending on the results of ongoing analyses.

We also attempted to get an idea of the dollar value of privatization on a state wide basis. While many respondents did not have the information, for those that did, the value of contracts appears quite high (Figure XII). In fact, we may have set the upper limit too low given the nature of contracting in some states. Several states indicated that their contracts ran into the billions of dollars, especially for some transportation and health related services.

We did not inquire as to savings achieved by privatization; based on the prior study, there is relatively little information available, either at the agencies or centrally on that subject. On the other hand, we did ask agencies about their principal reasons for privatizing specific activities

Figure XI

Contracting Services Statewide Agencies or Functions (Percent of Responses to Question)

Over 80%	40 to 49%	20 to 29%
Corrections ++++	Education (K-12)	Agriculture --
Health ++	Financing Agencies	Conservation
Higher Education +++	Revenue +++	Employment Security -
	Welfare	Energy
		Labor +
		State Police +
		Student Loans -
		Vehicle Registration +
70 to 79%	30 to 39%	10 to 19%
Mental Health +	Budget +	Airports
	Economic Development -	Central Motor Pool
	Environment -	Courts -
	Other Public Works +	Other -
	Parks	
	Personnel -	
	Telecommunications ++	
60 to 69%		
Central Data Processing ++		
Highways ++		
Medicaid +		
50 to 59%		
Comptroller ++		
Treasury +++		

(+) Each "+" represents approximately 10% increase since 1989
(-) Each "-" represents approximately 10% decrease since 1989

The agencies which most frequently contract out services are Corrections, Health, Higher Education and Mental Health. These agencies contract out even more frequently now than they did in prior years. In fact, most agencies appear to contract out more frequently than in 1989.

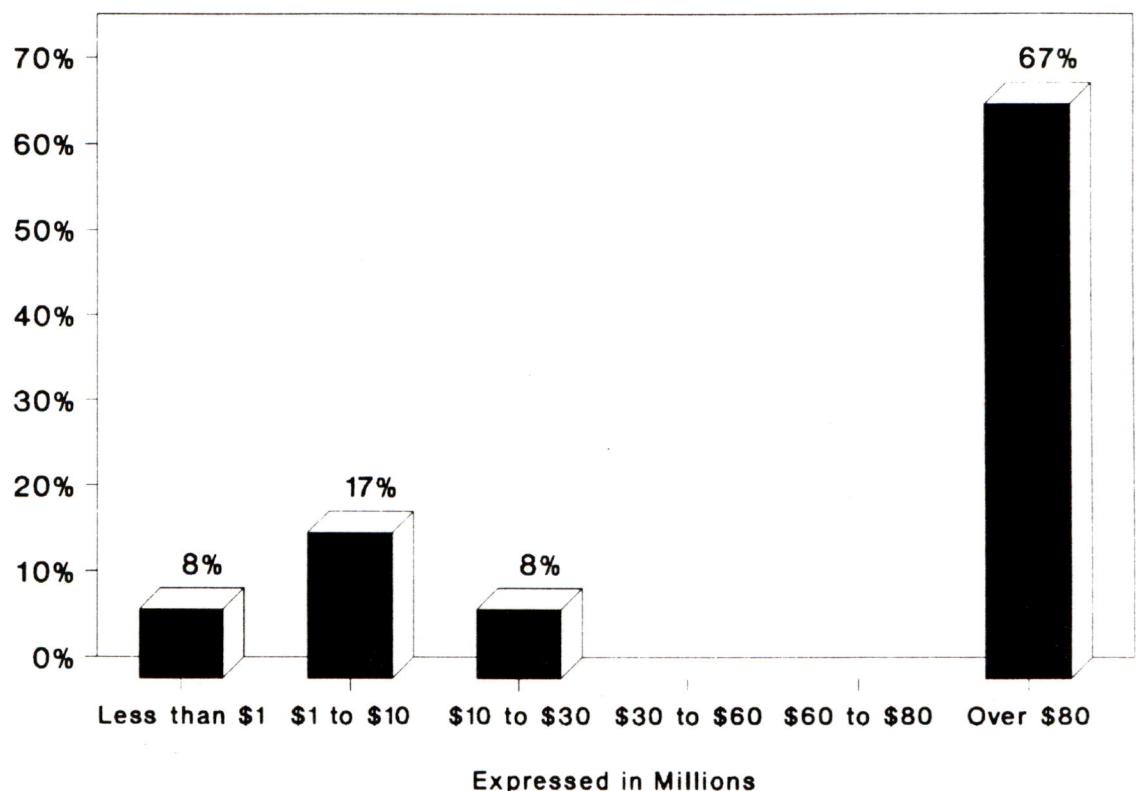
and whether these objectives were achieved. As discussed in the "Agency" section, in most cases they felt that their objectives had been achieved. In fact, one respondent put it best in a follow up conversation, "We have had problems on a few contracts, but we work them out. Overall, we are very satisfied."

The number of agencies contracting services varies significantly between states, reflecting the

diversity of views as to the value of the concept. In some states, nearly all agencies use some form of privatization; in other states it is very rare indeed. From a management perspective, the key point would be to ask whether the states that do not use the techniques have examined the possibilities and found them inappropriate in their circumstances or whether they have rejected the concept out of hand.

Figure XII

**Value of Services to be Contracted Out
Statewide**
(Percent of Responses to Question)



Comments and Analysis

The use of contracting was similar to the use of contracting in our prior survey, only more so. This is consistent with our observations and with reports from the respondents.

This year we also asked the comptrollers to comment on what might be particularly good, or poor, uses of the private sector in their states. Some of their comments are noted below. (Comments from specific agencies are summarized in the "Agency" section.)

- Several comptrollers commented on the extent of contracting with not-for-profit agencies for health and corrections related services. Such extensive contracting was confirmed and highlighted by the individual agency responses.
- One state is using the private sector for the receiving, warehousing and delivery of alcoholic beverages.
- Another uses the private sector to assist the elderly in purchasing prescription medicines.
- Several comptrollers commented on the use of the private sector for medicaid processing and in at least two states, the private contractor also assumes some of the risk of medicaid payments (and receives benefits from achieving better than planned results).

- Several respondents commented on the use of the private sector when there is a real "crunch" period, as for example in developing computer systems.

- One comptroller indicated that a state-owned airport was upgraded and is operated by the private sector.

- One state communicated its intent to privatize "as much as possible."

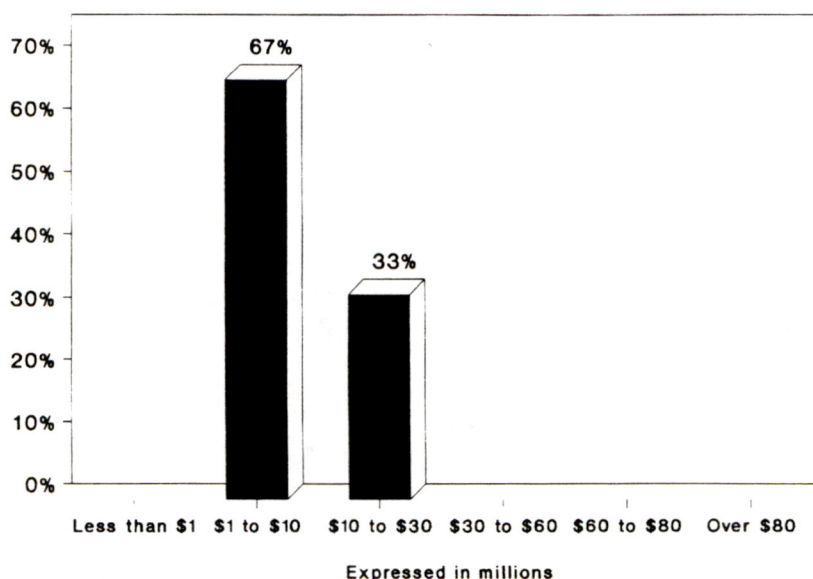
As noted, we continue to be surprised that certain functions, such as the central motor pool, do not use privatization techniques more extensively. However, one small rural state did comment that they were constrained in their use of the private sector by the lack of certain specialized skills in the private sector of that state.

The results also emphasize, again, the lack of central information on the use of privatization. Many of the respondents simply did not have information on use of the concepts. The best information, as might be expected, was from the states which are implementing a state-wide strategy to consider privatization options.

The use of contracting was similar to the use of contracting in our prior survey, only more so. This is consistent with our observations and with reports from the respondents.

Figure XIV

**Value of Facilities to be Acquired
Statewide**
(Percent of Responses to Question)



Some interesting examples of the acquisition of assets using private funding presented by the responding comptrollers include:

- In one state, the Department of State Parks has contracted with the private sector to build and operate facilities in the state parks
- In another state, the private sector builds and operates residences for mental health and mental retardation clients
- In yet another state, the private sector is providing energy facilities for state institutions
- As noted, several states have contracted with, or are contracting with the private sector to build and operate tollways on behalf of the state.

As noted in two surveys, in some states major infrastructure assets are handled by separate public benefit corporations, not by the central state government.

The recently enacted federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) includes a number of provisions to promote additional involvement of the private sector in

transportation services and in fact, allows, for the first time, federal money to be combined with private money to finance construction, or reconstruction, of highways and tollways. Other forms of privatization are also encouraged, with federal money available for such privatization. Not only may this Act accelerate the private involvement in transportation infrastructure, it may promote similar legislation for other types of assets.

The sale or lease of assets to the private sector is being more widely considered by state governments. It is not as extensive as experience outside the U.S. where the sale of assets is the equivalent of de-nationalization of previously nationalized businesses, but appears to be growing. In addition, there are several studies on-going now on the feasibility of certain major asset sales; the results will not be known for some time. In addition, asset sales or dispositions may be in conflict with federal regulations in cases where federal grants were used for the original construction of the facility. It is interesting to note that ISTEA specifically provides that these federal restrictions can be waived for sales of roads or bridges to the private participant.

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The sale or lease of assets to the private sector is being more widely considered by state governments.

Individual Agency Responses

We attempted to obtain more detailed information on the opinions of and use of privatization by specific types of state agencies. Therefore, we prepared agency specific questionnaires and asked the comptroller's office to distribute those to a representative agency(ies) of that type in his or her state. We specifically asked for information from health, corrections, transportation and higher education agencies. We also asked the comptrollers about their own use of privatization. In addition, we provided a generic survey for potential use by one or more other agencies that may have important opinions on privatization.

In the results below, the reader should keep in mind that the agencies from whom we requested information are those most likely to use privatization, in various forms. Therefore, the results cannot be extrapolated to an entire state, although they may be indicative of the use by that type of agency throughout the country. Further, different states are represented for each type of agency, depending on who returned the survey. Finally, because of differences in organization and responsibility between states, not all aspects of a particular function may be covered for each state which responded.

We received a good response to the surveys from state agencies, with a total of 158 agencies, including comptrollers, from 29 states responding.

