

Privatization

A Seattle League Study

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Big Picture

I. Privatization: The Public Agenda and Debate

The following section takes information from two articles, one advocating for and one questioning the privatization agenda.

1. *Privatization, Toward More Effective Government*, produced by the President's Commission on Privatization, September 1987, David Linowes, Commission Chair.
2. "The Meaning of Privatization," by Paul Starr, published in the *Yale Law and Policy Review* 6, 1988.

The purpose of recapping these two articles is to provide a review of the significant policy agenda called "Privatization" described by President Reagan's Commission on Privatization and to lay out the basic premises of the debate. We, as citizens of the United States, Washington State, and King County, have been experiencing the effects of the privatization movement since the 1980s. This is a good time to take measure of privatization's impact on our daily lives. It is valuable to think about implications for League policy/positions within the greater framework of this debate.

The Idea

Paul Starr, in his article "The Meaning of Privatization," explains that with the rise of conservative governments in Great Britain, the United States and France, privatization has come primarily to mean any shift of activities or functions from the state to the private sector. Those promoting privatizing government services believe that the private sector will provide increased efficiency, quality and innovation and that this transfer of services will reduce the size of government and taxes. Those against the policy of privatizing government services and assets say that the private sector mandate to make a profit can endanger public safety, reduce services to the general public, and increase costs to consumers and government to pay off corporate debt loads. The privatization movement is an international movement. Outside the United States, it has generally involved outright divestiture of government industries such as utilities, transportation, oil, gas, water and other natural resources. Examples include privatizing Russia's natural gas (Gazprom), Cochabamba's municipal water system in Bolivia ¹ and the United Kingdom's British Rail. In the United States, the focus has included deregulation of and reduction of taxes on industry as well as a move toward privatizing government services such as education, prisons, Social Security, Medicare, military services and parks.

History

According to David Linowes, chair of the President's Commission on Privatization, the movement to deregulate private industry and transfer public services, assets and functions to the private sector was a public agenda created mainly in reaction to the Progressive Era of the early 20th century. Linowes explains that the Progressive Era, ascendant after the Great Depression, envisioned a social and scientific administration of government through professional elites free of democratic politics and special interest groups. In the Progressive Era, while other nations were most likely to nationalize an industry, the US was more likely to subject the industry to

¹ Gazprom and the Bolivia municipal water system have been renationalized.

systematic government regulations. The Progressive Era also envisioned a much stronger role for government in the well-being of its citizens. Programs such as unemployment compensation and workers compensation were established to protect labor. Programs to protect the aging, such as Social Security and Medicare, and to provide for the poor were begun. The government also took responsibility for providing a decent infrastructure that included transportation and utilities. Linowes reminds us that the Progressive Era policies were themselves a reaction against the Social Darwinism and laissez-faire, free market theories prevalent in the late 19th century preceding the catastrophic events of World War I, the Great Depression and World War II.

Linowes reports that in the 1970s, disillusioned with the Progressive Era agenda, leadership in the increasingly global private sector felt that burgeoning tax rates and government regulations of industry in many nations were inhibiting free trade. President Ronald Reagan and Prime Minister Margaret Thatcher were standard-bearers of this dramatic change in the public agenda.

Linowes tells us that the two most important forms of privatization in the United States have been deregulation and tax reduction. A prime example of deregulation in the United States is that of the financial services industry. An example of tax reduction was the push to eliminate taxes on capital gains and inheritances.

In September 1987, President Ronald Reagan established the President's Commission on Privatization, with Linowes as its chair. Its purpose was "to review the appropriate division of responsibilities between the federal government and the private sector and to identify those government programs that are not 'properly' the responsibility of the federal government or that can be performed more efficiently by the private sector." The commission reviewed a broad spectrum of government activities including:

- Low-income housing,
- Housing finance (Fannie Mae and Freddie Mac),
- Federal loan programs (student loans),
- Air traffic control,
- Educational choice (voucher program and charter schools),
- Postal service,
- Contracting out military commissaries and prisons,
- Federal asset sales: Amtrak, Naval Petroleum Reserves,
- Other programs: Medicare, international development programs, urban mass transit.

Theories Supporting Privatization

Paul Starr explains that the normative theories justifying privatization as a direction for public policy have drawn their inspiration from several different schools of thought on what constitutes a "good society."

"Property Rights" and "Public Choice"

The intellectual inspiration behind contemporary privatization in the United States has come from the Public Choice and Property Rights schools of thought. These schools trace their roots to economic thinkers such as Adam Smith and Fredrick Hayek. Today, prominent leaders advocating these theories include Milton Friedman and the Chicago School of Economics.

The basic assumptions include:

1. Democratic political systems have inherent tendencies toward government growth and excessive budgets.

2. Expenditure growth is due to self-interested coalitions of voters, politicians and bureaucrats.
3. Public enterprises necessarily perform less efficiently than private enterprises.
4. The more individuals stand to gain from tending to their property, the better it will be tended.

Thus, privatization advocates claim that if the private sector is in control of many of the government services, assets and functions, there will be greater efficiency, better services, less cost, and smaller government (which will result in fewer taxes).

What is the Role of Government?

In rethinking the proper relationship of government and the private sector, fundamental political and economic questions arise. For the past 30 years, political and economic concepts that have traditionally given legitimacy to government have been challenged by the forces advocating for privatization. The nature of this challenge has focused on three policy areas: asset sales, contracting out (also known as “outsourcing”) and deregulation.

Privatization in Practice

Paul Starr describes four types of government policies intended to bring a shift from the public sector to the private sector.

1. **Privatization by attrition**
Cessation of public programs and disengagement of government from specific kinds of responsibilities. Restriction of publicly produced services in availability or quality may lead to a shift by consumers toward privately produced substitutes. Government lets the service run down.
2. **Transfer of assets**
Through the direct sale or lease of public land, infrastructure and enterprises.
3. **Contracting out (public/private partnerships) or vouchers**
Instead of directly producing some service, the government may finance private services, for example through contracting out or vouchers.
4. **Deregulation**
The deregulation of entry into activities previously treated as public monopolies.

These policies vary in the degree to which they move ownership, finance and accountability out of the public sector. The spectrum runs from total privatization (as in government disengagement from some policy domain) to partial privatization (public/private partnerships and vouchers such as for school or housing). In the case of partial privatization, the government may continue to finance but not to operate services, or it may continue to own but not manage assets. Partial privatization dilutes government control and accountability without eliminating them.

Implications for the Seattle League

The federal government’s record neglect of basic infrastructure needs as well as continuing erosion of funds available for programs to support human services over the last 30 years have strained local governments to find replacements. Two examples of funding losses in our region are the diminution of Section 8 monies from the federal government (subsidization of rents for low-income residents) and the federal decision to move people out of large mental institutions in order to place them in community-based facilities, a plan which never worked because the community facilities were not funded. Loss of funds has put pressure on local governments to figure out how to make up the difference without politically unpopular increases in rates for

services or increased taxation. The result has been a trend in our state, counties and cities to transfer services to the private sector.

With many examples of privatization in our region, it is time to assess. What are the basic services that must be performed by government? How do we pay for them? Which services, functions and assets could be effectively transferred to the private sector? Are there government programs that should never be transferred to the for-profit private sector—and if so, what are the criteria? These questions are critical to the creation of new League policy, positions and actions to fit the times.

A Quick Review

ii. **Seattle League Public/Private Partnerships Study**

In May 2001, the League of Women Voters of Seattle produced a study on Public/Private Partnerships (3P). Because public/private partnerships are a form of privatization, a quick review of the May 2001 study will help you understand the current study, which is focused on the larger trend as it impacts us locally.

The Study

Definition

Seattle's office of City Auditor describes public/private partnerships as "collaborative arrangements between government and the private sector that involve the public partner paying, reimbursing, or transferring a public asset to a private partner in return for goods or services."

