

## **Privatization: Not an Extraordinary, But Nevertheless Necessary Debt Limit Measure**

**EXECUTIVE SUMMARY** – Washington has a dirty little secret. Much of the Federal government is comprised of programs, activities, and agencies that are not inherently governmental in nature, but are commercial – they duplicate and unfairly compete with private enterprise.

When Congress considers a debt limit increase, it should reduce future deficit spending by including a comprehensive framework to privatize programs, activities, and agencies that can be removed from the Federal government and best performed by the private sector. Such an initiative would implement the “Yellow Pages Test” – a test that says any government activity that is available from a private company in the Yellow Pages of the telephone book should either no longer be a responsibility of the government, or it should actually be performed by a private firm under contract with the government. At a minimum, each such commercial activity of the government should be explored for market competition rather than perpetuating in a government monopoly. The “Yellow Pages Test” has been successfully applied by Mayors and Governors, both Democrat and Republican, across the Nation. By applying it to Federal activities, Congress would improve the quality of the service, subject the activity to market competition to break up the government monopoly, lower costs and expenditures, and provide a better value to the taxpayer.

**BACKGROUND** – To find the foundational tenets of modern conservatism, one need only look at Barry Goldwater’s 1960 tome, *The Conscience of a Conservative* and Ronald Reagan’s memorable 1964 speech, *A Time for Choosing*. Goldwater wrote, “the federal government is now the biggest landowner, property manager, renter, mover and hauler, medical clinician, lender, insurer, mortgage broker, employer, debtor, taxpayer and spending in all of history”. He went on to note, “the businessman is hampered by a maze of government regulations, and often by direct government competition”. He wrote, “the root evil is that the government is engaged in activities in which it has no legitimate business” and suggested “the government must begin to withdraw from a whole series of programs that are outside its constitutional mandate ... activities that can be better performed by lower levels of government or by private institutions or by individuals.”

In his 1964 speech, “A Time For Choosing”, Ronald Reagan said, “They also knew, those Founding Fathers, that outside of its legitimate functions, government does nothing as well or as economically as the private sector of the economy.”

While neither used the word “[privatization](#)”, both were advocating reliance on private enterprise, rather than government performance of commercial activities.

Margaret Thatcher noted, “a system of free enterprise has a universal truth at its heart: to create a genuine market in a state you have to take the state out of the market” (Reason Foundation Annual Privatization Report (2006)) and “Privatisation is at the centre of any programme of reclaiming territory for freedom” Downing Street Years (1993).

Goldwater and Reagan were commenting on a concept as old as the republic. The business interests of George Washington included being first president, as well as an investor in, the Potowmack Company, a for-profit firm created in 1785 to make improvements to the Potomac River and improve its navigability for commerce. That venture ultimately resulted in the Chesapeake and Ohio (C&O) Canal.

In 1932, a Special Committee of the House of Representatives expressed concern over the extent to which the government engaged in activities which might be more appropriately performed by the private sector. The first and second Hoover Commissions expressed similar concern in the 1940's\* and recommended legislation to prohibit government competition with private enterprise. However, there was no formal policy until 1955, when the House passed, and the Senate Committee reported, legislation to require the Executive Branch to increase its reliance on the private sector. Final action was dropped only upon assurance from the Executive Branch that it would implement the policy administratively. \*(The first (1947) and second (1953) Commission on Organization of the Executive Branch of the Government.)

[Bureau of the Budget Bulletin 55-4](#) was issued in 1955 prohibiting agencies from carrying on any commercial activities which could be provided by the private sector. That Federal policy, implemented by President Eisenhower in 1955 said, "The Federal government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels."

The Bureau of the Budget became the Office of Management and Budget and "bulletins" became "Circulars". [OMB Circular A-76](#) succeeded Bureau of the Budget Bulletin 55-4, and the policy that the government should not compete with private enterprise remained through Democrat and Republican administrations until the provision was eliminated by George W. Bush in 2003.