In a number of cases, we received responses from several agencies in a state with particular responsibilities; in other cases responses cover only a portion of a state's responsibilities in a functional area. Responses were received from large agencies (i.e., the transportation department of one of our largest states) and small agencies (i.e., a small campus of a University system) as well as from operating agencies and oversight agencies (i.e., a state Board of Higher Education). Overall, we believe that the responses provide a good cross section of the interests of, opinions on and uses of privatization by state agencies.

The review and analysis of the agency responses emphasized again the variety of techniques used by states and the truth to the statement that there is no one form of privatization, but a wide, wide variety of techniques to better manage the agency or the state. The diversity of feelings also came out loud and clear within comparable types of agencies as well as between agencies of different types.

This section is organized first with comparative analyses and opinions of the respondents across the responding agencies, followed by a discussion of the specific findings by type of agency. When reviewing these results, keep in mind that, in most cases, only a portion of a function will be privatized and that portion differs by and between agency.

Comparative Analyses

Nearly all the responding agencies had used and planned to continue to use privatization (Figure XV). Of those agencies which had used one or more of the techniques, all had contracted one or more services. However, there are distinct differences in the use of the other techniques, depending on the type of agency. For instance, over half of the "other" agencies, had acquired or planned to acquire assets using the private sector, whereas relatively few of the health agencies use this technique. On the other hand, nearly 30% of health agencies plan to sell assets, more than the other agencies. Similarly, anticipated future growth of acquisition and sales techniques differ by agency type.

There are differences in opinion as to the future prominence of the privatization concept for financing government services and facilities (Figure XVI). For example, nearly 70% of the

"other" respondents believe that facilities acquisition will provide a prominent source of finance in the next decade, more than any other agency. Interestingly, nearly 50% of the health care respondents expect asset sales to be prominent in financing facilities.

We asked the agencies about perceived advantages of privatization, by type of privatization (Figures XVII and XVIII). As highlighted in the figures, the relative importance of the factors for a particular type of privatization varies and the intensity of the advantage is different across agencies. For example, while cost savings are important to all agencies, it appears to be more important to higher education agencies. This is indicative of the different needs by agency and the necessity for individual analyses across agencies.

Nearly all the responding agencies had used and planned to continue to use privatization.

Privatization of Facilities and Sale of Assets

Comment and Analysis

Overall, there appears to have been even more involvement of the private sector in infrastructure acquisition and operation than anticipated based on our 1989 study.

Nearly 80% of the responding states use and plan to use the private sector for the acquisition and operation of public infrastructure on behalf of the government. This is a significant increase from 1989.

Such a transaction may be the construction of a building or other asset to a state's specifications, with operation of the asset by the private party. One recent variant is the building of the asset, the transfer to the state and then the operation by the private party (so-called BTO transactions). This latter model is contemplated for construction of several new tollways by the private sector, with the financing, construction and operating risk being assumed by the private sector.

The range of agencies which use facilities privatization is more limited than those that contract out services (*Figure XIII*). Corrections, health, higher education and mental health agencies appear to use this technique most heavily. These agencies, as well as others using

the concept, appear to make more use than in prior years.

Respondents knew little of the value of assets acquired by privatization. For those who estimated a value, it was generally much smaller than the value of privatized services (*Figure XIV*). (The comptrollers of states which have definitive plans to privatize tollways did not respond to this portion of the survey.)

More states have sold assets to the private sector than in the past; however, the values were relatively small. It was very interesting that even more states indicate an interest in asset sales in future years, particularly those with definitive privatization strategies. While they couched their comments in "probably" and "depending on results of studies" it is evident that there is real interest in leveraging on the financial resources of the private sector, to reduce the burden on the public treasury.

Overall, there appears to have been even more involvement of the private sector in infrastructure acquisition and operation than anticipated based on our 1989 study. However, in some cases, there has not been the explosive growth anticipated. Perhaps this is because some of the assets relate to very human and sensitive areas of state service, such as corrections and health care.

For instance, in the case of corrections facilities, there is real concern about the private sector assuming complete responsibility for that function. However, as governments find themselves faced with more demands for service and without the financial resources to provide the assets, the private sector might be the only source of such capital.

Figure XIII

Facility Acquisition Statewide Agencies or Functions (Percent of Responses to Question)

<u>Over 40%</u>	<u>20 to 29%</u>	<u>To 10%</u>
Corrections +	Medicaid +	Central Data Processing - Employment Security + Other Public Works Personnel + Student Loans Telecommunications Treasury + Vehicle Registration +
<u>30 to 39%</u>	<u>10 to 19%</u>	
Health +++ Higher Education ++ Mental Health ++	Airports Highways - Parks + Welfare + Other +	

NOTE: Several agencies which were reported to privatize facilities in 1989 were not so reported in 1992.

(+) Each "+" represents approximately 10% increase since 1989
(-) Each "-" represents approximately 10% decrease since 1989

Figure XV

Use of Privatization
By Type of Agency and Technique
(Percent of Those Responding)

	Agency						
	Comptroller	Corrections	Health	Higher Education	Other	Transport	Total
Used or Planned to Use Privatization	83%	96%	88%	95%	100%	95%	93%
Of those who use, which type they plan to use:							
• Contracting	100%	100%	100%	100%	100%	100%	100%
• Acquisition	13%	30%	20%	34%	56%	30%	31%
• Sales	--	17%	28%	15%	13%	10%	15%
Anticipated Future Growth:							
• Contracting	n/a	96%	100%	87%	100%	100%	96%
• Acquisition	n/a	32%	27%	46%	67%	45%	41%
• Sales	n/a	9%	23%	25%	20%	15%	19%

Figure XVI

Future Prominence of Privatization
By Type of Agency
(Percent of Those Responding)

	Agency					
	Corrections	Health	Higher Education	Other	Transport	Total
Contracting:						
• Very or Somewhat Prominent	83%	84%	78%	94%	86%	84%
• Not Very Prominent or Decline	17%	16%	22%	6%	14%	16%
Acquisition:						
• Very or Somewhat Prominent	33%	43%	41%	69%	50%	45%
• Not Very Prominent or Decline	67%	57%	59%	31%	50%	55%
Sales:						
• Very or Somewhat Prominent	9%	48%	22%	17%	10%	22%
• Not Very Prominent or Decline	91%	52%	78%	83%	90%	78%

The perceived impediments are also different by type of agency. As we indicated for the statewide results, the intensity of the impediments are not as strong as the perceived advantages, perhaps reflecting the reality of the current economy.

Over 20% of the agencies indicated that they had or are developing an agency wide privatization strategy. This is significantly more than would have so reported even three years ago.

The legislative environment appears positive for contracting services for all responding agencies. On the other hand, the legislative environment is,

on balance, negative for several agencies when it comes to facilities acquisition and operation or sales of assets, especially in corrections agencies. Perhaps this is in response to the emotional reaction to the private sector assuming responsibility for prisoners.

Overall, respondents indicated that their privatization activities had fulfilled expectations.

The following sections provide more detail of the privatization activities of the specific types of agencies.

Figure XVII**Advantages of Contracting Services
By Type of Agency**

	Comptroller	Corrections	Health	Higher Education	Other	Transport	Total
Capital Cost Savings	2.1	2.4	1.9	2.3	2.1	2.0	2.1
Operating Cost Savings	1.5	1.6	1.4	1.2	1.5	1.6	1.5
Higher Quality Services	1.7	1.8	1.6	1.9	1.9	2.1	1.8
Provides Services Otherwise Unavailable	1.9	1.7	1.6	2.3	1.6	1.8	1.8
Risk Sharing	2.5	2.5	2.4	2.3	2.6	2.7	2.5
Shorter Implementation Time	1.8	2.0	1.6	2.3	1.9	2.1	2.0
Solves Labor Problems	1.9	2.4	2.1	2.1	2.0	2.3	2.1
Solves Political Problems	2.4	2.4	2.1	2.4	2.3	2.1	2.3

Weighted average on three-point scale: 1 - Very Important, 3 - No Importance
Shaded areas represent most important factors

Figure XVIII**Advantages of Facilities Acquisition
By Type of Agency**

	Comptroller	Corrections	Health	Higher Education	Other	Transport	Total
Capital Cost Savings	1.9	1.9	1.6	1.2	1.5	1.6	1.6
Operating Cost Savings	2.0	2.1	1.9	1.8	2.1	1.9	2.0
Higher Quality Services	2.2	2.3	2.1	1.9	2.5	2.3	2.2
Provides Services Otherwise Unavailable	2.0	2.3	2.3	2.2	1.6	1.8	2.0
Risk Sharing	2.4	2.7	2.4	2.1	2.5	2.1	2.4
Shorter Implementation Time	2.0	2.2	1.8	1.3	2.1	1.5	1.8
Solves Labor Problems	2.3	2.6	2.4	2.4	2.5	2.1	2.4
Solves Political Problems	2.6	2.5	2.1	2.2	2.5	1.9	2.3

Weighted average on three-point scale: 1 - Very Important, 3 - No Importance
Shaded areas represent most important factors

Corrections

We received responses from 25 corrections agencies in 22 states. Of the responding agencies, over 95% have or plan to privatize some services or facilities. Of these, all contract out services, 30% have or plan to acquire assets through the private sector and 17% have or plan to sell assets for operation by the private sector.

Figure XIX summarizes the profile of the

responding corrections agencies, the areas in which they contract services and the principal reasons for such contracting. The other services provided by responding agencies include drug treatment, probation, youth services and funding to local governments, among others. For corrections, 83% of the contracting is under \$30 million per year.

Figure XIX

Activities Privatized Through Contracting
Corrections

Activity	Profile of Respondents	% Responsible Agencies that Privatize	Principal Reasons				
			Capital Cost Savings	Operating Cost Savings	Insufficient Facilities	Lack Expertise	Better Service
Community Corrections	84%	76%	●	●	●		
Halfway Houses	64%	94%	●	●	●		
Prisons Operations	92%	74% *		●		●	
Pardon and Parole	72%	6%		●			●
Other	48%	n/a					

● - Most significant "Principal Reasons"

* Prison Operations Privatized:

• Administration	--	• Food Service	48%	• Rehabilitation	52%
• Custodians	4%	• Health Care	74%	• Security	9%
• Data Processing	9%	• Housekeeping	4%	• Transportation	35%
• Education	44%	• Maintenance	13%	• Other	9%

In general, corrections agencies contract for community corrections facilities and services, halfway-house services and for many of the operating components in individual prisons. Not-for-profit and community organizations are popular with corrections agencies and several agencies report contracts with local hospitals or universities to provide in-prison services.

In light of the overcrowding faced by many states, it is interesting that there has not yet been more use of the private sector to build and/or operate prisons on behalf of a state. Only 5 states reported such transactions, but 7 expressed future interest. In fact, states reputed to have "privatized prisons" in fact have not done so and are only now contemplating that action.