Legal Evolution

Until the mid 1990s, Washington State and its cities and municipalities generally believed they were constrained by the Washington State constitution's provision regulating the "lending of credit" and "gift of public funds" in establishing public/private partnerships. In the CLEAN decisions (Citizens for Leaders with Ethics and Accountability Now v. State), the Washington State Supreme Court clarified exactly how much latitude municipalities had to apply their own judgments as to what is adequate regarding public benefits. Once a public agency has made a documented finding that there is an adequate return on investment for its contribution to the private sector, the court found this sufficient to pass the test.

Why Have Public/Private Partnerships?

With the loss of federal and state dollars for local infrastructure, these types of partnerships are seen by some as a creative way to generate private monies to build necessary infrastructure in an increasingly tax-resistant environment.

Arguments for these partnerships include the claim that activities and services traditionally the responsibility of government can be run by the private sector more efficiently, in a more entrepreneurial fashion and with less waste than by a government bureaucracy. This was the case presented to the public regarding the Seattle Center's partnership with the Disney Corporation.

Another argument for turning over government services and resources to private organizations is the assertion that private organizations and businesses are better able to raise funds from the private sector. This argument was central to the case made for turning over the Seattle Aquarium and Woodland Park Zoo to their respective private nonprofit organizations.

It has also been argued that partnerships between government and private businesses are a way to stimulate the economy by creating or maintaining high wage jobs, thereby increasing local revenue from taxes. This was a reason for government subsidies of the Galer Street/Immunex overpass, South Lake Union development, the two sports stadiums and Pacific Place garage.

Each major effort to privatize public services or provide public assets to the private sector has been embroiled in debate about costs and benefits to the public.

Why Not Public/Private Partnerships?

The potential risks involved in a public/private partnership may include:

- inadequate knowledge regarding cost vs. public benefit,
- carelessly negotiated agreements,
- inadequate oversight,
- unclear liability,
- loss of public control over valuable public assets such as public lands and natural resources,
- community and environmental impacts and
- cost to consumers.

These risks have at times resulted in government paying for cost overruns or the legal fees to defend private mismanagement, or in the public being simply left holding the bag.

Action Taken

In an effort to sidestep the possible risks and to better manage the process of developing public/private partnerships, and in response to a 1991 report from the Seattle City Auditor, Mayor Paul Schell established a citizen advisory committee in 1999 to develop a set of standards for reviewing proposed partnerships. The task force established a 15-member panel called the “4P Panel” (Public/Private Partnership Panel) to review public benefits of proposed public/private partnership projects. (Note: The panel met for nine months beginning in May 2000, but since then its activity has been suspended).

Current League Positions: Public/Private Partnerships

Many League positions came from the Seattle League study on public/private partnerships.

In essence the positions call for:

1. Adequate oversight, accountability and citizen involvement,
2. Review of public/private partnership proposals by an advisory body to ensure adequate cost/benefit analyses and a sufficient return to the public on its investments in the private sector,
3. A set of published standards and competitive bidding process.

(See Appendix C for the full set of League positions on public/private partnerships).

III. Local Efforts

There are many examples of privatization, particularly public/private partnerships, in our region. The promise is increased efficiency, better quality services and products, lower costs to taxpayers and customers, and more innovation. Fears include loss of control and accountability, spiraling cost to consumers and/or government, damage to the environment and affected workers' rights, and disregard of community needs when pitted against the profit mandate.

A. King County

(This information was provided by King County staff member Saroja Reddy, to the League's privatization study committee.)

The following are some examples of areas that King County has looked at privatizing (or de-privatizing). They are intended to be illustrative only. It is difficult for the county to contract out work that is historically performed by tenured government employees because of either legal restrictions or contractual agreements with represented labor. In addition, it is difficult to privatize many core services because of the nature and accountability of the county to provide charter-mandated services.

1. **Parking** – The county contracts out the operation of the downtown parking garage (Goat Hill). For many years, the county contracted out the operation of a surface lot at the location of the current garage. The parking garage, however, was managed by Facilities Management, a division of King County government. The old parking garage was demolished to make way for the Chinook Building. A new parking garage was built on the site of the old Goat Hill surface lot. The new garage is managed by a private company.
2. **Solid Waste Recyclables** – Two years ago, the King County Executive proposed to bring in-house the hauling of recyclable material between county transfer stations and the recycling companies. The proposal, however, was not approved by the county council. This service continues to be provided by the private sector under contract with King County.
3. **Investment Pool** – The county operates the King County Investment Pool. The pool invests the “idle” cash balances of all county funds plus those of approximately 100 other taxing districts within King County. The pool is essentially staffed by a full-time investment officer with clerical and administrative support. The adopted 2009 budget includes funding to contract out credit analysis, work that currently is not done. While the council's Investment Pool Advisory Panel recommended contracting out the management of the pool, there are no plans at this time to move ahead with that recommendation.
4. **Indigent Public Defense** – The county is one of the largest jurisdictions in the state to continue to provide indigent public defense through contracts. The county has always provided these mandated services through contracts with private nonprofit defense agencies. (There are currently four agencies contracting with the county.) In 1999, the county evaluated the provision of defense services and the county's consultant concluded that the contract services cost approximately as much as it would cost if the county opted to use county employees.

5. **Sober Center for Chronic Inebriates** – In the early 1990s, the county operated a sobering center for chronic inebriates in Seattle using county employees. Escalating labor costs resulted in the elimination of support for the sobering center. Subsequently, the county reestablished the sobering center through a contract with a nonprofit agency to provide sobering services at the county facility.
6. **Security Services at the Courthouse** – Also in the early 1990s, the Superior Court required security at the courthouse after a violent confrontation resulting in death. The services were initially provided by a private for-profit security company. The county ultimately chose to make the courthouse security a county function using county employees. (Deprivatization)
7. **Cedar Hills Alcohol Treatment (CHAT)** – In 2002, the county ceased operating the Cedar Hills Alcohol Treatment (CHAT) facility because of escalating maintenance costs at the facility. The county is in the process of transferring this facility to the private, nonprofit Young Women’s Christian Association (YWCA) to operate under state contract as a facility for women with children leaving prison.
8. **Department of Adult and Juvenile Detention** – The Department of Adult and Juvenile Detention has considered privatizing certain operations—primarily food preparation, the provision of medical care and pharmacy services. Each privatization analysis concluded that the county was better served by continuing the existing services.
9. **Animal Care and Control** – In 2008, an interbranch work group at King County Animal Services looked at options related to improving animal care and control. The work group addressed shortcomings in the provision of humane care and treatment of sheltered animals and ways to improve operations. The work group presented a strategic plan and an operational master plan. Included in the strategic plan is an assessment of problems with current provision of animal services, steps that will be required to bring the current programs up to an industry-defined standard of care and steps that will be required to move to a model program. One option was a community-based approach, with responsibility for some animal services for unincorporated areas to be transferred to a community partner agency(s). The county is currently examining these options.
10. **Other** – In contrast to the county’s seeking private contract providers of county services, the county sheriff, district court and jail all contract to provide a variety of services to jurisdictions and agencies so that they can avoid establishing their own services.

In addition, King County has many other public/private partnerships, such as flood levy construction and utilities such as the Brightwater Sewage Treatment plant.

B. City of Seattle

The city has entered into many public/private partnerships. Examples include:

- Utilities, such as the Tolt River and Cedar River water treatment plants,
- Transportation, such as the Alaskan Way viaduct and South Lake Union Trolley,
- Parks, such as the Seattle Aquarium, Woodland Park Zoo and the Seattle Center,
- Solid waste collection, such as garbage and recycling,
- Low-income housing, such as Seattle Housing Authority’s Rainier Vista,

- Economic development, such as public subsidies for the Pacific Place garage, Immunex overpass, South Lake Union development, and the stadiums for the privately owned Mariners, Seahawks and Sonics teams.

