

## COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY

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Sacramento 95814



January 2, 1986

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Honorable Willie L. Brown, Jr.  
Speaker of the Assembly  
and Members of the Assembly

Honorable James Nielsen  
Senate Minority Floor Leader

Honorable Patrick Nolan  
Assembly Minority Floor Leader

Dear Governor and Members of the Legislature:

The subject of government competition with private enterprise is one which has been of interest to the Legislature and the business community for a number of years. At the heart of the matter, some argue that the role of government should be limited to providing only essential services which cannot otherwise be provided by private enterprise or should be the province of government only when there are compelling policy issues such as those which may relate to public health and safety. Contrary to this view of the limited role of government, some argue that other factors such as the ultimate cost of services to consumers are a proper consideration of whether these services should be provided through government programs, free enterprise, or a regulated private sector.

This letter-report summarizes the findings of the Little Hoover Commission on the extent of State and local governmental business activities which appear to compete with private enterprise and may not be authorized by constitutional or statutory provisions. Based upon the information provided to our Commission by complainants and representatives of affected governmental agencies as well as our review of relevant statutes, we concluded that there are numerous instances of competitive governmental activities, but no identified cases of unauthorized or illegal activities.

#### BACKGROUND

In an opinion prepared in 1979 (Business Activities of State Agencies - #13101), the Legislative Counsel observed that in general no constitutional provision prohibits a State or public agency from entering into a business activity which is in direct competition with private enterprise, but statutory or constitutional authority must exist to permit the activity. Counsel observed that administrative agencies have no powers other than those conferred on them expressly or impliedly, and that this authority has traditionally been limited to activities which serve a public purpose since it is generally not a function of government to engage in profit-motivated activities.

There are so many instances of statutory authority which authorize State and public agencies to pursue business activities which are in direct competition with private enterprise that Counsel concluded "they are too numerous to list." Examples of such authority are as follows: the Regents of the University of California operating hospitals (see Secs. 92406 and 92432, Ed. C., and Sec. 9, Art. IX, Cal. Const.); the Department of General Services operating the State printing plant (see Ch. 7 commencing with Sec. 14850, Pt. 5, Div. 3, Title 2, Gov. C.); institutions of public higher education in this State operating student bookstores (see Secs. 81674 and 89905); the sale of timber from State forests by the Director of Forestry (see Sec. 4650, P.R.C.); the sale by the Department of Corrections of goods made by prisoners (see Secs. 2701 and 2702, Pen. C.); and the sale or exchange by any State agency of goods and products in excess of its needs (see Art. 5 commencing with Sec. 11330, Ch. 3, Pt. 1, Div. 3, Title 2, Gov. C.).

At the request of a number of legislative members, our Commission held a public hearing in June 1984 on the subject of government competition with private enterprise and voted to conduct a survey to determine whether there were a significant number of unauthorized competitive activities by State agencies. Subsequently, the Commission also followed up on various allegations concerning the competitive practices of local government agencies identified through correspondence with legislators or through our Commission's hearing process.

Since there is no declaration of legislative intent to prohibit State government activities which may be characterized as "competitive," and since there are as previously noted numerous examples of statutorily authorized business activities, our survey was not designed to address the propriety of public policy in cases of authorized governmental practices or services which may appear to compete with private enterprise. However, our survey was designed to provide reliable information on whether there are many instances of unauthorized governmental competition.

#### METHODOLOGY

Based in part upon issues discussed in our public hearing, a survey form (see Attachment 3) was designed to elicit at least preliminary information on competitive governmental activities. Although the primary purpose of the survey was to identify unauthorized activities, survey respondents were requested to report any "improper" competitive activities (survey item no. 4) in order to avoid inadvertently "screening out" potential survey respondents who might be unable to report on whether the governmental activities to which they objected were, in fact, unauthorized.

In November 1984, a total of 1,300 surveys were mailed to representatives of all the local chambers of commerce, lobbyists, and employers of lobbyists associated with businesses (approximately 600 and 700 persons respectively). Local chambers of commerce were included to ensure regional coverage of the State and the participation of small businesses which might not otherwise be surveyed within the limits of available resources. Additionally, legislative advocates were surveyed because earlier, limited surveys of governmental competition conducted by

Assemblyman Don Rogers found them to be knowledgeable and interested participants.