In our 1989 survey, many respondents forecast that more "privatized prisons" would occur. It perhaps reflects the emotion which is brought about by the concept of the private sector managing criminals that has resulted in the very cautious approach. However, the responses indicate that such activity is beginning to take place and will likely grow. We also know, from other sources, that many states which did not respond to the survey are exploring such options.

Comments from respondents provide a sense of

the attitudes of corrections officials and of the types of corrections services provided by the private sector:

- "This state currently has statutes to enable privatization of all components of corrections but we are still hesitant."
- "Currently this state contracts for ferry services at the state maximum security prison, contracts adult halfway houses, juvenile non-secure care, and two medium security prisons."
- "Will be contracting food services in one institution and exploring feasibility in others; possibly transportation of inmates."
- "The Dept of Correction has been specifically forbidden by legislative mandate to consider any privatization plans except for non-profit groups serving either females or youthful offenders."
- "The Department has maintained a strong relationship with private providers and is committed to using privatized services."
- "We have many hospital, food service, drug treatment and data processing contracts that have been and continue to be successful."

- "The Division of Juvenile Services contracts for Tracking Services for juveniles. It's worked extremely well. We haven't had to deal with the employee type issues, training, etc. We've received excellent services."
- "Full health services for two adult facilities, one a male maximum security facility, and the women's prison."
- "Health care at maximum security prison -- cost is high but we could not keep staffing at proper level."
- "Privatization of two new 696 bed medium security prisons (through acquisition and operation by the private sector)"
- "The agency contracted with a private agency for a forty bed secure facility for female juveniles in 1986. That facility functioned very well, but the contract was not renewed due to a decrease in service population. The agency has recently sent out an RFP for a girl's secure

facility as there currently is a need for such services."

- We eliminated contract education services when the state put in its own school district."

- "Plans are to contract for the operations of a 1,000 bed adult medium security facility, to compare operating costs to comparable facility operated by the state."

- "A private prison being built on a speculative basis is opening (in our state) within 12-18 months. It's future is unknown at this time. We have no plans to use it for our state prisoners."

One other type of comment that was prevalent throughout the surveys was the perception that the use of private contractors, especially community organizations, could help deal with local politics and the Not-In-My-Backyard (NIMBY) reaction in local communities.

Comptroller

We received responses from 19 comptrollers. Over 83% indicated that they had contracted for one or more services, summarized in *Figure XX*.

Most of the contracting involved the use of consultants for systems projects, to complete indirect cost allocation plans, or to operate their data processing departments. Several also use the private sector for building related services; the private sector provides investment services for

one state. Two respondents indicated the use of privatization for acquiring facilities.

Comptrollers and other financial officers might explore the opportunities for private involvement to assist them in fulfilling their responsibilities. Although the potential areas are not as great as for an operating agency, there may be an opportunity to reduce cost or achieve other objectives in the comptroller's operation.

Figure XX

Activities Privatized Through Contracting Comptrollers

<u>Activity</u>	<u>% Agencies which Privatize</u>
Administration	47%
Custodial	27%
Data Processing	60%
Maintenance	20%
Security	20%
Transportation	---
Other	13%

Health Care

We received responses from 33 health care agencies in 21 states. Of the responding agencies, 88% had or planned to privatize services and facilities. Of these, all contract out services, 20% have or plan to acquire assets through the private sector and 28% plan to sell assets for operation by the private sector.

Figure XXI summarizes the profiles of the responding health agencies, the areas in which they contract services and the principal reasons for such contracting. Note the heavy emphasis on cost and service as principal reasons for contracting. The value of health care contracting can be quite high, with 42% contracting out over \$80 million per year.

Other than for policy setting and regulation, health care agencies contract at least a portion in wide areas of their operations. In fact, the only agencies that did not do substantial contracting were those which only provide funding to local governments.

Health agencies are interested in the acquisition and operation of community clinics and health care facilities, while at least two agencies are interested in hospital acquisition. In addition, several agencies report sales of community facilities and subsequent operation by the private sector.

As with corrections, perhaps the best way to "flavor" the interest in privatization among health care agencies is by reviewing the comments of some of the respondents:

- "Contracting -- particularly with respect to outreach activities in Medical Assistance and Managed care activities; sale/lease - with respect to long-term care."
- "Considering leasing state mental institution to University hospital and have it run by the hospital."

Figure XXI

Activities Privatized Through Contracting Health

Activity	Profile of Respondents	% Responsible Agencies that Privatize	Principal Reasons				
			Capital Cost Savings	Operating Cost Savings	Insufficient Facilities	Lack Expertise	Better Service
Administration	100%	37%		●			●
Clinics	49%	88%		●	●		●
Community Health	55%	67%		●			●
Hospital Operat.	49%	62% *		●			●
Mental Health	42%	69%		●	●		
Mental	36%	57%	●	●			●
Medicaid	39%	75%		●		●	
Public Policy	61%	8%			●		
Public Regulation	61%	20%					●
Other	24%	n/a					

● - Most significant "Principal Reasons"

* Hospital Operations Privatized:

• Ancillary	62%	• Housekeeping	31%
• Building	38%	• Nursing	38%
• Data Processing	25%	• Management	44%
• Dietary	38%	• Other	13%

Higher Education

- "Medicaid payment system now contracted; considering possibility of contracting IV-D system and medicaid eligibility determination; contracting keeps the function from being caught up in budget cuts."
- "Contracting with private pediatricians to provide child health services to traditional state run public health clinics."
- "Contracting for inpatient adolescent addictions treatment with four (4) different providers at an agreed upon rate has been very successful."
- "Medicaid Fiscal agent -- State purchased the system then contracted through an RFP process with a private company to run the system and process claims, thereby allowing the state Medicaid agency to maintain policy making authority while delegating the labor intensive activities to the fiscal agent."
- "The most successful arrangements have been contracting with community based organizations for education programs and with marketing agencies for public campaigns."
- "Management and physician recruitment for state psychiatric hospital and contracts for service delivery of community programs for clients of mental retardation, mental health, alcohol and drug abuse treatment and rehabilitation."
- "Contracted out billing and collection in state hospital systems and prior authorization of medicaid services."
- "Management and physical recruitment for a state psychiatric hospital and contracts for service delivery of community programs for clients of mental retardation, mental health, alcohol and drug abuse treatment and rehabilitation."
- "A private non-profit corporation operating therapeutic communities in a metropolitan area acquired a facility on the grounds of a state hospital and converted facility into a 116 bed treatment center for addicts. The state purchases 87 beds under statewide contract."
- "We have or are closing three public health hospitals and transferring our patients to private beds. That trend is likely to continue."

We received responses from 44 Higher Education agencies in 19 states. This was the area in which we received responses from the widest variety of agencies, ranging from state departments of higher education to individual campuses. The variety provided a good mix; unfortunately, in some cases the departments of higher education are often not familiar with what is happening on individual campuses.

Of the responding agencies, 95% had and planned to privatize some services and facilities. Of these, all contract out services, 34% have or plan to acquire assets through the private sector and 15% plan to sell assets for operation by the private sector.

Figure XXII summarizes the areas in which the higher education agencies contract services and the principal reasons for such contracting. Note the emphasis on operating costs savings, lack of expertise and service as principal reasons for contracting. The value of higher education contracting is generally low, with over 80% of the

respondents contracting at \$10 million or less.

There appears to be interest in acquiring assets such as research facilities, book stores, dormitories, cafeterias and an ambulatory care facility through the private sector. In addition, there is interest in sales of non-academic facilities such as restaurants, an observatory and an airport.

Overall, there is a fair amount of privatization in higher education. There have been some innovative uses of the private sector by Universities, such as construction of ambulatory care facilities and dormitories and management of restaurants and stadiums. Much of the contracting to date has been in areas of book stores, food service, custodial, laundries and vending operations. With the fiscal pressures being faced by universities today, they might want to look to the private sector for operations and financing assistance, if appropriate in specific instances.

Figure XXII

Activities Privatized Through Contracting Higher Education

Activity	% Responsible Agencies that Privatize	Principal Reasons					
		Capital Cost Savings	Operating Cost Savings	Lack Expertise	Means of Financing	Better Service	Risk Sharing
Administration	13%		●	●			
Book Stores	40%		●	●		●	●
Custodian	43%		●			●	
Data Processing	13%		●	●			
Dormitories	5%	●	●		●		●
Food Service	80%		●	●		●	
Health Care	20%		●	●			
Maintenance	23%		●	●			
Security	25%		●	●		●	
Stadiums	18%		●			●	
Transportation	15%		●			●	
Other	35%					●	

● - Most significant "Principal Reasons"

As in the previous areas, we have summarized some of the comments from the respondents below:

- "For specialized maintenance and one time consulting projects."
- "We may have (Privatized) in some minor ways but nothing major."
- "Limited to contracting for food service and book stores by three of six state universities."
- "Vending services and cleaning and student union food."
- "Several institutions have privatized bookstores. At least one built a day care facility through a privatization concept."
- "Contract with medical practice plan to operate ambulatory care facility. In future, they will build and operate a new facility for us. In this way, we can upgrade the financial quality of patients."
- "The university is considering the possible sale of a commercial TV station."
- "Contemplating sale and private management of 2 restaurants, airport (new) and laundry."
- "Contracting operation of State Center, a four building theater, arena, continuing education complex with a private vendor for improved cost structure and programming."
- "Contracted health insurance program works well for students."
- "All the contracted services work better and more efficiently for the university on a contracted basis."
- "Acquisition and operation of Observatory."
- "Potential private funding for dormitories if we can't get legislature to approve bond issue."
- "Research facilities built and operated by the private sector."

Transportation

- "Proposed shared parking facilities with city and merchants association - use by university 7:30 - 5 pm, private in evening."
- "Private developers have built dormitories on several community college campuses. Dorms are owned and operated by developers for colleges -- very successful."
- "Lease/purchase of administrative office with 7 year lease to own contract. Rent pays mortgage; contractor built building on state property; very good deal."
- "The research building will ultimately revert to full ownership by the university. The research

facility will be paid for by the by the federal government, both in terms of construction and operating costs, over a period of 30 years. The facility will be fully integrated with the research programs of the University and will have a large number of University faculty and staff. Our grant activity will be fostered while the federal agency insures that its new technology research projects can be accomplished."

- "How do you maintain quality from the start? How do you control cost after the initial contract? (Low ball bidders with subsequent large increases in cost after you have gotten out of the business.)"

We received responses from 21 transportation agencies in 20 states. Of the responding agencies, 95% have or plan to privatize some services and facilities. Of these, all contract out services, 30% have or plan to acquire assets through the private sector and 10% plan to sell assets for operation by the private sector.

Figure XXIII summarizes the profiles of responding agencies, areas in which the transportation agencies contract services and the principal reasons for such contracting. The value of transportation contracting is generally quite large, with 40% over \$80 million per year. Several agencies have or will acquire facilities through the private sector (toll facilities) and 3 agencies have sold assets to the private sector.