C. Case Studies: Utilities, Transportation, Parks

Multimillion dollar contracts with global investor-owned companies play a major role in providing King County and Seattle government with infrastructure.

Public/Private Partnerships (3P) often use the model called Design, Build and Operate (DBO) in major contracts. The DBO model combines the design and construction responsibilities with operations and maintenance. These project components may be procured from the private sector in a single contract, with financing in the form of corporate bonds secured by the public sector.

UTILITIES

King County government and the city of Seattle have significant public/private partnerships related to water, sewage and energy. We have highlighted water and energy as examples of how public/private partnerships work.

Water

Seattle water is primarily provided by the Tolt and Cedar Rivers. The Tolt filtration plant and the Cedar ozonation and ultraviolet purification plants are designed, built and operated by private companies on contract with the Seattle Public Utilities (SPU). The companies don't own the water; they provide the infrastructure to filter and purify the water. SPU delivers water to homes and businesses through transmission lines that SPU owns and operates. SPU maintains ownership of the water and sets the price for water based upon its costs, subject to approval by the city council. The costs to bring water to our homes impact the rates we pay. One component of the costs is those expenses submitted by the private companies that operate the plants.

A potential issue for local communities is the frequent changes of ownership, as the private companies responsible for operating the water treatment plant are bought out by larger national and even larger global companies. For example, ownership of the private companies operating the Tolt River plant has changed hands four times in the last nine years:

1. **Philips** was bought out by **Enron Azurix North America** in 2000. Seattle Public Utilities contracted with Azurix-CDM to start up the Tolt River filtration plant.²
2. **American Water Services** (the operations arm of **American Water**) bought Azurix North America in 2001.
3. In an effort to enter the United States government water management sector, German utility giant **RWE** bought American Water in 2003.³ In 2009, RWE was ranked in the top 100 largest companies in the world, according to Fortune Magazine.
4. RWE divested its holdings in the privately held company now called **American Water Works** by taking it public and issuing stock in 2008.

Hoovers, a Dun and Bradstreet business website, describes American Water as follows:

² "American Water Works Association," *Waterweek*. Jan 1, 2001.

³ Public Citizen, *RWE/Thames Water, A Corporate Profile*, published 2003, revised 2005.

Water, water, everywhere -- and American Water Works (formerly American Water) wants to own it. The company, a subsidiary of German utility giant RWE, is one of the largest water utility holding companies in the United States. Through its regulated utilities and its contract services division, American Water Works serves more than 15.6 million consumers in 32 US states and in Ontario, Canada. The company also provides wastewater treatment in some of its service areas. Non-regulated subsidiary American Water Works Service provides contract management services for water and wastewater systems. In 2008 RWE spun off American Water Works, but retains a 64% stake.⁴

It is estimated that RWE paid three times the book price for the company, increasing its debt load. According to Jack Willoughby's 2008 article in *Barron's*⁵, RWE agreed to freeze rate increases for five years in many states, effectively capping the company's ability to lift revenues. With that agreement now expired, the company can focus on growing its rate base again. "Under the new CEO Don Correll, however, American Water is not only free to seek rate hikes, it is playing to a more sympathetic audience."

Seattle Public Utilities also selected CH2M Hill-Mortenson-OMI in 2000 to design, build and operate the disinfection plant for SPU's larger Cedar River supply. CH2M HILL Companies, Ltd. provides engineering, construction, operations, project management and related technical services to municipal, state, federal and private sector clients worldwide. OMI, a subsidiary of CH2M Hill, was part of the consortium with RWE in 2003 that successfully bid on the somewhat controversial privatization of the Stockton California water works.⁶

Energy

The Public vs. Private Debate

An example of an age-old struggle between private and public ownership is the field of energy. Each month, Seattle residents may pay their electric bills to Seattle City Light, a government utility, and their natural gas bills to Puget Sound Energy (PSE), a private for-profit company. PSE furnishes natural gas to King, Snohomish, Kittitas, Thurston and Lewis counties, and electric power to King County residents outside of Seattle.

How did this division of electrical services come about? In 1902, the private firm Puget Sound Traction, Light and Power (later to become Puget Power) built a hydroelectric dam on the Cedar River. They were a monopoly owner. In the 1930s private utilities unsuccessfully pushed for a state law to make public ownership of electrical utilities illegal. A pushback against this threat was created in the 1930s, when the Washington Legislature passed the District Power Bill allowing counties to form Public Utility Districts (PUD) with the authority to force buyouts of privately owned utilities. In 1934, federal law dissolved the utility cartel and Puget Sound Traction, Light and Power (Puget Power) was reorganized under local ownership. It later became Washington Energy. In 1950, the Seattle City Council acted to take over private electric plants serving the city, including those owned by Puget Power.

In 1997, Puget Power merged with Washington Natural Gas to form Puget Sound Energy. In 2009, Macquarie, an Australian-Canadian consortium, acquired PSE and Puget Holdings was

4 "Company Description, American Water Works". *Hoovers*. Hoovers.com http://www.hoovers.com/american-water-works-company,-inc./--ID_10104--/free-co-factsheet.xhtml. 2009.

⁵ Jack Willoughby, "The Spigot Reopens at American Water Works," *Barron's online*. August 11, 2008.

⁶ Business Wire. "OMI-Thames Water and City of Stockton Sign 20-year Contract," Feb 20, 2003.

formed. The sale price was \$7.4 billion, using debt financing, thus raising PSE's debt level to \$4.2 billion. Fear that the debt would be passed on to ratepayers or that the local infrastructure needs would be ignored caused several counties and businesses to balk. Although the state regulates the rates, Skagit, Island and Jefferson counties put up a fight for local control. When asked why PSE would want to sell the business, the reply was that the capital needs were very high and the new owner could access the capital needed for the future. Upon completion of the acquisition, the bond ratings for PSE immediately went up.

TRANSPORTATION

Transportation projects involving large global transportation companies and investment firms are increasing in numbers. According to the 2008 *New York Times* article "Willing to Lease Your Bridge,"⁷ investment firms reeling from more exotic investments that imploded during the credit crisis are looking to transportation to help create a profit. Companies such as the Carlyle Group, Goldman Sachs, Morgan Stanley and Credit Suisse are among the investors who have amassed an estimated \$250 billion war chest to finance a tidal wave of infrastructure projects in the United States and overseas. The reporter Jenny Anderson states, "Their strategy is gaining steam in the United States as federal, state and local governments previously wary of private funds, struggle under mounting deficits that have curbed their ability to improve crumbling roads, bridges and even airports with taxpayer money. Constrained by budgetary restrictions and anti-tax initiatives, governments have turned to public/private partnerships particularly in construction and maintenance of highways and bridges with varying amounts of success."

According to a Washington State Department of Transportation (WSDOT) study, "Highway maintenance privatization programs are considered for their potential to provide cost savings, increase level of service, supplement state resources, make use of scarce skills, tap specialized areas of expertise, meet peak demands associated with accelerated schedules, and implement political directives. While promises and declarations are of significant cost savings and other benefits are prevalent, there has been little follow up to determine whether initial claims of success and savings have been achieved in actual experience."

In King County and beyond, transportation projects being considered for public/private partnerships include:

- Alaskan Way Viaduct Replacement,
- SR 520 Bridge (Tolls are being considered for the 520 and I-90 bridges),
- Extension of SR 167 from South King County to the Port of Tacoma,
- Interstate 90 improvements at Snoqualmie Pass,
- Ferry system upgrades for the Colman Dock terminal,
- Freight rail capacity and trans-loading projects.