CURRENT STATUS – Today, the concept is commonly referred to as the "Yellow Pages Test". Any government activity that is available from a private company in the Yellow Pages of the telephone book should either not be a responsibility of the government, or it should actually be performed by a private firm under contract with the government. At a minimum, each such commercial activity of the government should be explored for market competition rather than perpetuating in a government monopoly. The "Yellow Pages Test" has been successfully applied by Mayors and Governors, both Democrat and Republican, that says if you can find private companies, particularly small business, in the Yellow Pages that do something, the Federal government either should be doing it or the government's activity should be subject to market competition. The service should be subject to competition to break up the government monopoly and provide a better value to the taxpayer.

A significant amount of what the federal government does is not government at all – it is the carrying out of businesses inside the shell of government.

The Federal government employs some 2 million Executive Branch, Non-Postal, Full-time, Permanent Employees? (Source: [OPM](#), [OMB](#))

More than half – some 1.1 million of those employees – are in jobs that are “commercial” in nature? (Source: [OMB](#))

Only a handful of those 1.1 million positions have been studied under OMB Circular A-76 to determine whether government employees or private sector workers can perform these “commercial” activities more effectively. In fact, Congress imposed numerous [restrictions](#) on competitive sourcing, including a [moratorium](#) on A-76 studies in 2009, a provision that is still the law today, denying taxpayer [savings and efficiency](#). The recently enacted Omnibus Appropriations Act renewed the moratorium (“SEC. 741. None of the funds appropriated or otherwise made available by this or any other Act may be used to begin or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.” Financial Services and General Government Subdivision, for GSA Governmentwide General Provisions, page 641).

Since Congress enacted the Federal Activities Inventory Reform (FAIR) Act (Public Law 105-270) in 1998, and the Clinton Administration identified 850,000 Federal positions that could be subject to the Yellow Pages test, less than 10 percent of those positions have actually been reviewed. Today, that 850,000 number has climbed to 1.1 million.

President Reagan issued [Executive Order 12615](#) – Performance of Commercial Activities. This Executive Order has NOT been repealed by any succeeding President, but it also has not been followed or implemented. Significant savings can be achieved by implementing (or codifying with legislation) this order.

In it’s heyday, OMB Circular A-76 yielded savings of 30%, according to [testimony](#) before the U.S. Senate by the Center for Naval Analysis on its study, “Outsourcing and Competition: Lessons Learned from DOD Commercial Activities Program,” Center for Naval Analysis, October 1996.

The [Heritage Foundation](#) estimated that if competition was applied to the 850,000 positions identified in the Clinton Administration the annual savings would reach \$27 billion.

[Senator John Thune \(R-SD\)](#) has long introduced the Freedom from Government Competition Act to provide for a process to review every commercial activity in the government. A companion bill was introduced for several years by the-Rep. John J. “Jimmy” Duncan, Jr. (R-TN) and most recently in the 116<sup>th</sup> Congress, [H.R. 5329](#) by Rep. Greg Steube (R-FL).

It preserves those activities that are inherently governmental (those only the government should do), injects competition into those that are commercial in nature, and provides several options for the Executive Branch to implement. It implements a “Yellow Pages Test” to make certain government is not unfairly competing with small business and to assure that products and services are provided at the best value to the taxpayer.

There has also not been much of a privatization push in the Federal Government for some 25 years.

The Business Coalition for Fair Competition, has identified \$511 billion in deficit reduction through privatization of programs that duplicate the private sector and tax reform to close loopholes that disadvantage private, for-profit businesses.

There are still more privatization opportunities that can be pursued. Such strategies can include:

- Direct Conversion
- Contracting Out
- Vouchers
- Asset Sales and Leases
- Divestiture
- Public-Private Partnerships (P3)

In 1987, President Reagan created a [Privatization Commission](#). Most of the activities identified in the commission's [final report](#) still reside within government. Congress and the Biden Administration should review the report, identify those agencies and programs that the Reagan Commission recommended for privatization that are still in the Federal government (have not been privatized), and get a current budget expenditure estimate.