Approximately three months later, follow-up letters and surveys were mailed to all non-respondents. In both mailings, prepaid reply envelopes were enclosed to encourage a maximum number of responses.

Besides the 1,300 surveys sent to identify unauthorized State agency activities, the Commission followed up with 8 complainants who had earlier identified competitive activities by local governmental agencies. The Commission then sent copies of complainants' completed surveys to the affected government agencies and requested that they respond on any points of disagreement with alleged facts or interpretations of facts. All agencies responded to this request.

Finally, the Commission engaged in further fact-finding and analysis of statutes in a number of cases to determine whether the reported activity was an authorized business activity. This entailed making critical determinations concerning the factual basis and relevance of information submitted by complainants as well as the affected governmental agencies.

#### FINDINGS

Of the 1,300 mailed surveys of "improper competition" by State agencies, 284 or 21.8 percent were returned to the Commission. Forty-four of these surveys or 15.5 percent of the returns reported specific, verifiable allegations of competitive governmental activities with one of 15 governmental entities (listed on Attachment 1). Of these 44 complaints, 5 respondents (11 percent) characterized the activities they reported as unauthorized or unlawful while the remainder were nearly equally divided in expressing either belief that the activities were authorized or uncertainty whether they were authorized.

Based on research of facts stated in the complaints, governmental agency responses, and statutory authorities, the Commission concluded that all of the reported business activities of State agencies were authorized activities. Similarly, the Commission concluded that all of the local government competitive activities which we studied were also authorized activities. Illustrative cases of alleged governmental competition are presented as Attachment 2 to this letter-report.

In order to provide additional information on a number of policy issues which are associated with the Commission's examination of whether and how governmental entities compete with private enterprise, we analyzed complaints to produce the following typical profile of information concerning competitive governmental activities:

Economic Impact: Forty-three percent of the complainants reported that they could not estimate the Statewide economic impact of the activities on private enterprise. Additionally, 30 percent estimated the economic impact as being less than \$100,000 of unrealized gross annual income, and 27 percent estimated an impact of \$100,000 or more annually.

User-Fee: Thirty-six percent reported that they did not know whether consumers were required to pay a user-fee to the government agency for the cost of the service; 34 percent believed that a user-fee was charged to reimburse part or all of the agency's cost of providing the service; and 30 percent stated that there was no user-fee. For example, the Department of Recreation charges a fee for overnight use of its "day use" parking areas. This fee covers part of the actual cost of providing this service.

Profit: Thirty-nine percent believed that the agency did not make a profit from revenue in excess of its actual cost to provide the good or service; 25 percent said the agency made a profit; and 36 percent did not know whether there was a profit.

Benefits of Private Enterprise: Virtually all (91 percent) stated that they had specific information which suggested that private enterprise could provide comparable or enhanced service, efficiency, or economy if there were less governmental competition. Approximately half of these cited fairly specific arguments or information intended to support their assessment while the remainder did not offer specific corroboration.

Contracting Out: About two-thirds (64 percent) reported that they did not know of any precedent whereby the State agency had contracted with a business to provide these or similar goods or services to the public. Most of the 36 percent which stated that they knew of such a precedent cited a specific example.

Contact with Agency Administrative Staff: About two-thirds (68 percent) reported that they or a representative contacted an administrator at the competing agency in an attempt to resolve a complaint of government competition.

Role of Government: Forty-three percent expressed the laissez faire view that State agencies should relinquish all responsibility for the provision of the reported competitive services and instead rely entirely upon competitive forces in the private sector. However, 41 percent were evenly divided between the view that agencies should continue to directly provide their business activities, subject to certain controls, or should contract out their activities and monitor their cost and adequacy to protect consumers. The remaining 16 percent expressed views characterized as "other."

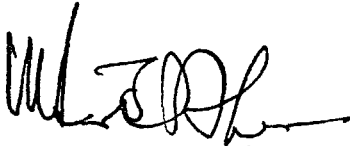
Of the 15 State agencies and quasi-governmental entities, our analysis found that 8 agencies were the object of one complaint each, while 7 other agencies accounted for the remainder of 36 out of 44 complaints. However, multiple complaints concerning any agency did not indicate that complainants were more likely to believe that the agency business activity was unauthorized.