WSDOT did an extensive review of highway maintenance "outsourcing," or public/private partnerships, in 2005. The following is an abstract of their findings

WSDOT Abstract "Review of 'Outsourcing' Experience"

Discussion is occurring in many states on whether the outsourcing of traditional categories of state-provided highway maintenance could produce savings in costs or improvements in service. While marketing materials and promotional press releases tout the attractions of outsourcing, insufficient attention has been paid to a growing body of follow-up information – much of it from official audit sources – of actual outsourcing experience.

⁷ Jenny Anderson, "Willing to Lease Your Bridge," *New York Times*. August 27, 2008.

This paper gathers after-the-fact reviews of highway maintenance outsourcing performance from programs in five states and British Columbia. On inspection, cases are found where costs may have gone up instead of down, services deteriorated rather than improved, administrative and supervisory arrangements proved problematic, and contractor failures left states scrambling to provide services or caught in the distraction of litigation. Massachusetts did not expand a much-criticized pilot program. Virginia's highway maintenance asset management program has been off-again, on-again, with significant mid-stream reshaping. Oklahoma canceled its pilot program. Texas is evaluating whether or not to renew its contracts. Florida is poised to expand highway maintenance outsourcing programs as part of a government wide privatization commitment. British Columbia has been left with no choice but to continue a program that displaced its own-force capabilities, despite unclear cost results and shrinking competition among vendors.

Despite the range of experiences common themes emerging from these reviews can be translated into "lessons learned" for state officials considering programs of this type. One clear lesson is the need for proper planning and scoping. The initial exploratory phases should include asset inventories, activity based costs and economic analyses based on "before" and "after" apples-to-apples cost comparisons. Risk management reviews should consider possible litigation risks and costs. Managers should develop program exit strategies in addition to well-written contracts and specifications. Contracts should include clear performance expectations, evaluation schedules, and financial performance incentives or disincentives. Finally, an experienced management team must be in place to administer and evaluate the contracts. Examining these lessons can support more effective use of public resources, leading to wiser choices as to whether outsourcing should be undertaken, and, if it is, what public management strategies and resource commitments will be necessary to make it successful.

The research reported in this paper was undertaken in part to prepare for the implementation in 2005 of recent legislation in Washington State opening new possibilities for "competitive contracting" of state services.⁸

Cost

The assumption is that the private companies can do it cheaper and faster than the government. Private companies may be more flexible regarding hiring, better able to benefit from economies of scale for supplies and better able to secure needed capital loans for funding. However, they must also build in profits to shareholders and to lenders.

Eric Dexheimer writes in the *American Statesman* that in Texas, where privatization of highways has been extensive, a study of 50 out of 60 repair and maintenance categories in 2008 found in-house work was cheaper than hiring out. Texas Department of Transportation spent about \$17 million sealing cracks on state roadways last year. State employees worked on about 8,000 miles at a cost of \$327 per mile, whereas private contractors repaired about 17,000 miles at a cost of \$812 per mile.

Tolls

Investors are drawn to deals with long leases and secure income. Investment companies such as JPMorgan, Lehman Brothers and the Carlyle Group bid for numerous 50–75 year leases on toll roads, expecting a good return on their investment. (Many of these investment firms were first in

⁸ Nicole Ribreau, "Synopsis of WSDOT's Review of Highway Maintenance Outsourcing Experience," 2004.

line for the United States bailout money in 2008/9.) Although attracting investors is a good thing for projects requiring large capital, attaching tolls to major transportation routes can have negative effects such as diverting truck traffic to local roads, and limiting the number of people able to afford the added expense to their travel for work.⁹ Indiana encountered a severe backlash when the Governor collected \$3.8 billion from the Indiana Finance Authority (money which helped reduce Indiana's budget deficit) in exchange for a 75-year lease on the Indiana Toll Road. The toll road is operated by the Indiana Toll Road Concession Company, a joint-venture between Spain's Cintra Concesiones de Infraestructuras de Transporte and Australia's Macquarie Infrastructure Group. People were soon up in arms over the increased costs at the toll booth.

A report published June 16, 2009 by Clifford Winston, Brookings Institute and Jia Yan of Washington State University attempts to "assess the welfare efforts of highway privatization accounting for government's behavior in setting the sale price, firms' strategic behavior in setting tolls, and motorists' heterogeneous preferences for speedy and reliable travel." They concluded that "motorists can benefit from privatization if they are able to negotiate aggressively with a private provider to obtain tolls and service that align with their varying preferences."¹⁰

Caution

After an in-depth analysis of problems arising from efforts to privatize transportation infrastructure in the United States, the Pew Foundation suggests that states contemplating public/private infrastructure deals should consider the following:

- Passage of enabling legislation that establishes the state's general interest and terms is necessary before negotiations begin.
- Transparency and inclusion are crucial to achieving buy-in from policy makers, public and other stakeholders.
- Decision makers must have a clear understanding of principal goals of a deal—different goals will require different tradeoffs.
- Proposed deal must be based on realistic financial assumptions.
- Proposals should specifically describe how the revenues generated by a lease will be invested and spent, and how a private operator's performance will be monitored.
- States should consider a long-term lease's effects on the economy, the environment and the next generation of taxpayers.¹¹

PARKS

There are numerous forms of public/private partnerships associated with Seattle's Department of Parks and Recreation.

Private Nonprofit Organizations

⁹ Peter Swan and Michael Betzer, "AFSCME Privatization Update, Turnpike Privatization has Negative Impact," *UPI*, Jan. 15, 2008.

¹⁰ School of Economic Sciences, WSU, June 6, 2009.

¹¹ Andrew McDonald, "Pew Report Finds Major Flaws in Pennsylvania's Effort to Lease Turnpike," Pew Charitable Trust, Philadelphia, PA, March 24, 2009.

The Seattle Aquarium and the Woodland Park Zoo are owned by the City of Seattle and managed by private nonprofits—the Seattle Aquarium Society and the Woodland Park Zoological Society. In both cases, the city owns the buildings and land, which it is financially responsible for maintaining. The city contributes over \$6 million toward the operating costs annually, and issues bonds for capital needs. The nonprofits are able to raise private monies through fundraising as well as collect revenue through admissions to support capital and operational needs. The city would ultimately like to turn over both the aquarium and the zoo to their respective nonprofit associations, but both organizations would be hard pressed to raise operating revenue to cover the city's contributions.

Private For-profit Businesses

All four Seattle Parks and Recreation golf courses (Interbay Golf Center, Jefferson Park Golf Course, Jackson Park Golf Course and West Seattle Golf Course) are under long-term contract with Premier Golf Centers, LLC, a private for-profit business that manages six additional courses in Washington State and many more courses nationwide. The city owns and maintains the land on which these golf courses are located, and Premier Golf Centers manages the business. The city currently contributes \$9 million toward supporting Premier Golf's operations.

Magnuson Park provides examples of public/private partnerships. Several buildings in poor repair are being turned over to Arena Sports, a national company involved in the sports business. All of the work being done to upgrade the facilities is at no public expense.

Other examples in our parks include concessionaires which are private businesses, such as the Pitch' n' Put golf course and the paddle boat rental at Green Lake, and the Leschi Moorage Facility on Lake Washington.

IV. Public/Private Partnerships and Natural Monopolies

Competition is the force that keeps businesses producing goods at the lowest possible cost and the best price for consumers. However, there are some industries where competition could not be expected to work because they are natural monopolies, in which one firm supplies the whole of the natural market. Services mentioned as natural monopolies include utilities such as electric power, gas, and water supply; transportation such as railways, roads, busses, airways; communications such as telecoms; and ports.

John Williamson, a lead economist at the World Bank, says that water supply and sewer systems are textbook cases of natural monopolies.¹² He suggests that it may be desirable to have a competition (antitrust) policy, which gives authority to investigate cases of alleged collusion and price fixing and to penalize firms found guilty of abuses.