Transportation agencies make extensive use of the private sector for construction, maintenance, design and engineering services. In addition, several transportation agencies have or are developing some quite innovative methods for using private financial capital for tollway construction and operation. While not common, some transportation agencies have found ways to sell assets to the private sector for the benefit of both (i.e., air rights or tollway rest areas). In fact, transportation, higher education and "other" agencies mentioned profit as a reason to privatize.

As pointed out previously, the newly enacted Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provides incentives for more extensive private involvement in transportation infrastructure development and operation and, in

general, the use of private providers. The impact of ISTEA was not considered by the survey respondents; thus we can probably look forward to more, innovative uses of privatization in the transportation arena.

Comments summarized below provide a sense of privatization in transportation:

- "Growth in government will be held in check; contracting for services continues to be favored."
- "Highway maintenance contracting level will rise significantly over next few years as a result of recent legislation."
- "The Department will explore toll road financing and other alternative financing techniques."
- "Contracted \$6 to \$8 million for road design contracts (a small state)"
- "Over \$1 billion per year contracted to private sector (a large state)"
- "Our state DOT has acquired rail lines scheduled for abandonment and turned them over to private shippers to operate/continue use."
- "Some state highway rest areas (non-interstate) had to be closed to the public because of insufficient state resources (staff and operating funds) to operate and maintain. These were

Figure XXIII

Activities Privatized Through Contracting
Transportation

Activity	Profile of Respondents	% Responsible Agencies that Privatize	Principal Reasons				
			Operating Cost Savings	Insufficient Facilities	Lack Expertise	Better Service	Other
Administration	100%	25%			●		
Airports	76%	31%			●	●	
Bridges	95%	55%		●			●
Highways	95%	85%		●			●
Mass Transit	52%	73%	●	●	●		
Toll Roads	43%	0%					
Vehicle Registration	43%	11%					
Water	24%	20%					
Other	9%	n/a					

● - Most significant "Principal Reasons"

kept open by issuing permits to private business (fast food franchises) to operate and maintain and to conduct their business there -- subject to DOT standards and safety regulations."

- "The Vehicle Emissions Inspection Program in the state is performed by a private concern in facilities they constructed to our specifications on sites they own."
- "Demonstration program consists of 4 toll road projects, entailing \$2.4 billion, to be developed, financed, constructed and operated by the private sector without the use of State funds."
- "Interchange on major interstate built by private sector. State has had two such experiences and both have been very satisfactory."

- "Sold airspace for construction and operation of Hotel on underutilized property within freeway interchange right of way."

- "Rationales for privatization are narrow in questionnaire. Our reasons:

- Contain size of bureaucracy
- Limit boom/bust impacts in state government
- Increase flexibility and response times
- Benefit from expertise in private sector
- Reduce overhead costs"

Transportation agencies have and will continue to make extensive use of private resources for meeting infrastructure requirements.

Other Agencies

We received responses from 16 other agencies in 12 states. The "other" agencies included budget, general services, family services, welfare, natural resources, community affairs and conservation agencies. Of the responding agencies, all had and planned to privatize some services and facilities. Of these, all contract out services, 56% have or plan to acquire assets through the private sector (more than any other agency) and 13% plan to sell assets for operation by the private sector.

Figure XXIV summarizes the areas in which the responding agencies contract services and the principal reasons for such contracting. The value of contracts represents an interesting pattern, reflecting the diversity of the agencies, with 67% under \$10 million and 33% over \$80 million. There is also a great interest in facilities acquisition among these agencies, with over 65% previously or planning to do so.

Figure XXIV

Activities Privatized Through Contracting Other Agencies

Activity	% Responsible Agencies that Privatize	Principal Reasons					
		Capital Cost Savings	Operating Cost Savings	Insufficient Facilities	Lack Expertise	Means of Financing	Better Service
Administration	19%	●	●		●		●
Buildings	50%	●	●				
Custodian	44%	●	●				
Data Processing	56%			●	●		●
Education	31%				●	●	
Fleet	13%	●	●				
Health	25%	●					
Maintenance	44%	●	●				
Recreation	19%					●	●
Security Services	44%		●				
Social Services	38%	●				●	
Telecommunication	44%				●		●
Other	13%						●

● - Most significant "Principal Reasons"

As with the other agencies, selected comments provide an insight of these respondents toward privatization:

- "Privatization often looks good and sounds good and costs more."
- "Fiscal stress will demand alternative delivery of services in state agencies. Private sector should be looked at for delivery. (Prisons, group homes, health care, data processing, etc.)"
- "We are in the process of converting our state operated liquor stores to agencies. We will be proposing legislation that will allow us to complete the process."
- "Construction/acquisition of a marina and possible lease of two small inns and restaurants at state parks."
- "Privatization of the management of a Juvenile Commitment and Detention Facility has been innovative and successful."
- "Our low income energy assistance program is operated by a contractor. The contractor arranges facilities and takes client applications. Information on eligibility and payment criteria are captured by the contractor and entered into the computer system. State personnel and systems generate payments. The contractor trains own staff and answers client questions."
- "Advertising program for tourism promotion (mentioned specifically by 2 states)."
- "Agency selects location, advertises for builder to purchase land and submit bids to construct building to Agency's specifications."
- "We have negotiated eleven leases where state land was leased to a private developer to build and operate a power plant. We consider most of these leases to be successful."
- "Our department formed an agreement with the city and county to combine 4.6 acres in downtown (major city) and lease it to a private developer to construct and operate an office complex. The three public entities will share in income from the complex."
- "We have actually moved away from privatization in the operation of facilities. If there is a profit to be made we feel the state should make it rather than giving it to an operator. Why give away profit centers and keep only costs?"

Summary of Respondents

Questionnaires were mailed in November, 1991, to 51 state comptrollers (including the District of Columbia). In addition to the statewide survey, we asked the comptroller's office to distribute a tailored questionnaire to a corrections, a health care, a higher education and a transportation agency in the state. In addition, we provided a generic questionnaire, which we asked the comptroller to distribute to another agency in the state which might have an interest in or opinion on privatization.

We received 158 responses, representing replies from 29 states. The quite large response rate suggests that state governments are vitally interested in the subject of privatization. As cost and service pressures increase and funding sources decrease, privatization may represent a very viable method of continuing to deliver services for state level constituents.

Figure XXV summarizes the responses received by type of agency and by state.

Figure XXV

Responses by Agency Type

<u>Agency</u>	<u>Number of Responses</u>	<u>Representing How Many States</u>
Comptroller	19	19
Corrections	25	22
Health Care	33	21
Higher Education	44	19
Other	16	12
Transportation	21	20
	<u>158</u>	<u>29</u>

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OFFICE OF THE VICE PRESIDENT

WASHINGTON

**BRIEFING FOR THE VICE PRESIDENT
PRIVATIZATION ROUNDTABLE**

Date: Monday, April 27, 1992
Time: 9:25-10:00 a.m.
Location: New York, New York

From: Bill Burrow

I. PURPOSE

You will participate in a roundtable meeting with Ron Lauder and seven experts in the field of privatization. Ron Lauder is the chairman of the New York Senate Advisory Commission on Privatization. The commission published Privatization for New York: Competing for a Better Future. They will discuss with you their strategies on infrastructure privatization. Ron Lauder's commission has published recommendations to privatize many state-run programs in New York. They believe that many of these ideas have applications to all 50 states and the Federal government.

II. BACKGROUND

As part of the President's 90-day review, you have been examining Federal impediments to local privatization efforts. There is a pending Executive Order that will reduce Federal impediments to privatization. Essentially, privatization is allowing private enterprise to compete with government in providing public services. It encompasses several important areas:

- o **Infrastructure.** The government can sell or lease existing infrastructure to a private firm. Or the private sector can develop, finance, and operate facilities, collecting revenue on its investment from users. Other infrastructure opportunities exist in transportation, such as mass transit systems, waste water treatments, and airports.
- o **Competitive Bidding.** According to numerous studies, proper competitive contracting produces savings of roughly 25 to 30 percent with no reduction in the level or quality of service nor loss of needed government control. Public vs. private bidding brings to government service what makes the private sector competitive.

III. PARTICIPANTS

Ronald S. Lauder, Author of Privatization for New York: Competing for a Better Future. He will talk about how the recommendation of the study are applicable to all fifty states.

Steve Savas, Editor of Privatization for New York: Competing for a Better Future. He will give you an overview of privatization on an international scale. He will get more specific about infrastructure privatization at home and abroad.

Robert Poole, Jr., President of the Reason Foundation. He will state the enormous potential privatization holds for local governments throughout the U.S..

John Giraudo, J.D., He will summarize the legal obstacles to all kinds of infrastructure privatization. He will explain how an executive order can eliminate these obstacles.

Viggo Butler, President, Lockheed Air Terminal. He will state that he is interested in investing in airports in the mid-Atlantic corridor.

Allen Roth, public policy analyst to Ron Lauder. He will tell you why lifting federal restrictions to privatization is good government and good politics.

Thomas "Dusty" Rhodes, Investment banker who will participate in the open discussion.

Paul Atanasio, Investment banker who will participate in the open discussion.

Michael E. Basham, Smith-Barney, Managing Director Privatization Group, will participate in the open discussion.

IV. SEQUENCE OF EVENTS

You will be introduced by Ron Lauder who will give a brief overview of the commission. The remaining participants each will discuss a different facet of privatization.

V. FOLLOW-UP

Notes to the participants of the roundtable.

VI. PRESS

Official photographer only.

VII. ATTACHMENTS

Attached is a copy of the Executive Summary of the report by the New York State Senate Advisory Commission on Privatization.

**TALKING POINTS FOR THE VICE PRESIDENT
PRIVATIZATION ROUNDTABLE**

- o Allowing private enterprise to compete with government in providing public services is the single fundamental change that can free taxpayers from the swamp of higher taxes and reduced services.
- o It may surprise some of you of how enthusiastic some of our Federal agencies are to privatize State and Local services.

We know several things:

- o We know we need to modernize our infrastructure.
- o We know that it enhances competitiveness.
- o We know that the Federal government can't afford to do it alone anymore.
- o We know that other parts of the world are facing their infrastructure crises by relying on the market to compete with the government in providing needed services.
- o The President's Highway Transportation Bill, passed last December, makes it Federal policy to encourage private sector financing of public sector projects.
- o As part of the President's 90-day review of regulations, I have examined the Federal impediments to local privatization efforts. The President is seriously considering ways to reduce some of these impediments.

NOTE: John Giraudo, one of the participants of today's roundtable, has characterized Federal efforts at privatization in the following way:

"Despite our nation's current enthusiasm for privatization in the Soviet Union, practically every Soviet delegation visiting the United States will have to fly into a government-owned airport, travel on a state-owned road, and ship its goods back to the Soviet Union out of a government-owned port."