#### SUMMARY AND CONCLUSION

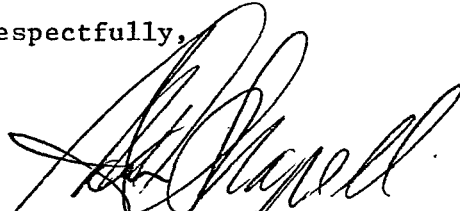
The Commission's survey and analysis of State and local governmental activities which are perceived as being competitive with private enterprise found that each reported case was in fact authorized by statute. Based upon our survey of State activities, we conclude that it

is unlikely that any State agencies currently engage in unauthorized business activities. Although we found that all the reported activities of local government agencies were also authorized, given the limited scope of our review, we have no conclusion concerning the probable results of what could be a more comprehensive survey in this area.

Respectfully,



LESTER OSHEA, Chairman  
Government Competition  
Study Subcommittee



NATHAN SHAPPELL, Chairman  
James M. Bouskos, Vice Chairman  
Senator Alfred E. Alquist  
Mary Anne Chalker  
Albert Gersten, Jr.  
Brooke Knapp  
Haig Mardikian  
Senator Milton Marks  
Assemblywoman Gwen Moore  
Mark Nathanson  
Jean Kindy Walker  
Assemblyman Phillip D. Wyman

ATTACHMENT 1

The following 15 State agencies and quasi-governmental entities (University campus auxiliaries) were alleged by complainants to engage in business activities which compete with private enterprise:

- University of California, Davis (including campus auxiliaries)
- California State University, Northridge
- State Department of Education
- Department of General Services
- Department of Transportation
- Department of Parks and Recreation
- Department of Forestry
- Department of Boating and Waterways
- Prison Industry Authority
- California Youth Authority
- California Highway Patrol
- Employment Development Department
- Department of Industrial Relations (State Compensation Insurance Fund)
- Department of Health Services
- Department of Rehabilitation

ATTACHMENT 2

ILLUSTRATIVE SUMMARY OF CASES OF ALLEGED GOVERNMENTAL COMPETITION

Department of General Services -- Building Maintenance Complaint:

According to the complainant, the Department hired a painter in 1982 to paint three State office buildings in Stockton. Formerly, this work was sent out for bid to local contractors. The complainant states that this change in practice is unauthorized because it violates "force account limits." Force account limits are ceilings which allegedly constrain the Department from using in-house (State) staff for large projects. The complainant cited three instances where force account limits are applied: Stockton Unified School District (\$2,500 limit), Stockton City (\$8,000 limit), and Cupertino Union Elementary School District (unknown limit).

State Agency Response and Additional Information: The Department verified that it employed a painter to perform scheduled maintenance painting which had formerly been executed by private-sector contractors. However, the Department stated that the former contracting out of this work was not required by any applicable statute. Instead, this activity was characterized as "appropriate at that time" because the Department's Office of Buildings and Grounds had no painter assigned to this work. Subsequently, the Department assigned a painter to perform the specified work because this appeared to be an "economically sound practice for the State of California."

The Department concluded on the basis of consultation with its Legal Office that this complaint was unfounded because there is no statutory restriction -- by the name of "force account limit" or any other description -- which limits the amount of authorized maintenance work which may be performed by State employees.

Commission Conclusion: The examples of monetary limits on certain activities of school district or city employees do not establish that there is any statutory authority which would constrain the Department to contract out maintenance activities. It is an established principle that the director of any State agency may determine that agency employees may either perform or arrange for essential maintenance work on State facilities.

Department of Parks and Recreation -- Overnight Camping Complaint: The Department operates a program which permits overnight camping in "day use" parking areas although alternative private campgrounds and recreational vehicle parks allegedly operate at less than full capacity. According to the complainant, this program of "overflow" or "en route" overnight camping in day use areas is not a statutorily authorized activity of government.

State Agency Response and Additional Information: According to the Department's response, the Enroute Camping Program was the result of many public requests for a program which would accommodate overnight travelers.