The standard policy recommendation in the case of a natural monopoly is price regulation. However, price regulation may discourage private companies, which must provide a return to investors in a very competitive market for capital funding, from participating. The challenge for government lies in providing private, profit-driven monopoly firms with incentives to provide the highest quality services at the lowest cost.

John Williamson lists the cases in which regulation would seem to be essential.

1. The sale price of electric power to the public
2. The margin to be charged for the transmission of power
3. The price of gas to the public and perhaps to domestic suppliers
4. Some rail services
5. The rules governing access between telecommunication networks
6. Water supply and sewer systems

Competing Goals

The public's interests and the private sector's mandate for efficiency and return on investment may create a situation of competing priorities. Complicating the evaluation of cost benefits are indirect costs. Examples of expenses that may impact profits are costs involved with impact on the environment, such as an environmental cleanup; local community needs such as noise abatement; labor issues such as work conditions and overtime; and consumer prices as they affect residents who are unable to afford the services.

As citizens, we should ask what incentives and protections have our governments established to keep costs and consumer prices low in natural monopolies?

¹² John Williamson, "Speeches, Testimony, Papers on Markets and Regulation," The World Bank. Peterson Institute, www.petersoninstitute.org.

V. Potential Issues and Benefits

A. Potential Issues

Many issues are apparent when considering the merits of privatizing a government asset, service or function. The following issues have been brought up by concerned citizens and bear careful evaluation.

Accountability

Private companies are accountable to their owners (shareholders) and can exist and thrive only when they achieve the desired level of profitability. Managers of government enterprises have no corporate boards or shareholders to answer to regarding making profits.

Oversight / Evaluation

Effective government oversight of private sector performance is difficult, especially under the following circumstances.

- If government staff lack the expertise to evaluate industry-specific technical and business complexities,
- If there is a lack of transparency by the private company performing the government service,
- If there is inadequate funding available to the government departments charged with oversight,
- If there are insufficient watchdogs in the media or nonprofit advocacy organizations to ensure proper oversight or
- If there is insufficient political will among the policymakers to ensure proper oversight.

A national example with local impact is the private company Diebold, responsible for building and maintaining the voting machines for elections. The company limits oversight by prohibiting government access to the internal workings of the voting machines, claiming that this is protected intellectual property. Another example is the Federal Securities and Exchange Commission, which lacked the resources and the political will to do the job of overseeing the financial services industry. A local example involves the Washington State Department of Social and Health Services, which was recently sued for \$22 million in a court case involving a starving child. According to the *Seattle Times*, “The use of private contractors was cited as a main problem in the case of Shayne Abegg, who was hospitalized in 2007 after being purposely starved. Initially, the contractor had been assigned to work with the Everett family on ‘food issues,’ after reports of abuse or neglect. After several months, the contractor told the state that the family was doing well and the case should be closed.”¹³ The *Seattle Times* headline of June 23, 2009, “Audit rips county’s oversight of projects,” adds to the evidence of lack of government oversight of private contracts.

If multiple government bodies are involved in contracts to a single contractor, competing jurisdictions may lead to problems. Government auditing departments responsible for detecting

¹³Jennifer Sullivan and Maureen O'Hagan, “Bill would revamp child-welfare system with private contractors,” *Seattle Times*. March 11, 2009.

and exposing corruption in government have little, if any, jurisdiction over private contracts. A national example is the private firm Blackwater's military contracts in Iraq.

Citizens may more easily exert pressure on government enterprises than on a corporation. Governments answer to no investors or corporate boards, but only to the public (which includes special interest groups and lobbyists.) Exposing problems in government is easier than exposing problems in private corporations, due to laws such as the Freedom of Information Act, which demands transparency and disclosure in government.

Infrastructure

Local infrastructure must be maintained and be able to expand when necessary. Global corporations and large United States corporations have competing demands for capital and infrastructure from many customers around the globe. These corporations must invest their resources in areas that produce the highest return to stockholders and investors. They may not be willing or able to finance or prioritize local improvements due to competing higher priorities in their business plan.

Politics

Business needs are sometimes not aligned with the public interests. Large corporations often pay public relations professionals to convince decision makers that privatization is a sensible idea, whether or not this is actually the case. Corporations typically have far more resources to procure expert testimony, advertisements and conferences advocating on their behalf than do governments or citizen groups.

Deregulation

Individuals working in the public sector can be influenced to change regulations that have a negative impact on businesses' bottom line. The removal of controls and oversight of public/private undertakings are types of deregulation that can hurt the public. An example is the deregulation of the financial services industry, which contributed to the recent bank failures.

Profits

Profit and public service are not always aligned. Private companies' primary goal is to maximize profits. Efficiency is paramount to profit. Achieving the lowest costs and increasing market share are keys to success. When costs for environmental cleanup, infrastructure improvements, and/or community welfare hinder profits, profits must prevail for a competitive business.

Profits from successful private companies end up in investors' hands around the globe and have no mandate to stay inside the communities that generate the profit.

Private for-profit contracts that receive compensation from the government based on the number of people served, such as those for immigrant detention centers, halfway houses and social welfare services, depend on increasing the number of people served to increase revenues. This may present a conflict of interests.

Labor

Private firms have much more leeway regarding hiring practices than do government employers. Employment at will is the norm in private business, allowing firing for no cause. Lack of civil service restrictions on nepotism, job qualifications, equal opportunity, collective bargaining and many other protections impact the work force in a private business.

Businesses can hire subcontractors, thus shifting the risk and liability regarding violations of employment laws, such as hiring undocumented immigrants. Low wages and lack of benefits can be a strategy for increased profits in a labor market with high unemployment. The differential between executive pay and that of the rank and file tend to be greater in large private for-profit companies than in civil service systems.

Downsizing occurs more often in private companies, resulting in layoffs, high unemployment, and a more unstable work force. It is generally the government that picks up the costs for helping people who have lost their jobs, by providing services such as unemployment insurance and food stamps. In economic downturns, downsizing shifts risks from businesses to the public and the state.

Revolving Back Door

Government staff and elected officials who are directly involved in awarding contracts to and regulation of private companies may be hired by the same companies immediately upon leaving their government positions. Companies may hire relatives and friends of government officials and staff who are still working in government. (See appendix IV for Seattle's ethics policies.)

Lost Revenue

As governments divest themselves of the more "profitable" or revenue-producing segments of government services, they are left with the revenue-losing segments. In the past, "profitable" segments allowed the government to provide services to areas more remote or difficult to serve. If they are left with only the revenue-losing segments, the options will be to levy additional taxes or collect fees to pay for services to these areas, or to reduce or eliminate services. Construction and maintenance of roads to rural communities would be an example.

Rapacious Behavior

When private firms provide profitable functions such as debt collections, they can harass people to uncomfortable levels. The businesses profit as they add fines and interest payments, garnish wages and ruin reputations with the credit rating services accessible to employers. When penalties become lucrative sources of income as opposed to efforts to gain social compliance with laws, society can lose civility and cooperation. Examples include the Internal Revenue Service, which outsourced debt collections to private firms that profit from how much they collect. Student loans are also now run by private banking businesses with sophisticated collection agencies. Locally, towing companies and collections for parking tickets pose a problem for the poor.

Shifting Liability

In a case involving lawsuits against federal contractors, the United States Supreme Court recently ruled 5-4 that only individual agents, not corporations working for the government, may be sued for performance violations. The case concerned an inmate who lived in a fifth-floor room while serving a federal prison sentence for securities fraud. He was allowed to use the elevator because he suffered from congestive heart failure. When a guard had him climb the five flights, he had a heart attack, fell down the stairs and suffered an injury. He sued the company that ran the halfway house for the Federal Bureau of Prisons.¹⁴

Corruption

¹⁴ "Sotomayor's Notable Court Opinions and Articles," *New York Times*, May 26, 2009.