*File
Privatization*



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everyone*

OFFICE OF THE VICE PRESIDENT

WASHINGTON

PRESS CONTACTS FOR PRIVATIZATION

Public Officials

William Weld, Governor of Massachusetts -- Honorary Co-Chairman
Privatization Council (617) 727-3600
✓ John Moffit, Chief Secretary for Weld,
in charge of privatization effort in Ma.
(617) 727-5787. Wants advance copy fax
(617) 727-8136

Governor Schaefer, very interested in supporting, according to
Burnley and Allen Rifkin ((410) 837-
✓ 9700). Press contact is Frank Trainor
(301) 974-2316.

Governor Wilson, will support, but wants an advance copy. Dr.
Phillip Romero -- Governor Wilson's
✓ office -- (916) 322-2318 fax # (916)
322-3785

Steve Goldsmith, Mayor of Indianapolis -- (317) 327-3600 Ran on
privatization, won an award from
✓ Privatization Council. Contact with
Skip Stet (317) 327-5700 FAX 317-327-3980

Mayor Daley, Chicago -- (312) 744-4000. Contact with Frank
✓ Kreusi, (312) 744-3312. Thinks the
mayor will support strongly, but wants
to see an advance copy. Fax # (312) 744-
3312. (312) 744-2324

Already Privatizing

✓ Ralph Stanley, VA Toll Road Corp. -- (703) 771-9510. Former head
of UMTA under Reagan. Building toll road

✓ Ron Jensen, City of Phoenix Public Works -- (602) 262-7251 FAX (602) 262-5311
Very active in privatization, has
appeared on Today show and a PBS special
on new techniques of public management 602-445-2095

Gerald Pfeffer, CRSS Equity Inc. -- (713) 552-2265. Fax copy
✓ (713) 623-8051. Project underway in CA.
One of first private roads.

✓ Rosendo Gutierrez, Chief of Urban Highways (602) 255-8100. Fax #
✓ (602) 255-6941. Put out RFPs for 4

private highways

✓ Carl Williams, Deputy of California DOT -- (916) 654-4852
Started privatization efforts in CA

Private Sector

✓ John Giraudo, Skadden Arps -- (202) 371-7072
Lawyer, activist on privatization

✓ Robert Poole, Jr., President, Reason Foundation -- (310) 391-2245
Reason very active in privatization, has many success stories FAX (310) 391-4395

✓ Ron Lauder, Chairman of Privatization Council for New York --
FAX (212) 572-4329 (212) 572-6964. Alan Roth, Project Director will also take calls there.

✓ John Stainback, President, Privatization Intn'l -- (212) 385-0067
FAX (212) 385-0069 His firm developed privatization options for Philadelphia, now being considered by the Mayor

✓ Jim Burnley, Shaw Pittman -- (202) 663-9225 / FAX 202-663-8007
Former Transportation Secretary, representing Lockheed

* Viggo Butler, President, Lockheed Air Terminal -- (818) 972-1555
FAX (818) 972-1579 Running private airport in Toronto and developing projects in Eastern Europe (will be in London tomorrow)

✓ Roger Feldman, McDermott lawyer and President of the Privatization Council (202) 778-8189,
→ fax # 778-8050.

✓ Steve Steckler, Price Waterhouse -- (202) 296-0800 / 202 296-2785

✓ Bill Reinhardt, Editor of Public Works Financing (908) 654-0397

✓ Clifton Moore, Exec. Dir. of LAX (310) 646-6250. Karen Hedlund, Skadden Arps -- (213) 687-5000 representing LAX. Also on LAX, John Ferarro, City Council President (213) 485-3337

FAX 310 646-0523

908 654-0436

THE WHITE HOUSE

Office of the Press Secretary
(Columbus, Ohio)

For Immediate Release

April 30, 1992

EXECUTIVE ORDER ON INFRASTRUCTURE PRIVATIZATION

FACT SHEET

- The President today signed an Executive order to promote private investment in local infrastructure. This initiative is part of the President's regulatory initiative coordinated by the Council on Competitiveness.
- States and localities face a growing need to modernize and expand their vital infrastructure assets -- including roads, water supply systems and sewage treatment plants. They seek innovative means to take advantage of the value of existing assets and to obtain private sector financial assistance.
- The order will lead to greater financial flexibility for State and local governments to sell or lease infrastructure assets obtained with Federal assistance.
- Individual agency initiatives and actions are already planned to implement the order:
 - The Environmental Protection Agency will issue policy guidance or regulations to permit increased private participation in wastewater treatment facilities as well as the privatization of existing treatment plants. Modernization and expansion of existing wastewater treatment works and associated sewer lines are expected to cost approximately \$80 billion over the next 15 years. EPA's actions under the Executive order will help local governments fund these facilities that are critical to economic development and clean water.
 - During the next 2 months, the Department of Housing and Urban Development, in concert with the principles of the Executive order, will award over 200 planning grants to resident organizations, public housing authorities, and nonprofit and governmental entities, to assist over 26,000 families. These grants will initiate a rational and prudent process for the conversion of public housing into private home ownership.

- The Department of Transportation's Federal Transit Administration is awarding a \$4.8 million grant to Los Angeles for the competitive contracting of bus services to 29 suburban communities. Previous contracting out of transit service in the Los Angeles area reduced costs by 60 percent compared to the public transit agency's operations. In addition, 3 entrepreneurial planning grants are scheduled to be awarded in May.
- The Department of Transportation's Federal Highway Administration intends to work with about 15 States over the next year, providing them with technical training and helping them to draft State conforming legislation to implement the Intermodal Surface Transportation Efficiency Act of 1991. DOT's actions under the Executive order will ensure private participation in the \$120 billion authorized over the next 6 years for needed highway construction and improvement.
- The Executive order, to the extent permitted by law, provides direction to Federal departments and agencies to:
 - Assist local privatization initiatives. Executive departments and agencies are directed to assist State and local governments in advancing appropriate privatization transactions.
 - Remove Federal regulatory impediments. The President directed Executive departments and agencies to approve requests by State and local governments to privatize infrastructure assets financed with Federal grants whenever certain criteria are satisfied.
 - Increase State and local governments' proceeds. The Executive order relaxes Federal recoupment practices in order to encourage privatization by State and local governments of infrastructure assets purchased with Federal assistance.
 - Protect the public interest. To protect users and the public, the Executive order requires Federal agency heads to ensure that a mechanism (market, regulatory or contractual) will ensure that the assets continue to be used for their original purposes (as long as needed for those purposes) and that user charges will remain consistent with current Federal conditions that protect users and the public by limiting the charges.

- The President's order identifies several important principles and objectives:
 - "Private enterprise and competitively driven improvements are the foundation of our nation's economy and economic growth."
 - "Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both."
 - "State and local governments are in the best position to assess and respond to local needs."
- The order is part of a series of recent Administration actions to provide for a strong and well maintained infrastructure, developed in partnership with the private sector.
 - Last year, the President signed the \$151 billion Intermodal Surface Transportation Efficiency Act of 1991. It enables States to link Federal highway funds with private investment for the construction and modernization of highways, bridges and roads. The Federal Highway Administration issued implementing guidance on March 12, 1992.
 - On March 23, 1992, the Administration proposed legislation, "Perestroika for Troubled Housing Act of 1992," that will assist 23 troubled public housing authorities in disposing of properties purchased with Federal assistance.
 - The Administration seeks to transfer uranium enrichment facilities to a government corporation that can ultimately become a private entity and compete effectively.
 - Earlier this month, the Administration completed an environmental assessment necessary to transfer the Wynoochee multiple-use reservoir project from the Army Corps of Engineers to local authorities.

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THE WHITE HOUSE
Office of the Press Secretary
(Columbus, Ohio)

For Immediate Release

April 30, 1992

EXECUTIVE ORDER

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INFRASTRUCTURE PRIVATIZATION

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that the United States achieves the most beneficial economic use of its resources, it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Privatization" means the disposition or transfer of an infrastructure asset, such as by sale or by long-term lease, from a State or local government to a private party.

(b) "Infrastructure asset" means any asset financed in whole or in part by the Federal Government and needed for the functioning of the economy. Examples of such assets include, but are not limited to: roads, tunnels, bridges, electricity supply facilities, mass transit, rail transportation, airports, ports, waterways, water supply facilities, recycling and wastewater treatment facilities, solid waste disposal facilities, housing, schools, prisons, and hospitals.

(c) "Originally authorized purposes" means the general objectives of the original grant program; however, the term is not intended to include every condition required for a grantee to have obtained the original grant.

(d) "Transfer price" means: (i) the amount paid or to be paid by a private party for an infrastructure asset, if the asset is transferred as a result of competitive bidding; or (ii) the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding.

(e) "State and local governments" means the government of any State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate governmental entity, council of governments, and any agency or instrumentality of a local government, and any federally recognized Indian Tribe.

Sec. 2. Fundamental Principles. Executive departments and agencies shall be guided by the following objectives and principles: (a) Adequate and well-maintained infrastructure is critical to economic growth. Consistent with the principles of federalism enumerated in Executive Order No. 12612, and in order to allow the private sector to provide

(b) Private enterprise and competitively driven improvements are the foundation of our Nation's economy and economic growth. Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both.

(c) State and local governments are in the best position to assess and respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use be on reasonable and nondiscriminatory terms, have maximum possible freedom to make decisions concerning the maintenance and disposition of their federally financed infrastructure assets.

(d) User fees are generally more efficient than general taxes as a means to support infrastructure assets. Privatization transactions should be structured so as not to result in unreasonable increases in charges to users.

Sec. 3. Privatization Initiative. To the extent permitted by law, the head of each executive department and agency shall undertake the following actions: (a) Review those procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments and modify those procedures to encourage appropriate privatization of such assets consistent with this order;

(b) Assist State and local governments in their efforts to advance the objectives of this order; and

(c) Approve State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of this order and, where necessary, grant exceptions to the disposition requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" common rule, or other relevant rules or regulations, for infrastructure assets; provided that the transfer price shall be distributed, as paid, in the following manner: (i) State and local governments shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up costs they incur) associated with the infrastructure asset involved; (ii) if proceeds remain, then the Federal Government shall recoup in full the amount of Federal grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service accelerated depreciation schedule for the categories of assets in question); and (iii) finally, the State and local governments shall keep any remaining proceeds.

Sec. 4. Criteria. To the extent permitted by law, the head of an executive department or agency shall approve a request in accordance with section 3(c) of this order only if the grantee: (a) Agrees to use the proceeds described in section 3(c)(iii) of this order only for investment in additional infrastructure assets (after public notice of the proposed investment), or for debt or tax reduction; and

(b) Demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that: (i) the infrastructure asset or assets will continue to be used

Sec. 5. Government-wide Coordination and Review. In implementing Executive Order Nos. 12291 and 12498 and OMB Circular No. A-19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the executive departments and agencies are consistent with the principles, criteria, and requirements of this order. The Office of Management and Budget shall review the results of implementing this order and report thereon to the President 1 year after the date of this order.

Sec. 6. Preservation of Existing Authority. Nothing in this order is in any way intended to limit any existing authority of the heads of executive departments and agencies to approve privatization proposals that are otherwise consistent with law.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH

THE WHITE HOUSE,
April 30, 1992.