The Department formulated a program which is said to be responsive to the traveling public without detracting from basic daytime use of facilities or entailing new capital outlay costs. Generally speaking, this program allows day user facilities to be used for overnight purposes during evening periods, returning to day use the following morning. The Department cites health and sanitation, visitor safety, and other public benefits of the program.

Additionally, the Department states that private enterprise benefits from the operation of State Park System units because they are a "major tourist attraction unto themselves" and attract visitors who are seeking "more than a simple overnight accomodation for their traveling needs." Visitors to the State parks reportedly stimulate the local economy through their purchase of various community services. Also, private campgrounds are said to feed off the overflow from adjacent State parks throughout the State.

Finally, the Department disputes the allegation that this program is not statutorily authorized.

Commission Conclusion: The Public Resources Code (Sections 5003, 5003.4, and 5019.5) authorize the State to provide camping programs. We know of no basis for assuming that this statutory authority is meant to exclude a specific program designed to accomodate overnight travelers. Additionally, annual budget allocations for the Department's overnight program constitute an explicit statutory authorization.

University of California, Davis -- Campus Food Services Complaint: Four merchants in Davis cited allegedly improper competitive activities in campus food service operations. Although none of the complaints disputed the authority of the University to provide for this service -- a service traditionally provided on campuses throughout the country -- they expressed dissatisfaction with University policies in the following charges:

- The University provides its designated food service vendor (Service Systems) with space, equipment, and utilities at "below market value."
- Service Systems aggressively advertises and promotes its various food services at prices which compete with off-campus businesses.
- The University does not allow off-campus businesses to sell their food products on the campus.

State Agency Response and Additional Information: In general, the University response characterized the complaints concerning campus food service operations as "ironic" because these services constitute a major use of private enterprise to meet an important campus need. The University needs food services for its student residence halls and a selection of conveniently located luncheon and snack facilities to serve employees as well as students. It determined that it is most cost-effective to obtain these food services by contract with a private



firm and consequently has done this since 1967. However, the University contract with Service Systems reflects a sensitivity to the Davis business community by requiring that this vendor use other local vendors as suppliers whenever possible.

The University provided further information disputing the facts or conditions of specific charges as follows:

According to the University, the assertion that space, equipment, and utilities are provided at "below market value" is incorrect. The food service contractor pays "rent" in the form of commissions averaging over 8% of cash and vending sales, which is said to be at least comparable to commercial rates for space rental. In addition, Service Systems pays the University for all building and equipment maintenance, utilities, custodial care, refuse, water and sewer, and grounds maintenance for all facilities in which they operate. The University does receive a lower rate for electricity than Davis merchants, as one respondent pointed out, but this is true for some other Sacramento Municipal Utility District customers as well.

The University acknowledges that Service Systems promotes its on-campus food services through advertising just as any other profit-making enterprise might. However, the University's contract limits its vendor's promotional activities to campus media and prohibits advertising in local newspapers or other commercial avenues. This limitation is the basis for the University's assertion that its vendor does not compete with local restaurants for off-campus customers.

Although Service Systems advertises in the "California Aggie" student newspaper with an off-campus circulation of approximately 1,300 of its 12,500 total circulation, the University states that it has no evidence that this results in the attraction of non-University customers. In support of this position, the University notes that it does not have the facilities to provide food services to more than a small proportion of the estimated 25,000 students, faculty, and staff which comprise the campus community. Additionally, the limited visitor parking on campus is said to constitute a strong disincentive to the attraction of potential customers from off-campus.

While the University agreed that its food service contract prohibits catering of events on campus by off-campus vendors, it argued that this practice is based primarily upon considerations of cost-effectiveness. The selection of a single vendor with exclusive rights for on-campus food service, vending machines, and catering reportedly enables the University to get a low comprehensive bid and to keep student residence hall fees as low as possible. Additionally, the use of a single contract is said to make it easier for the University to maintain appropriate controls over building access, public health, and related considerations. Finally, it disagreed with one complainant who suggested that departments or individuals are prohibited from purchasing food elsewhere for consumption on campus.

Commission Conclusion: The complaints concerning food services offered on the Davis campus are not so much concerned with competition between a

State agency and private enterprise as with a large, private-sector purveyor of food services competing to an indeterminate extent with other, typically smaller service enterprises. We did not attempt to investigate the extent to which limited off-campus advertising of on-campus food services might impact prospective patrons of off-campus restaurants.