It may be argued that any monopolized function faces risks that decisions may be made for political reasons or personal gain of the decision maker rather than for economic reasons. Corruption during the privatization process, however, can result in significant underpricing of the asset. This allows for more immediate and efficient corrupt transfer of value, not just from ongoing cash flow, but for the entire lifetime of the asset stream. Often such transfers are difficult to reverse.

Corruption may also take the form of “kickbacks,” i.e., bribes after the fact. In a recent case in Pennsylvania, Pennsylvania Juvenile Court judges were accused of receiving kickbacks from operators of private detention centers for increased commitments of youth. Many of the juveniles sent to detention had committed minor infractions or no crimes at all.¹⁵

Absence of Competition

Privatization can not result in true competition if a natural monopoly exists. Natural monopolies are by definition not subject to competition and are better administered by the state. If consumers have no options to change vendors, then companies have little incentive to keep prices or costs low or to provide optimum quality. It is difficult to know if an enterprise is efficient unless there are competitors to compare against.

Changing Owners/Leveraged Buyouts

Private companies providing critical human needs such as water and energy are susceptible to leveraged buyouts if they become mired in debt, or have conflicts of interests on their respective boards of directors. Companies in charge of critical functions are subject to changing ownerships and thereby changing priorities of the parent company.

Capital Needs

Issue of private sector debt may be a problem. Large corporations, striving for dominance, engage in rapid expansion to control market share. To do this, they take on large debt load each time they buy out a competitor. The two most likely options for paying the debts are raising prices and selling assets. Companies with too much debt are susceptible to leveraged buyouts and takeovers.

According to bond rating company Standard and Poors, “ratings benefit from favorable regulatory cost-recovery mechanisms, stable cash flows, absence of competition within existing service territories and relatively low operating risk support.”¹⁶ Large investors are drawn to these types of investments. Using corporate bonds instead of municipal bonds may add to the costs of projects, since corporate bonds typically offer a higher return.

Donor Fatigue and Disappearing Partners

Depending on private partners who may be unable or unwilling to perform in the future can present difficulties for governments. A recent example is the Seattle Art Museum (SAM)’s newly constructed downtown building. The project was stunned by the loss of its key partner, Washington Mutual Bank (WAMU). The city of Seattle guaranteed the bonds for the SAM building, and the rent from WAMU for the top floors was an important revenue stream to repay the bonds. Should SAM not be able to find a replacement, the city could end up with the risk.

¹⁵ Associated Press, yahoo news, February 11, 2009.

¹⁶ American Water Capital Corp, “Remarketed Water Facility Bond Rating,” May 7, 2009.

Constant fundraising from the public can lead to donor fatigue and an unequal sharing of the costs, especially when serving the poor in an economic downturn.

B. Potential Benefits of Private/Public Partnerships

The following benefits have been identified by citizens who support privatizing government services, functions and assets. Private businesses are better able to:

Bring in expertise

Large corporations are better able to hire experts in increasingly complex fields such as transportation, utilities, insurance, investments and medicine. It is difficult for the government to compete with large corporations, which can offer higher executive salaries, for top-tier professional staff .

Provide services more efficiently

Because of their size and volume, larger businesses are able to work with suppliers to get the lowest possible costs.

Because so many large businesses are not unionized and many government workers are unionized, large businesses are better able to negotiate lower wage rates and work conditions for the rank and file. Businesses are better able to downsize in downturns, making the operations more efficient.

Provide good customer service and products

In competitive environments, businesses driven by the profit motive must strive for efficiency and maximum sales. This results in many innovations for ways to do things more efficiently. Businesses can pass on these innovations and cost savings to customers in the form of better products at lower prices and better customer service, in an effort to gain increased market share and profits.

Raise more capital

Large corporations are better able to attract the large amounts of capital investments needed by today's growing cities by offering higher returns on investments than local governments can offer.

Nonprofit private organizations are able to raise money from the public for projects near and dear to the hearts of local citizens, thereby removing the responsibilities and costs from governments.

Involve the public

Corporations and nonprofit private organizations are able to devote public relations resources to encourage citizens to contribute to community issues.

The Cato institute, a conservative think tank and a strong advocate for privatization, offers these three reasons to privatize government services, assets and functions.

1. Privatization would cut the budget deficit by selling government assets.
2. Privatization would reduce the responsibilities of the government so that policymakers could better focus on their core responsibilities.
3. Privatization would spur economic growth by opening new markets to entrepreneurs.

VI. Conclusion

With such a strong movement to dramatically change the structure and role of government, citizens must continually assess the impacts of different policies on society and local communities. The pendulum swung from laissez-faire free market policies in the late 1800s, to the Progressive Era advocating stronger government roles in regulating society in the 1930s, back to free market in the 1980s, to our present day policy debates over government intervention and control over industry and government responsibility for the well-being of citizens in our nation, states and cities.

What are the essential roles of government regarding the well-being of citizens? How should public assets such as natural resources be managed? Should government collect taxes to provide public benefits such as education and libraries, roads and infrastructure? Should the government protect citizens from abusive labor conditions, or harmful business practices impacting consumers? What social functions present moral hazards when subjected to a profit mandate?

We are being asked these questions daily. We, as representatives of the needs of civil society, need to be aware of the complexities of privatization in order to decide which policies will truly maintain healthy, prosperous and livable communities.

VII. APPENDICES

APPENDIX A

For the League of Women Voters of Seattle

On the Privatization of Public Facilities and Services

By Don Comstock, PhD, Antioch University Professor, Center for Creative Design

1. *What is the connection between capital seeking high returns to the selling off of government assets, functions and services?*

The move to privatize public services and facilities results from the same economic dynamic as globalization and environmental abuse. It demonstrates the growth and spread of our economic system into every function and location in this world. If we have reached a point where we are able to question whether economic growth is the solution to our problems, then it would be helpful to understand why growth has become the emblem of our society.

Economic growth is built into the market capitalist economy that Europeans and their descendents have constructed over the past three centuries. This is its magic and its flaw. Why must we grow? Because we fuel our economy with money, also called capital, and the purpose of having money and investing that money in the economy is to make more money. When we add to that money, we don't immediately retire and spend that money on a vacation. No, if we are good savers, investors and business managers, we re-invest it to make more money. We buy stocks and bonds, we give our savings to banks, we save for retirement all with the expectation that our money will grow. And we return what has grown to the principal of investments and loans so that it can earn more next year.

It does not take much insight to see that this results in exponential growth. This is what our parents told us to do when we began those saving accounts in grade school. Saving and growth is the most central principle of our economy and therefore of our culture. If you are a business person who spends all your profits on vacations, toys and gifts, your competitors who reinvest will quickly outpace you and you will go out of business. It is an imperative of the competitive market economy that business survival requires growth thorough saving and reinvesting profit.

So from our experiences as savers, investors, workers, retirees and managers, we know that we must invest and reinvest in this economic machine. And what is the result for the machine? It grows larger and larger – and it does so not by the same amount each year but exponentially! The rate of growth increases each year as our total savings and money supply grows. This is what has fueled the phenomenal change in our lives over the past three centuries.

Continuing exponential growth in money that must be invested in making more money to pay interest and dividends to everyone who saves, loans, and invests is the motive force behind the privatization of public assets and services. More and more services and facilities must be turned over to the monster that yields our way of life. It takes little imagination to see that it is also the driving force behind the global expansion of markets and investments into all parts of the world as well as to our increasing occupation and exploitation of the natural world.