#

Started privatization efforts in
California

Ralph Stanley, VA Toll Road Corp. -- (703) 771-9510

Gerald Pfeffer, CRSS Equity Inc. -- (713) 552-2265
Project underway in California

Private Sector

John Giraudo, Skadden Arps -- (202) 371-7072
Lawyer, activist on privatization

Robert Poole, Jr., President, Reason Foundation -- (310) 391-2245
Reason very active in privatization, has
many success stories

Ron Lauder, Chairman of Privatization Council for New York --
(212) 572-6964. Alan Roth, Project
Director will also take calls at this
number.

John Stainback, President, Privatization Intn'l -- (212) 385-0067
His firm developed privatization options
for Philadelphia, now being considered
by the Mayor

Jim Burnley, Shaw Pittman -- (202) 663-9225
Former Transportation Secretary,
representing Lockheed

Viggo Butler, President, Lockheed Air Terminal -- (818) 972-1555
Running private airport in Toronto and
developing projects in Eastern Europe
(will be in London tomorrow)

Roger Feldman, President of the Privatization Council

Steve Steckler, Price Waterhouse -- (202) 296-0800

Bill Reinhardt, Editor of Public Works Financing (908) 654-0397

Karen Hedlund, Skadden Arps -- (213) 687-5000
representing LAX

Clifton Moore, Exec. Dir. of LAX



OFFICE OF THE VICE PRESIDENT

WASHINGTON

April 29, 1992

MEMORANDUM FOR JUDY SMITH

FROM; DAVID McINTOSH

Dmm

Attached is a list from Richard Porter of press contacts who can support privatization.

Also attached are some informal talking points explaining the initiative and some real world effects.

File
Privatization

TALKING POINTS ON PRIVATIZATION

- o The President today signed an Executive Order to promote private investment in local infrastructure.
- o The executive order will speed up local efforts to attract private investment to build and upgrade local infrastructure such as airports, parking structures, highways, bridges, electric and gas utilities, schools, ports, water and sewage systems, and waste-to-energy plants.
- o An upcoming Reason Foundation study estimates this could affect over \$200 billion of locally owned assets.
- o Under the new Executive Order:
 - The President directed all Federal agencies to assist state and local governments in their privatization efforts.
 - The President directed agencies to remove regulatory impediments to the privatization of state and local infrastructure. Agencies must approve requests by State and local governments to privatize facilities financed by Federal grants whenever minimum criteria are met.
 - The President directed agencies to reduce the amount of repayment to the Federal Government when privatization occurs. In some cases involving grants that were made many years ago, no repayment will be due the Federal government.
- o Taxpayers will be protected by a requirement that the proceeds of privatization must be used for new infrastructure development, reduction of local debt or taxes.
- o The public will be protected from unreasonable increases in user charges. In addition, the private facility must continue to be used for the public purpose for which the original Federal grant was made. For example, sewage treatment facilities and airports would continue to be used for those purposes.
- o The Administration expects numerous benefits to consumers, local taxpayers, and American citizens from the privatization initiative.
 - Privatization will help cities comply with environmental requirements. For example, local authorities will be able to raise money needed to upgrade waste treatment facilities in order to meet environmental protection standards.

- Privatized facilities will be operated more efficiently. For example a study by Price Waterhouse found that operating costs were reduced by 60 percent (in third year) through competitively contracting the provision of bus services on 15 routes in Los Angeles that the regional provider discontinued.
 - Local governments can use idle capital to attract private investment for infrastructure. This principle was reflected in the \$151 billion Intermodal Surface Transportation Efficiency Act of 1991 enables States to link Federal highway funds with private investment in the construction and modernization of highways, bridges, and roads.
- o Some examples of privatization efforts that could be helped by the executive order include:
- Gov. Bill Weld of Massachusetts has expressed interest in privatizing the Massachusetts turnpike.
 - The New York Advisory Commission on Privatization (chaired by Ron Lauder) has worked with state officials on plans to privatize LaGuardia and Kennedy airports.
 - The State of Maryland has indicated interest in privatizing Baltimore-Washington International airport.
 - Mayor Steve Goldsmith of Indianapolis is investigating options privatize the city's sewage treatment system.

PRESS CONTACTS FOR PRIVATIZATION

Public Officials

William Weld, Governor of Massachusetts -- Honorary Co-Chairman Privatization Council (617) 727-3600
John Moffit, Chief Secretary for Weld, in charge of privatization effort in Ma. (617) 727-5787. Wants advance copy fax # (617) 727-8136

Governor Schaefer, very interested in supporting, according to Burnley and Allen Rifkin ((410) 837-9700). Press contact is Frank Trainor (301) 974-2316.

Governor Wilson, will support, but wants an advance copy. Dr. Phillip Romero -- Governor Wilson's office -- (916) 322-2318 fax # (916) 322-3785

Steve Goldsmith, Mayor of Indianapolis -- (317) 327-3600 Ran on privatization, won an award from Privatization Council. Contact with Skip Stet (317) 327-5700

Mayor Daley, Chicago -- (312) 744-4000. Contact with Frank Kreusi, (312) 744-3312. Thinks the mayor will support strongly, but wants to see an advance copy. Fax # (312) 744-3312.

Already Privatizing

Ralph Stanley, VA Toll Road Corp. -- (703) 771-9510. Former head of UMTA under Reagan. Building toll road

Ron Jensen, City of Phoenix Public Works -- (602) 262-7251
Very active in privatization, has appeared on Today show and a PBS special on new techniques of public management

Gerald Pfeffer, CRSS Equity Inc. -- (713) 552-2265. Fax copy (713) 623-8051. Project underway in CA. One of first private roads.

Rosendo Gutierrez, Chief of Urban Highways (602) 255-8100. Fax # (602) 255-6941. Put out RFPs for 4

private highways

Carl Williams, Deputy of California DOT -- (916) 654-4852
Started privatization efforts in CA

Private Sector

John Giraudo, Skadden Arps -- (202) 371-7072
Lawyer, activist on privatization

Robert Poole, Jr., President, Reason Foundation -- (310) 391-2245
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Running private airport in Toronto and
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(will be in London tomorrow)

Roger Feldman, McDermott lawyer and President of the
Privatization Council (202) 778-8189

Steve Steckler, Price Waterhouse -- (202) 296-0800

Bill Reinhardt, Editor of Public Works Financing (908) 654-0397

Clifton Moore, Exec. Dir. of LAX (310) 646-6250. Karen Hedlund,
Skadden Arps -- (213) 687-5000
representing LAX. Also on LAX, John
Ferarro, City Council President (213)
485-3337

Additional contacts:

Mayor Victor Ashe, Knoxville, TN
(615) 521-2046

Rep. Ken Harper, Crestview Hills, KY
(606) 341-1270

Mayor Dirk Kempthorne, Boise Idaho
((208) 384-4422

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

May 4, 1992

TO: Clients and Friends

Re: The President's Executive Order on
Privatization of State and Local
Government Assets

On April 30, 1992, the President signed an executive order removing some potential impediments to the privatization by state and local governments of infrastructure, such as highways, housing, airports, ports, waste water treatment plants and similar assets which have been built with federal grants. A copy of the executive order is enclosed.

The executive order directs federal agencies to approve of requests by state or local governments to privatize (defined as sale or long term lease to the private sector) assets which have been financed with the assistance of past federal grants. Subject to certain conditions and the approval of the relevant federal agency head, a state or local government will be able to sell or lease the asset and retain all of the proceeds except for a portion of the past grants associated with the asset.

The executive order outlines a sequence of steps to allocate the recoupment from the proceeds of privatizations. First, state and local governments will be able to recover their original investment in the asset, regardless of any decline in the asset's market value (including any transfer or fix-up costs they incur), provided it can be sold or valued at that original investment. After that, the federal government will be entitled to repayment of any grants it made with respect to the asset reduced by the accumulated depreciation of the grant-financed portion of the asset. (Depreciation will be calculated using the accelerated methods and asset classes specified in the Internal Revenue Code.) Finally, state and local governments will be entitled to all the remaining proceeds, including any appreciation in the asset's value.

The executive order directs federal agencies to, where necessary, grant exceptions from existing regulations that would otherwise require repayment to the

federal government of a pro rata percentage of the disposition proceeds.

State and local governments may use the proceeds they receive from privatizations for additional infrastructure, debt reduction or tax reduction.

The executive order places some conditions on potential privatizations. Before allowing a state or local government to sell or lease property which has been financed by federal grants, the state or local government grantee will be required to demonstrate to the satisfaction of the head of the grant authorizing federal agency that either a market mechanism, legally enforceable agreement or a regulatory mechanism exists or will exist to ensure that:

- * the asset will continue to be used for the purpose for which the federal grants were originally made, even if the purchaser becomes insolvent or is otherwise hindered from fulfilling the originally authorized purposes; and
- * user charges will be consistent with any current federal conditions that protect users and the public by limiting charges.

The policy change made by the executive order should enhance the ability of state and local governments to deal with their fiscal problems by facilitating the redeployment of certain governmental assets and attracting private capital for the rehabilitation of deteriorated public infrastructure. The new policy will permit state or local governments to capitalize on the appreciated value of government-owned assets and a significant portion of the past federal grants on condition that they channel the proceeds into additional infrastructure or debt reduction or tax reduction. This process should be equivalent to giving state and local governments new federal grants to restructure their finances and rebuild their infrastructure.

FOR FURTHER INFORMATION

Please contact either Karen Hedlund (300 South Grand Avenue, Los Angeles, CA 90071, telephone: 213-687-5190, fax: 213-687-5600) or John Giraudo (1440 New York Avenue, N.W., Washington, D.C. 20005, telephone: 202-371-7072, fax: 202-393-5760) if you have any questions.

THE WHITE HOUSE

Office of the Press Secretary

(Columbus, Ohio)

For Immediate Release

April 30, 1992

EXECUTIVE ORDER

- - - - -

INFRASTRUCTURE PRIVATIZATION

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that the United States achieves the most beneficial economic use of its resources, it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Privatization" means the disposition or transfer of an infrastructure asset, such as by sale or by long-term lease, from a State or local government to a private party.

(b) "Infrastructure asset" means any asset financed in whole or in part by the Federal Government and needed for the functioning of the economy. Examples of such assets include, but are not limited to: roads, tunnels, bridges, electricity supply facilities, mass transit, rail transportation, airports, ports, waterways, water supply facilities, recycling and wastewater treatment facilities, solid waste disposal facilities, housing, schools, prisons, and hospitals.

(c) "Originally authorized purposes" means the general objectives of the original grant program; however, the term is not intended to include every condition required for a grantee to have obtained the original grant.

(d) "Transfer price" means: (i) the amount paid or to be paid by a private party for an infrastructure asset, if the asset is transferred as a result of competitive bidding; or (ii) the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding.