City of Redondo Beach -- Recreation Facilities

Complaint: The complainant charges that in June 1975 the City gave approval to his firm to construct 4 rental tennis courts in the Kings Harbor area of Redondo Beach. Subsequently, the City allowed his firm to construct 2 additional rental tennis courts and 9 racquetball courts.

In October 1975, the City constructed a total of 8 rental tennis courts at Alta Vista within 2.6 miles of his Sports Center. After he built his approved racquetball courts, the City constructed 2 racquetball courts at its Alta Vista location.

According to the complainant, the City has competed with him by consistently undercutting his prices. For example, the City's hourly tennis court rentals in 1976 ranged from \$2.00 to \$3.50 while his Sports Center charged \$4.00 to \$6.00. Similarly, City tennis rentals in 1982 ranged from \$2.50 to \$3.50 while he charged \$4.50 to \$9.00.

The complainant's gross revenues from rental tennis courts reportedly declined from \$73,228 in 1976 to \$41,061 in 1982, allegedly because of this competition. He stated that the City grossed \$36,192 from its rental tennis courts in fiscal year 1975-76, \$58,914 in the following fiscal year, and about \$50,000 in calendar year 1982.

Local Agency Response and Additional Information: The complainant is one of the master lessees in Redondo Beach. According to the City's response, the complainant's development option under the terms of the lease would have soon expired if he did not make some improvements to the property. Consequently, he elected to construct a tennis facility.

Before the complainant decided to build private tennis courts, there were approximately 24 public tennis courts in Redondo Beach -- all operating on a no-fee, first come, first served basis -- and 8 more budgeted for construction. After the City built these courts at Alta Vista, it changed its system at this location from a free play system to one in which players pay a nominal fee to cover the City's actual cost of reserving guaranteed starting times. The City confirmed that it added 2 racquetball courts at this location and 6 more free play tennis courts at other locations.

The City contends, and the complainant does not dispute, that there is ample precedent and authority for it to provide for public sources of recreation. Additionally, the City states that these facilities and programs may benefit rather than compete with the complainant's private programs. Specifically, the City courts may introduce the public to sports which they would not otherwise have undertaken. Since public facilities do not offer the amenities provided at private facilities, some

of these new tennis and racquetball enthusiasts may "graduate" to the latter facilities even though they are more expensive. The City recreation facilities at Alta Vista are described as "bare," lacking even shower and dressing rooms.

Commission Conclusion: Although the City recreation facility at Alta Vista may compete with the Sports Center, the facts of this case do not clearly establish either the extent of whatever competition may exist or that the City is the initiator of the alleged competition.

Since there were 24 free public tennis courts in Redondo Beach and 8 more budgeted before the complainant constructed private tennis courts, it appears that the complainant made a decision to initiate whatever competition may actually exist in providing tennis facilities. This decision may have been predicated simply on the perceived economics of being able to capitalize on a significant portion of the recreation market or may have been influenced by the City's requirement that he make some kind of improvements as a condition of retaining his master lessee status.

The complainant did not allege that he was unaware that the City intended to construct 8 tennis courts at the Alta Vista site 2.6 miles from his own prospective facility. The City's selection of its site was probably common knowledge months earlier because it had already been discussed, approved, and budgeted before June 1975.

The financial data reported by the complainant does not clearly establish that the proximate City tennis courts caused his Sports Center to lose revenues. Although he reported that his gross revenues declined 44 percent from 1976 to 1982, the City did not experience any growth in income from its tennis courts during this period. Based upon the fact that the City realized no more than 9 months of fiscal year 1975-76 income from its tennis courts constructed in October 1975, its calendar year 1976 income is estimated to be approximately \$54,000. Therefore, decreased patronage of the Sports Center in the period 1976-1982 cannot be attributed to the City's Alta Vista courts since the latter experienced a nearly flat utilization in the corresponding period.