Self-generating economic growth can be a very powerful force that improves many lives when the principal that must be serviced is small and the slope of growth is modest. As exponential growth continues, however, we begin to experience the limitations of a process that must race

ever-faster and climb ever-higher in order to keep itself alive. Recent years have seen an explosion of financial instruments invented far up on the mountain of capital. These derivatives, secondary mortgage pools and credit swaps offer further evidence that our economy is ruled by the imperative to make money from money even in the absence of any useful service or product.

Only when we make money the medium for improving our lives and our communities, rather than the purpose of those lives and communities, can we begin to talk seriously about a sustainable society. This will be a big shift that will take us beyond the portion of the challenge represented by privatization. Nonetheless, we must understand that the pursuit of returns to rapidly growing volumes of capital is behind efforts to turn public facilities into private assets. Only then will we be able to ask searching questions of private solicitors and public officials.

Further discussion of efforts to make people rather than money the purpose of our economy, I recommend a recent article on “The Future of the American Dream” by William Greider in the May 25th Nation magazine. You will find it at <http://www.thenation.com/doc/20090525/greider>.

2. Explain how the creation of private sector monopolies through partnerships with government can impact pricing.

Here we can either launch into the arcane world of theories of monopoly pricing or ask the simple question of what happens when we can buy a product only from one seller. What price can that seller charge us? The answer, of course, is the price will be higher, often much higher, than if that seller has competitors. That is why for hundreds of years we have made governments that we can guide through democratic means the suppliers of services we consider to be natural monopolies. This includes water, sewer and most other public utilities as well as social and recreational services, not to mention military forces. Where we have turned these over to private sector businesses, we have then incurred additional costs of public regulation of these businesses—with varying levels of effectiveness. We are today in one of the more remarkable periods of dealing with the limits of public regulation of private capital. Those sub-prime mortgages and their derivative debts have turned out to be much more expensive than their sticker prices.

Not only will we need to limit monopoly pricing, but the private provision of public services and the operation of public facilities will seldom be less costly than when run by government. Since the cost of private investment capital is greater than public capital, private businesses start out behind the economic eight-ball. State and municipal bonds and federal treasury notes carry lower interest charges than private bonds and other debt instruments. Since no one is putting their money into this business in order to provide a service to the public, the business, unlike the government, must make a profit from running a water filtration plant. This adds to the cost of the private provision of any public facility. This is clear after more than twenty years of fighting over whether health care in America should be a publicly or privately financed. So far we have maintained our canonical belief that the growth of private capital is more important than the health of our citizenry.

So how would a private business lower the cost of the formerly public service? By lowering other costs to compensate for the cost of capital and profits for investors. Which of those will not reduce the quantity or quality of the service? Alternatively, the private monopoly may raise prices to us, the users. The Global South is now overrun by European and American companies privatizing communal water supplies and pricing them out of the reach of ordinary citizens. Despite decades of mythmaking, there is no evidence that private companies are more efficient than public agencies and plenty of evidence that employees committed to the public good will work more conscientiously than those who are working only for their paychecks. Despite three centuries of hearing that private greed results in public benefit, we still know that empathy, respect and community are motivators of truly exceptional behavior.

3. *What questions can citizens ask to get a response from government officials and what stage in the process would be most effective?*

I think it is one of the signal strengths of the League of Women Voters who know when, where and how to raise important questions that make our governments more effective, responsible and democratic.

I think we can see some of the questions about costs and returns to private capital that are immediately relevant to a particular privatization proposal. Most of us will need some help from an accountant to find the answers in these proposals but that is not a barrier to asking the important questions.

When and where we should raise these questions turns our attention, I believe, back to the larger issue I raised at first about the purpose of our economy. We have grown economically rich over the past three centuries by pursuing the autonomous growth of money and the subordination of all other human purposes to the expansion of private capital. This has been especially explicit during the past thirty years. Others have pointed out how we have also grown poorer in our relationships with each other and with the earth. And some cranks insist there is a connection between that which has shriveled and what has grown luxuriantly. I hope that I have been able to show how privatization and public-private partnerships are part of the economic imperative to continue to the luxuriant grow of money. Maybe we are at a time when we can ask what the point is. Our new president has risen to iconic stature assuring us that we *can*. Now it's time to ask each other, what is it that we *should* do?

APPENDIX B

Privatization Opportunities in King County

(The following information was taken from the website of the Washington Policy Center (www.washingtonpolicy.org), a local think tank dedicated to privatization. It highlights privatization opportunities under consideration for King County.)

WASHINGTON POLICY CENTER

"[Privatization is] a revolution in economic thinking...a return to principles we once adhered to, but from which we have strayed. They are principles of individual freedom and private enterprise that have changed the world more in 200 years than all the changes in the preceding 2000 years." ---former Secretary of State George P. Schultz, 1982-89

In the past decade, as taxpayers have shown themselves unwilling to pay ever more taxes, governments have been forced to rethink the ways in which they deliver services. Around the United States, innovative leaders have experimented with privatization --- contracting out, competitive procurement, asset divestiture, and outright asset sales ---- and the results are clear: lower costs, greater efficiency, more effective and responsive programs, improved worker satisfaction, greater community support and involvement.

In competitive environments, the presence of more than one model allows all providers to observe alternative ways of doing things and to learn from the successes and mistakes of others. In business, change can occur and improvements can be made without the delays sometimes required in the public sector. But through competition, all players can improve performance.

Public Enterprises

King County Airport (Boeing Field): 17 airports around the nation are managed by private companies, transforming tax subsidies into tax revenues while serving the needs of aviation.

Public Transit: Over one-third of San Diego's bus service is contracted to private companies, producing lower costs while preserving quality of service.

Solid Waste: Contract garbage collectors provide collection service at costs averaging 28-42% less. Indianapolis bids curbside collection to four private companies plus the city's own Department of Public Works with first year savings of \$3,000,000.

Wastewater Treatment: Private management of wastewater treatment saved Indianapolis \$65,000,000 over five years.

Public Programs

King County Jail: Tennessee's privately operated prison operates at a lower cost and with better and safer services than the state correctional facilities. King County could begin with contracted management and private food service operations.

Parks Management: Studies have shown a savings between 20 and 50% where park management is contracted out --- money which could be spent upgrading parks maintenance.

Parks Maintenance: Contracting out maintenance for some parks, including contracting with neighborhood associations, can improve the quality of our parks and restore them to the community they serve.

Roads Maintenance: When Indianapolis placed its roads maintenance work in competition, city employees petitioned the Mayor to reduce the supervisory staff so they could compete. Result: better, more cost effective service.

Youth Detention: As King County considers the need for increased capacity, the opportunity to experiment with privately owned and operated facilities provides potential for greater efficiency and savings.

Internal Services

Building Maintenance: The private sector is expert in providing janitorial and maintenance services to office buildings. Private contracting reduced custodial costs by 51% in Los Angeles.

Motor Pool: In Coral City, Florida, when city employees successfully won the bid to continue to provide services, the lessons they learned through the bid process allowed them to save \$200,000 for the taxpayers. Other areas, such as real property management, competitive purchasing, permit review and building inspections, even as routine as washing the windows on government buildings would benefit from considering private sector opportunities.

Indianapolis and Chicago, Massachusetts and California are among the cities and states where strong political leadership has shown that public purposes can be achieved best by service delivery through competition.

APPENDIX C

Seattle League Positions on Public/Private Partnerships

These positions were adopted by the Seattle League in 2002 as a result of the study.