(e) "State and local governments" means the government of any State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate governmental entity, council of governments, and any agency or instrumentality of a local government, and any federally recognized Indian Tribe.

Sec. 2. Fundamental Principles. Executive departments and agencies shall be guided by the following objectives and principles: (a) Adequate and well-maintained infrastructure is critical to economic growth. Consistent with the principles of federalism enumerated in Executive Order No. 12612, and in order to allow the private sector to provide for infrastructure modernization and expansion, State and local governments should have greater freedom to privatize infrastructure assets.

more

(OVER)

(b) Private enterprise and competitively driven improvements are the foundation of our Nation's economy and economic growth. Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both.

(c) State and local governments are in the best position to assess and respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use be on reasonable and nondiscriminatory terms, have maximum possible freedom to make decisions concerning the maintenance and disposition of their federally financed infrastructure assets.

(d) User fees are generally more efficient than general taxes as a means to support infrastructure assets. Privatization transactions should be structured so as not to result in unreasonable increases in charges to users.

Sec. 3. Privatization Initiative. To the extent permitted by law, the head of each executive department and agency shall undertake the following actions: (a) Review those procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments and modify those procedures to encourage appropriate privatization of such assets consistent with this order;

(b) Assist State and local governments in their efforts to advance the objectives of this order; and

(c) Approve State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of this order and, where necessary, grant exceptions to the disposition requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" common rule, or other relevant rules or regulations, for infrastructure assets; provided that the transfer price shall be distributed, as paid, in the following manner: (i) State and local governments shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up costs they incur) associated with the infrastructure asset involved; (ii) if proceeds remain, then the Federal Government shall recoup in full the amount of Federal grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service accelerated depreciation schedule for the categories of assets in question); and (iii) finally, the State and local governments shall keep any remaining proceeds.

Sec. 4. Criteria. To the extent permitted by law, the head of an executive department or agency shall approve a request in accordance with section 3(c) of this order only if the grantee: (a) Agrees to use the proceeds described in section 3(c)(iii) of this order only for investment in additional infrastructure assets (after public notice of the proposed investment), or for debt or tax reduction; and

(b) Demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that: (i) the infrastructure asset or assets will continue to be used for their originally authorized purposes, as long as needed for those purposes, even if the purchaser becomes insolvent or is otherwise hindered from fulfilling the originally authorized purposes; and (ii) user charges will be consistent with any current Federal conditions that protect users and the public by limiting the charges.

Sec. 5. Government-wide Coordination and Review. In implementing Executive Order Nos. 12291 and 12498 and OMB Circular No. A-19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the executive departments and agencies are consistent with the principles, criteria, and requirements of this order. The Office of Management and Budget shall review the results of implementing this order and report thereon to the President 1 year after the date of this order.

Sec. 6. Preservation of Existing Authority. Nothing in this order is in any way intended to limit any existing authority of the heads of executive departments and agencies to approve privatization proposals that are otherwise consistent with law.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH

THE WHITE HOUSE,
April 30, 1992.

#

NY
Privatization

III. PARTICIPANTS

Ronald S. Lauder, Author of Privatization for New York: Competing for a Better Future. He will talk about how the recommendation of the study are applicable to all fifty states. (rc'd personal notecard)

Steve Savas, Editor of Privatization for New York: Competing for a Better Future. He will give you an overview of privatization on an international scale. He will get more specific about infrastructure privatization at home and abroad. (rc'd personal notecard)

Robert Poole, Jr., President of the Reason Foundation. He will state the enormous potential privatization holds for local governments throughout the U.S.. (rc'd personal notecard)

John Giraudo, J.D., He will summarize the legal obstacles to all kinds of infrastructure privatization. He will explain how an executive order can eliminate these obstacles. (rc'd personal notecard)

Viggo Butler, President, Lockheed Air Terminal. He will state that he is interested in investing in airports in the mid-Atlantic corridor. (rc'd personal notecard)

Allen Roth, public policy analyst to Ron Lauder. He will tell you why lifting federal restrictions to privatization is good government and good politics. (rc'd personal notecard)

Thomas "Dusty" Rhodes, Investment banker who will participate in the open discussion. (rc'd personal notecard)

Paul Atanasio, Investment banker who will participate in the open discussion. (rc'd personal notecard)

Michael E. Basham, Smith-Barney, Managing Director Privatization Group, will participate in the open discussion. (rc'd personal notecard)

IV. SEQUENCE OF EVENTS

You will be introduced by Ron Lauder who will give a brief overview of the commission. The remaining participants each will discuss a different facet of privatization.

V. FOLLOW-UP (See Trip Followup Summary)

Notes to the participants of the roundtable.

VI. PRESS

Official photographer only.

VII. ATTACHMENTS

Attached is a copy of the Executive Summary of the report by the New York State Senate Advisory Commission on Privatization.

Privat.
Roundt.
NYC
Barney

File # 1896

4/28 To be entered
Copies have been
given to: RWP;
ETO; Staff Secretary



DAN QUAYLE

Dear Ron,

Great to see you this morning, both at breakfast and the roundtable discussion on privatization. I thought the group raised several good points that I will factor into the Council's work on privatization. Thanks for your help on this issue.

Best wishes.

A handwritten signature in cursive script, appearing to read "Dan Quayle".

THE VICE PRESIDENT
WASHINGTON, D. C. 20501

The Honorable Ronald S. Lauder
660 Madison Avenue
Suite 850
New York NY 10021

Note: Hosted "Privatization Roundtable" in
NYC for the VP.

**SKADDEN
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Main Fax No. (202) 393-5780

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Time: _____

City: WASHINGTON, DCFacsimile No.: (202) 456-6231

Telephone: (_____) _____

From:

Name: John P. Giraudo, Esq.Floor/Rm. 6-29Facsimile No.: (202) _____Ext. 7072Total number of pages including this cover letter: 5

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Also, all legal size documents (8 1/2" x 13" or 14") must be sent to the automatic machines.

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April 27, 1992

The Honorable Dan Quayle
Vice President of the United States
The White House
Washington, D.C. 20005

Dear Mr. Vice President:

On behalf of my client, Viggo Butler of Lockheed Air Terminal, Inc. and myself, I want to thank you for taking the time to meet with us this morning about the privatization initiative you are considering. You and the President will do the nation a great service with this initiative.

In following up on our conversation, I would like to bring to your attention two serious problems I perceive will stem from requiring state and local governments to repay even a portion of their past federal grants as a condition to undertaking privatizations. The enclosed memorandum discusses the problems in greater detail.

As I understand it, at present some federal officials are asking that the proposed executive order require state and local governments to repay their past federal grants with respect to an asset less some accumulated depreciation of that asset. Such an approach is fraught with complexities which will only increase the transaction costs of privatizations. Firstly, land is typically not a depreciable asset. Hence, the full value of grants utilized to purchase land will need to be repaid. Secondly, not all assets can be depreciated on an accelerated basis under present law. Thirdly, a facility such as an airport or wastewater treatment plant is not normally treated as a single asset for depreciation purposes. Therefore, it will be necessary, in such cases, to identify individually the many hundreds, if not thousands of assets at an airport or wastewater treatment

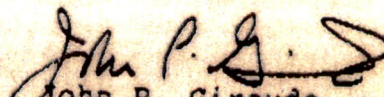
The Honorable Dan Quayle
April 27, 1992
Page Two

plant which were purchased with federal grants, and ascertain the depreciation of the specific asset in question over its applicable useful life period. Finally, there will doubtless be some assets, such as runways, which simply will not be found in the IRS schedules since they have not usually been in private ownership and subject to depreciation.

The second problem I anticipate that may result from requiring recoupment of past federal grants is the legal cloud this could place on existing federal grant agreements. State and local governments sign a federal grant agreement when they receive federal grants. The grant agreement typically contains numerous conditions to the grant. The federal agencies exercise control over their state and local government grantees through these grant agreement conditions. For example, grant agreements administered by the FAA with respect to airports contain conditions which permit the FAA to regulate user fees at airports. If the federal government intends to recoup the undepreciated portion of its past federal grants, it will raise a question as to whether such recoupment extinguishes the grant conditions attached to the asset. Since the conditions were made binding on the state or local government by the receipt of the federal grants, it is at least arguable that repayment of the grants discharges the state or local government, as well as any potential new owner of the asset, from any further obligation to abide by the conditions. I assume this is not an intended policy outcome.

Mr. Butler and I remain available to answer any questions you may have about the foregoing or any other matter.

Very truly yours,


John P. Giraudo

Enclosure

cc: William Kristol
Richard Porter
Viggo Butler

SHAW, PITTMAN, POTTS & TROWBRIDGE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

MEMORANDUM

DATE: April 27, 1992
TO: Viggo Butler
FROM: Jim Burnley
Sam Chappell *JMC*

As you requested this morning, this memorandum summarizes current law on two issues: the accelerated depreciation schedules available under current federal tax law and the effect of repayment of federal grants on the grant assurances agreed to by the grantee when the grants were made.

I. Depreciation

We understand that it is the perception of some that the types of assets which may be transferred to the private sector would be subject to accelerated Internal Revenue Service depreciation schedules which provide for greater than straight line depreciation.^{1/} Under current law, however, real property is generally depreciated on a straight line basis. Residential rental property (including public housing) is subject to a straight line depreciation schedule over a period of 27.5 years, while the depreciation schedule for non-residential real property (i.e., office buildings, warehouses and industrial facilities) is straight line over 31.5 years. In each case only the cost of improvements may be depreciated; in no event may the cost of the underlying land be depreciated.

Certain exceptions apply to the foregoing rules relating to real property. For example, the cost of municipal sewers, telephone central office buildings, electric utility hydraulic

^{1/} In recent years federal tax law relating to depreciation schedules has undergone significant changes. Therefore, if the depreciation schedules to be utilized were determined based upon the federal tax law in effect on the date each asset purchased with grant funds was placed in service rather than current federal tax law, the result would prove administratively burdensome and possibly unworkable.

production plants (including the cost of dams, flumes, canals and waterways), and electric utility steam production plants may be depreciated over twenty years using a 150 percent declining balance schedule. Real property qualifying for a 150 percent declining balance depreciation schedule over fifteen years includes waste water treatment plants, telephone distribution plants, service station buildings, liquefied natural gas plants, electric utility nuclear production plants, electric utility combustion turbine production plants, pipeline transportation facilities, water transportation facilities, railroad wharves and docks, and industrial steam and electric generation and/or distribution systems. Land improvements such as sidewalks, roads, canals, and bridges also generally qualify for a fifteen-year 150 percent declining balance depreciation schedule.

Most other classes of assets would fall under the most rapid depreciation schedule (200 percent declining balance) over shorter time periods. These classes include automobiles, trucks, office equipment, manufacturing equipment, waste reduction resource recovery plants, and single purpose horticultural structures.

II. Grant Assurances May Be Voided Upon Repayment

You have repeatedly indicated that Lockheed is willing to accept whatever grant assurances have been agreed to by the public entity from which you would buy or lease an airport. Specifically, you are agreeable to a requirement that any such airport remain a public use airport.