The City's decision in 1983 to build racquetball courts at Alta Vista 6 years after authorizing the Sports Center's racquetball courts might appear to be competitive. The complainant certainly would not have had foreknowledge of this development. However, the complainant did not present any information which might establish that this is probably, rather than merely possibly, a competitive situation. The reported lack of amenities at Alta Vista gives credence to the City's observation that it does not attract the Sports Center's clients. Additionally, there is no basis for supposing that the City's racquetball courts would be competitive although its tennis courts evidently are not. Finally, we learned that some of the City's user-pay classes rent racquetball courts at the Sports Center, thus mitigating the alleged competition.

County Clerk's Office -- Civil Marriage Services

Complaint: A representative of the Lake Tahoe Wedding Chapel Association complained that County Clerks compete with wedding chapels throughout California by advertising and performing marriages for a fee of \$15.00. Supplemental information received from a representative of the California Wedding Chapel Association indicated that the Los Angeles County Clerk's Office performs about 7,500 marriage services annually, comprising about 11 percent of countywide marriages and 37 percent of about 20,000 marriages performed in Los Angeles City.

Local Agency Response and Additional Information: The history of County Clerks being able to perform marriages dates from 1974 when the law was changed to permit counties of 100,000 or more to have the County Clerk perform marriages (Sec. 4205.1, Civ. Code). In 1982, the population requirement was dropped. In 1984, the law was once again changed to state that any County Clerk was also an ex-officio Commissioner of Civil Marriages by virtue of holding that office. The law permits, but does not require, County Clerks to perform marriages.

According to the El Dorado County Clerk, who has a South Lake Tahoe office which allegedly competes with 7 local wedding chapels, there is no significant competition between her office and the local chapels. In fact, she states that her office performs an average of about 5 weddings per month while the local chapels perform an average of 625 weddings per month. Additionally, she states that her office does not advertise wedding services and routinely refers those who inquire concerning these services to the local wedding chapels.

Those who wish to be married by County Clerks are said to be motivated by 2 main factors. First, they may wish a secular or "civil" ceremony rather than one performed by a religious authority in a wedding chapel. Second, they may prefer the less expensive County wedding (\$15.00) to chapel services which usually range upwards from a base of about \$100.00.

We did not attempt to corroborate or disconfirm the statements of the representative of the California Wedding Chapel Association regarding the number of civil ceremonies performed in Los Angeles County and City.

Commission Conclusion: The law permits but does not require County Clerks to perform civil marriage ceremonies. However, the statute establishes the fee of \$15.00 for any marriage ceremony performed by a County Clerk or designee. Therefore, whenever a County Clerk's office offers this service, it will significantly undercut the price of wedding chapel services.

One way of reducing the appearance or reality of competition would be for the State to require County Clerks to charge more for these services. However, this would result in higher costs to some consumers of the service even if wedding chapels did not increase their prices for services.

We conclude that there is very little competition between County Clerks and private wedding chapel operators in the South Lake Tahoe area where the complaint originated, but there may be significant competition in Los Angeles.

The determination of whether County Clerks compete unfairly with wedding chapels depends fundamentally on the personal and political perceptions of whether consumers should be afforded the opportunity to purchase a simple County service economically, at close to its actual cost, or whether all consumers should be required to pay at least the going rate of \$100 or more charged by wedding chapels for more ornate and profitable services.

ATTACHMENT 3

SURVEY OF STATE GOVERNMENT COMPETITION WITH PRIVATE ENTERPRISE

Directions:

Please complete at least the initial four items including your identification, how you received this survey, whether you wish to receive a summary of survey findings when this available, and your observation of whether unauthorized competition is (or is not) a problem.

If you check the first alternative of item number four, indicating that you do not have direct knowledge of a problem, please disregard the remainder of this questionnaire and return your responses in the postage-prepaid wrapper addressed as follows:

Commission on California State Government Organization and Economy;  
1127 - 11th Street, Suite 550; Sacramento, CA 95814.

If you have specific information concerning competitive activities which may be unauthorized, please complete each item, attaching additional pages if necessary, and return your survey, postage-prepaid to the Commission by December 14, 1984.

1. SURVEY RESPONDENT: Please provide your name, identify your business or association, and include a telephone number where you can be reached if it is necessary to contact you in connection with this survey.

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2. How did you receive this survey?

- Mailed directly to a local Chamber of Commerce which I represent.  
 Mailed directly to a business I participate in or represent.  
 Received from a local Chamber of Commerce (Which? \_\_\_\_\_ )  
 Received from other source (specify). \_\_\_\_\_

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3. Do you wish to receive a complimentary summary of survey findings when this is available?