- **Support measures to ensure accountability and adequate citizen participation/oversight in public-private partnerships. Our vision recognizes that public-private partnerships may serve as a mechanism for cities to work in concert with the private sector to achieve public objectives if the following elements are present: 2002**
 - A. Citizen involvement at the earliest possible point in the process: Prior to any city commitment or negotiation about a possible project, citizen involvement should be solicited and required to assess the benefits, if any, and risks, both tangible and intangible, of any proposed public/private partnership.
 - B. Periodic public hearings should be held in which there is an opportunity for citizens to comment at the initiation of a project and at key stages of project development.
 - C. Any proposed public/private partnership involving a substantial commitment of public funds should be reviewed by an advisory body that will provide advice and direction to the city council, the mayor and the public.
 - D. Criteria should be developed to enable the public and any designated advisory body to weigh the public benefit and cost of public-private partnerships.
 - E. Any advisory body should be empowered to develop additional criteria to ensure:
 - 1. Accountability to the citizenry;
 - 2. An adequate cost/benefit analysis; and
 - 3. An adequate return on the public investment.
 - F. To ensure a successful public-private partnership, the cities should develop a set of standards prior to entering into a contractual agreement with a private partner that includes the following:
 - 1. A competitive selection process;
 - 2. Identification of financial exposure, public objectives and contract safeguards;
 - 3. Investment in the necessary expertise for negotiating the contract;
 - 4. Establishment of contractual performance standards, including exit provisions and methods to enforce the standards; and
 - 5. Development of methods to assure adequate oversight and accountability at every stage of the project. 2002

APPENDIX D

City of Seattle Code of Ethics

AFTER LEAVING CITY EMPLOYMENT

Question: I'd like to hire an employee I've dealt with at the City. May I?

Answer: You may hire a current or former City employee. Keep in mind, however, that the Ethics Code places some restrictions on that employee's activities for twelve months following separation from the City. City officers and employees must wait one year after leaving the City before they can (i) assist others in proceedings involving their former agency, (ii) assist or represent others on matters in which they were officially involved, or (iii) compete for contracts when they helped determine the scope of work or the process for selecting a contractor.

The employee is also prohibited from sharing or using confidential or proprietary information. This prohibition has no time limit. The employee cannot share or use information that is not otherwise available to the public.

Please also see [Conflict of Interest](#) above, regarding limitations on the activities of a current employee receiving a job offer from a City contractor.

CONFLICT OF INTEREST

Question: Our City project manager's spouse has just hired on with our company. Is there any problem with this?

Answer: Employees may not take part in City business where they, or an immediate family member or household member, have a financial or private interest. The employee must either stop working on your project or [contact the SEEC](#) for advice.

Even if the employee does not have an actual financial interest in your project, City employees also are prohibited from taking part in City business where they would appear to have a conflict of interest or impaired judgment.

This includes selection processes. City employees must withdraw from a vendor selection process if one of the competitors is a relative or household member, or if a competitor has been the employee's business partner or client within the last twelve months, or if the employee's relationship with the candidate would appear to a reasonable person to impair the employee's judgment.

Question: I'd like to hire the City employee I deal with all the time. May I offer her a job?

Answer: You may offer the employee a job. Be aware, though, that once you open discussions about prospective employment with a City employee, that employee cannot be involved in City matters affecting your business. A reasonable person will believe that your discussions have created a conflict of interest, and will influence the employee's dealings with you. See below for limits on a former employee's activities [after leaving](#) City employment.

APPENDIX E

BIBLIOGRAPHY

- American Water. "Engineering Tolt Water Treatment Plant." [http://www.amwater.com/]. June 5, 2009.
- Anderson, Jenny. "Willing To Lease Your Bridge." *New York Times*, August 28, 2008.
- Arena Sports. "Background, Seattle City Council Approves Arena Sport's Renovation Plan!" [http://www.arenasports.net/company-history]. June 4, 2009.
- Buonano Grennan, Nancy. "A Legal Roadmap to Privatizing Government Services in Washington State." *Washington Law Review*, January 1997.
- Cantwell, Maria. [http://www.cantwell.senate.gov/news/record.cfm?id=242194&]. "Cantwell Looks to Create Community Partnership for McCord Housing Privation." Press Release, February 20, 2004.
- Cato Institute, www.cato.org.
- City of Seattle Legislative Information Service. "Resolution Number: 30072, Resolution approving general guidelines for improving public knowledge of certain partnerships of the city with private and public entities, including public agencies and public development authorities." November 22, 1999.
- City of Seattle News Release. "New Contract Provides Water Quality Improvements, Saves \$50 Million (City of Seattle to Sign Deal to Build Cedar Treatment Facility)." April 17, 2001.
- CH2MHill OMI. "Why Consider Partnering?" [http://www.omi.ch2mhill.com/communities/why.html]. May 14, 2009.
- Dow Jones Newswire. "Investors Buy Seattle Bonds; City Water Bond Ratings Raised." June 1, 2009.
- Fried, Kate. "Cash-Strapped Communities Suffer as Corporations Target Water Systems." *Food and Water Watch*, February 25, 2002.
- League of Women Voters of Seattle Study, "Public-Private Partnerships in Seattle." May 2001.
- Linowes, David F. "Economic Public Policy and Privatization Report, President's Commission on Privatization." 1988.
- Linowes, David F. *Privatization: Toward More Effective Government*. 1988.
- *McConnell, Carolyn. "Tapwater Takeover." *YES! Magazine*, Winter 2004.
- New York Times*. "Sotomayor's Notable Opinions and Articles." May 26, 2009.
- National Public Radio (NPR). "Obama to Tackle Explosion in Federal Contracts". December 1, 2008.
- *Possen, Adam S. "Who, Not What Matters for Investment Barriers." *Peterson Institute for International Economics* .Op-ed, November 4, 2007.
- The Washington Policy Center. "Privatization Opportunities in King County." 1997- 2002. http://www.washingtonpolicy.org/Centers/government/policynotes/97_privatization.html. 2009.
- Public Citizen's Water for All Campaign, *RWE/Thames Water: A Corporate Profile*. March 2003, revised 2005.

Public Citizen's Water for All Campaign. "U.S. Mayors Make a Splash at RWE's Annual Shareholder Meeting in Germany." April 2006.

Ramsey, Bruce. "It's not the first time light's flickering on a public takeover of private power." *Seattle Times*, September 3, 2008.

Rosenberg, Matt. "Ready to try Public-Private Partnerships Yet?" *Crosscut*, April 1, 2009.

*Rubinkam, Maryclaire. "Pa. judges accused of jailing kids for cash." The Associated Press, February 11, 2009.

Shulman and Ridgeway. "The Highwayman." *Mother Jones*, January 1, 2007.

Starr, Paul. "The Meaning of Privatization." *Yale Law Review and Policy Review* 6 (1988): 6-41. This article also appears in Alfred Kahn and Sheila Kamerman, eds. *Privatization and the Welfare State* (Princeton University Press, 1989).

Sullivan and O'Hagan. "Fix for Broken System?" *Seattle Times*, March 11, 2009.

US Water News Online. "German giant taking over American water supply." February 2003.

WaterWeek. "Seattle readies Tolt DBO project, picks DBO team for Cedar project." January 2, 2001.

*Williamson, John. *On Market and Regulations*. Presented November 20-21, 1998 at University of California, Santa Cruz, Peterson Institute for International Economics. [www.petersoninstitute.org]. 2009.

*Willoughby, Jack. "The Spigot Reopens at American Water Works." *Barron's*, August 11, 2008.

Personal Appearances Before the Study Committee

- Donald Comstock, Ph.D. Core Faculty, Center for Creative Change, Antioch University Seattle
- Paul Guppy, Vice President Research, Washington Policy Center
- Nick Licata, Seattle City Councilmember
- John Fox, Displacement Coalition
- Saroja Reddy, Policy Staff Director, King County
- John Burbank, Economic Opportunity Institute
- Norman B. Rice, former Mayor of Seattle
- Jeanine Livingston, Contracting Compliance Director, Washington Federation Service Employees (WFSE)
- Gary Chamberlain, Seattle University Professor, Theology and Religious Studies, author *Troubled Waters: Religion, Ethics, and the Global Water Crisis*