However, some federal officials are reportedly arguing that a sale of a federal aid facility should trigger repayment of federal grants which were invested in that facility. In the event of repayment of federal aid, a strong argument would be made that the grant assurances would no longer be effective.

For example, grant assurances given to the FAA by publicly-owned airports expire after 20 years. There is no statutory provision or FAA regulation that requires this arrangement. Rather, an FAA "order" requires such a provision in all grant agreements. Thus, grant assurances given to the FAA by publicly-owned airports should be considered contractual obligations. If the consideration paid by the federal government (i.e., grant funds) is repaid in full, then the contract should be considered dissolved, and the grantee should have no further contractual obligation to adhere to the grant assurances.

THE PRIVATIZATION COUNCIL



THE FORUM FOR PUBLIC-PRIVATE PARTNERSHIPS

THE PRIVATIZATION COUNCIL

1101 Connecticut Avenue, NW

Suite 700

Washington, DC 20036

(202)857-1142

FAX: (202)223-4579

1992 MEMBERSHIP DIRECTORY

McDermott, Will & Emery

Counsel to Public-Private Ventures

Domestic and International



Transportation • Energy • Health • Environment

Contact

Roger D. Feldman, Esq.
Head, Project Finance Group
(202)778-8189

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Paris, France • London, England

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Contact Person

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City/State/Zip

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Department 3114
Washington, DC 20042-3114

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Corporate.....\$ 1,000
Public/Nonprofit.....\$ 200

Please provide the following information:

Organization Name

Contact Person

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City/State/Zip

Phone Number

Membership Category:

Please send payment to:

The Privatization Council
Department 3114
Washington, DC 20042-3114

Call 202/857-1142 if you have any questions.

McDermott, Will & Emery

Counsel to Public-Private Ventures
Domestic and International



Transportation • Energy • Health • Environment

Contact

Roger D. Feldman, Esq.
Head, Project Finance Group
(202)778-8189

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Brane-Strom Management Lochnau, Ltd. PO Box 790 or 17341-D Pickwick Drive Purcellville, VA 22132-0790 Phone: 703/338-1885 Fax: 703/338-1892 Investors in Toll Road Corporation of Virginia, TerraCycle (Municipal solid waste separation facility); habitat enhancement and protection using conservation easements Michael R. Crane Magalen O. Bryant	Corporate	Tecom, Inc. PO Box 9963 Austin, TX 78766 Phone: 512/345-7966 Fax: Thomas L. Collins, President	Corporate
Business Records Corporation PO Box 4889 Syracuse, NY 13221 Phone: 315/437-3223 Fax: Bernard J. Owens, President - East	Corporate	Texas Comptroller of Public Accounts/ Texas Performance Review PO Box 13528 Austin, TX 78711 Phone: 512/475-0557 Fax: Christine Cook, Analyst	Public/Nonprofit
California Department of Transportation 1120 N Street Sacramento, CA 95814 Phone: 916/445-1462 Fax: Carl Williams; Assistant Director	Public/Nonprofit	Texas State Auditor's Office PO Box 12067 Austin, TX 78711 Phone: 512/479-4700 Fax: 512/479-4884 Interested in privatization developments in other states Ed Dorotik; Information Services Group Joe Molina; Competitive cost reviews Leo Paterra; Competitive cost reviews	Public/Nonprofit
		Toll Road Corporation of Virginia 7 East Market Street Leesburg, VA 22075 Phone: 703/771-9510 Fax: Ralph Stanley, Chief Executive Officer	Sponsor

<i>University of Medicine & Dentistry of New Jersey</i> 150 Bergen Street, Room D217 Newark, NJ 07103-2406 Phone: 201/456-5658 Fax: Marc H. Lory, President & CEO	<i>Public/Nonprofit</i>	<i>Associated Builders & Contractors</i> 729 15th Street, NW Washington, DC 20005 Phone: 202/637-8800 Fax: Michael Bolen, Assistant Director, Federal Relations	<i>Public/Nonprofit</i>
<i>U.S. Department of the Army Hospitality Management Group</i> 2760 Eisenhower Avenue Suite 400 Alexandria, VA 22314 Phone: 703/325-6980 Fax: Bruce Parzych, Senior Program Manager	<i>Public/Nonprofit</i>	<i>City of Auburn</i> PO Box 511 Auburn, AL 36831 Phone: 205/821-1900 Fax: Douglas J. Watson	<i>Public/Nonprofit</i>
<i>U.S. Army Corps of Engineers</i> 20 Massachusetts Avenue, NW Washington, DC 20314-1000 Phone: 202/272-0118 Fax: James P. Rausch, Privatization Manager	<i>Public/Nonprofit</i>	<i>City of Austin</i> PO Box 2985 Austin, TX 78768 Phone: 512/499-3430 Fax: 512/499-2885 James Hall, Director, General Services Department	<i>Public/Nonprofit</i>
<i>Utilicorp United, Inc.</i> 911 Main Street Suite 2000 Kansas City, MO 64105 Phone: 816/691-3539 Fax: 816/691-3590 Michael Bruhn, Director of Corporate Development	<i>Corporate</i>	<i>Autostrade International Holding c/o Hogan & Hartson</i> Columbia Square 555 13th Street, NW Washington, DC 20004 Phone: 202/637-8646 Fax: Deborah T. Ashford, Attorney	<i>Corporate</i>
<i>Waste Management Inc.</i> 3003 Butterfield Road Oak Brook, IL 60521 Phone: 312/572-8800 Fax: Jim Hynes, Manager, Government Affairs	<i>Corporate</i>	<i>Town of Avon</i> PO Box 578 60 West Main Street Avon, CT 06001 Phone: 203/677-2634 Fax: Philip Schenck	<i>Public/Nonprofit</i>
<i>Waterman Health Care Systems</i> 812 North Bay Street Eustis, FL 32726 Phone: 904/589-7676 Fax: Zebulon Osborne, President	<i>Corporate</i>	<i>AWT/Metcalf & Eddy</i> PO Box 4043 Woburn, MA 01888 Phone: 617/246-5200 Fax: 617/245-6293 James C. Dobbs, Vice President, General Counsel	<i>Sponsor</i>

Listing By Organization

AAI Corporation

PO Box 126

Hunt Valley, MD 21030-0126

Phone: 410/628-8448

Fax: 410/628-3215

Stephen M. Sorett, Director, Legal & Assistant Secretary
M.P. Ranc, Jr., Director, Corporate Marketing

Corporate

Alberta Public Works

Supply & Services

6950 - 113 Street

Departmental Library

Edmonton, Alberta, T6H 5V7 CANADA

Phone:

Fax:

Provincial government

G. Sveinson, Library Technician

Public/Nonprofit

American Water Works Company

PO Box 1770

1025 Laurel Oak Road

Voorhees, NJ 08043

Phone: 609/346-8301

Fax: 609/346-8229

George W. Johnstone, President & CEO

W. Timothy Pohl, Esq., General Counsel

Edward W. Limbach, Senior Vice President

Bill D. Haskins, Director of Corporate Development

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4350 East West Highway

Suite 600

Bethesda, MD 20814

Phone: 301/652-8444

Fax: 301/654-9355

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Irwin T. David, Senior Vice President

Dr. Richard Mudge, Transportation

Dr. Kenneth Rubin, Environmental

Dr. Robert Hurd; Market Research

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Liberty Lane

Hampton, NH 03842

Phone: 603/929-3000

Fax: 603/929-3113

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Denis E. Dandeneau

Norm Blais, President IPS; composting, 603/929-3341

John Dowd, Vice President/General Manager; 603/929-3348

George Freiberg, Vice President/Operations EOS; contract operation, 603/929-3335

Sponsor

William A. Berry & Son

100 Conifer Hill Drive

Suite 410

Danvers, MA 01923

Phone: 508-774-1057

Fax:

John E. Kavanagh, III, President & CEO

Corporate

Willis Corroon

Construction Industry Division

70 South Lake Avenue

Suite 1100

Pasadena, CA 91101

Phone: 818/796-3888

Fax: 818/796-7814

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David Seader, Director of Project Finance

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Deloitte & Touche

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ICMA

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Lehman Brothers

Loomis, Ewert, Ederer, Parsley, Davis & Gotting

McDermott, Will & Emery

National Association of Water Companies

O'Brien & Gere/OBG Operations

PKF-Mark III

Price Waterhouse

The Quandel Group, Inc.

The Reason Foundation

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JAPAN

JETRO - New York office

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City of Austin, TX
Town of Avon, CT
California Department of Transportation
Carylon Foundation
City of Cedar Falls, IA
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City of Dallas, TX
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Hellenic Industrial Development Bank (Greece)
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SAE Power Group
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Wheelabrator Clean Water Systems

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- Apogee Research
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COMARCO

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Parsons Development Company
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Privatization International
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National Association of Water Companies
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Steve Goldsmith - Indy (on private)

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Kenneth Ryan, Willis Corroon

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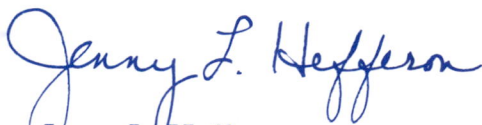
The Reason Foundation
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Wheelabrator Clean Water Systems, Inc.

Dear Colleagues:

The Privatization Council, a non-profit, bipartisan organization, was established in 1985 to promote public-private partnerships in ways that lead to cost-effective and efficient delivery of publicly needed facilities, infrastructure and services.

We hope that this directory will help you learn from the experiences of others, benefit from opportunities and build partnerships in the spirit of our mission statement above.

Sincerely,


Jenny L. Hefferon
Executive Director

Building The Future Through Partnerships

The private sector is responding to the public's needs for services and facilities more than ever before. Through the Privatization Council's meetings, Task Forces, publications and networking, leaders in the public and private sectors join together to build mutually beneficial partnerships.

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- ◆ Public sector entities such as public works and transportation departments; officials such as mayors, councilmembers, city managers, governors; leaders from state, local and Federal levels.
- ◆ Business leaders in construction and design, legal consulting, management services and financing who seek to reach public markets in the 1990s.

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All members receive Council Insights and The Privatization Review, discounts on other publications and meetings, can participate in Task Forces, and are listed in the membership directory.

Sponsor members receive preference for all leadership roles in the Council such as the Speakers' Bureau, consulting opportunities, Task Forces, and publications. Sponsors are eligible for election to the Board and are the only voting members of the Council.

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Call 202/857-1142 if you have any questions.

THE PRIVATIZATION COUNCIL

Membership Directory

1992

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Topical Listing

*Membership Information/
Application*

Every attempt has been made to ensure that these listings of member addresses, phone numbers and organizational activities were correct as of March 19, 1992.

Any corrections to the listings should be directed to: The Privatization Council, 1101 Connecticut Avenue NW, Suite 700, Washington, DC, 20036.