Yes  No

4. Do you know of any instance in which any State agency is engaged in what you consider to be improper competition with private enterprise?

- I do not know of any improper activities.\*
- I have specific information about improper, competitive activities.

\*If you indicated this alternative, please disregard the remainder of the survey as noted in the directions, but return your responses to the initial four questions.

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5. Do you know of different cases of improper competitive activities, that is, unrelated types of business activities which may be engaged in by one or more State agencies?

- One case only.
- More than one type of activity by one agency. (How many? )\*
- More than one type of activity by more than one agency. (How many? )\*

\*If you know of more than one case, describe the most severe case in the remaining items of this survey. (Base your judgment of severity on activities' relative economic impact on private enterprise.)

If you are aware of more than one case, please briefly summarize the less severe cases and attach the summary to this questionnaire.

6. Specify the State agency (and location) which is in competition with private enterprise.

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7. Please identify at least one business entity which competes with the State agency in providing goods or services.

Name of Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_

Suggested contact person and phone number if known: \_\_\_\_\_  
 \_\_\_\_\_

8. Describe how these State activities compete with or damage private enterprise. For example, does State business activity prohibit, restrict, or undercut the private sector's market for goods or services?

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9. Can you estimate the economic impact of these activities on private enterprise in terms of unrealized gross income?

- Less than \$5,000 annually.
- \$5,000 or more, but less than \$10,000 annually.
- \$10,000 or more, but less than \$100,000 annually.
- \$100,000 or more, but less than \$5,000 annually.
- \$500,000 or more, but less than \$1,000,000 annually.
- \$1 million or more annually (specify: \$ \_\_\_\_\_)
- Can not reliably estimate.

10. To the extent that you can, summarize the history of State involvement in these activities including duration, recency, and scope.

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11. To the best of your knowledge, do consumers pay a user-fee to reimburse the State agency for the full cost of providing these services, or do tax revenues directly subsidize the agency's cost of providing services?

- No user-fee.
- User-fee pays only part of agency's cost.
- User-fee pays entire cost.
- I don't know whether there is a user fee.
- There is a user-fee, but I don't know if it pays the entire cost.

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12. Do you have reason to believe that the agency makes a profit from revenues in excess of its actual costs to provide the goods or services? If "Yes," please specify details.

\_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Don't know.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Do you have any specific information which suggests that private enterprise could provide comparable or enhanced service, efficiency, or economy if there were less governmental competition in the provision of these goods or services? If "Yes," please specify details.

\_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Do you know of any business which has contracted to provide these or similar goods or services on behalf of this State agency? If "Yes," please identify.

\_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. If you or a representative have contacted any administrator at the competing State agency in an attempt to resolve your concerns or complaints, please indicate below. Additionally, summarize the agency response to your inquiry, or you may attach any correspondence which you consider relevant.

\_\_\_\_\_ Made contact \_\_\_\_\_ No contact

Who? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When? \_\_\_\_\_  
\_\_\_\_\_

Where? \_\_\_\_\_  
\_\_\_\_\_

16. "Unauthorized" State agency activities are those which are not authorized by constitutional or statutory provisions. Any activities which are conducted without express or implied authority are unlawful.

To the best of your knowledge, what is the status of the activity you have reported?

- The activity is authorized.
- The activity is not authorized.
- I do not know whether the activity is authorized.

17. Which alternative best expresses your view of the proper role of State agencies as it relates to the competitive activities you have described?

Indicate one of the following:

- Should continue to directly provide these goods or services, but the agency business activities should be subject to certain conditions or controls (specify); or
- Should contract out some or all of these activities to private enterprise, but should actively monitor their adequacy and cost to protect consumers; or
- Should relinquish all responsibility for the provision of these services and instead rely entirely upon competitive forces in the private, for-profit sector; or
- Other (please specify).

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18. If you know of an instance where private enterprise could provide a good or service to a State agency on a more economical basis than another State agency which currently provides the good or service, please outline the circumstances being as specific as possible.

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**ADDITIONAL COMMENTS:** Feel free to attach your additional comments relative to any items in this survey or other points which may be germane.