Because this was all done late in the Reagan Administration, things were started, but little was implemented. However, it did [set a stage](#) and the need to implement these Reagan principles is greater now than ever before.

The United States has had success with privatization. Among the Federal agencies, programs, and activities that have been productively and profitably transferred to the private sector are Conrail, the National Consumer Cooperative Bank, the Alaska Power Administration, the Elk Hills Naval Petroleum Reserve, the U.S. Enrichment Corporation, and Intelsat.

Implementation of the aforementioned privatization strategies is timely and appropriate in the current debt limit debate as it provides several benefits. They include:

- Lowering the cost of the delivery of services through competition and contracting out, or completely eliminating Federal expenditures through a full privatization or divestiture;
- Continuing to make services available to the American public while reducing expenditures and lowering the deficit and debt, (In the book *Reinventing Government*, (1992), Osborne and Gaebler quote Gov. Mario Cuomo (D-NY) who stated "It is not government's obligation to provide services, but to see that they're provided.");
- Improving the quality of services delivered to the American people;

- In the case of an asset sale or lease, or a P3, generating revenue to the Federal treasury;
- Focusing agencies on core missions;
- Achieving balance in the Federal workforce;
- Improving accountability and better managing of risk;
- Spurring innovation and gaining access to new technology;

CALL TO ACTION – The 118<sup>th</sup> Congress should take a major step toward deficit and national debt reduction by attaching to legislation raising the debt limit provisions (1) repealing the A-76 moratorium, and (2), privatizing agencies, programs and activities that no longer need to reside in the Federal government.

WHAT TO PRIVATIZE – The following is an illustrative list of Federal activities that can be accomplished by contract with firms in the private sector, including small business, veteran, and minority-owned businesses. A list of commercial activities was included in [Appendix A to the 1983 version of OMB Circular A-76](#).

Mapping & Geospatial	Health Care Services
Computer Programming/IT	Laboratory Testing
Landscaping	Trash Collection
Photography	Golf Courses
Construction	Amtrak
Laundry Services	Air Traffic Control
Printing	VA Hospitals
Pest Management	Postal Service
Library Services	Depots
Motor Pool/Auto Repair	Commissaries
Architecture	Transit
Engineering	Surplus Land & Buildings
Land Surveying	Prisons
Food Service	Public Housing

Fannie Mae & Freddie Mac

Federal Loan Programs

Welfare and Social Services

Education

Power Marketing

Insurance

TSA Baggage Screening

Bus & Transit

Hotels & Conference Centers

Market Research and Survey/Opinion Polls

Laboratory Accreditation

Health Insurance Advising

Building Code Software

Other candidates for privatization can be found in a variety of reliable sources. These include:

- Reagan Privatization Commission's [final report](#);
- [Reason Foundation](#)
- [Cato Institute](#)
- [Heritage Foundation](#)
- [Fox News](#)
- Reagan-era [Grace Commission](#) and [Citizens Against Government Waste](#)
- Clinton-Gore [National Performance Review/Reinventing Government](#)
- [Urban Institute](#)
- [Business Coalition for Fair Competition](#)
- [Better Government at Half the Price: Private Production of Public Services](#), James T. Bennett, Manuel H. Johnson.

Moreover, each year millions of dollars in taxpayer money are expended for studies and reports by various government entities. These studies often recommend privatization initiatives, but they are never implemented. Conservatives in Congress should go through reports of the following entities to identify additional candidates for privatization:

- Government Accountability Office (GAO)
- National Academy of Public Administration (NAPA)
- Individual agency Inspectors General (IG)
- Congressional Budget Office (CBO)
- National Academies/National Research Council (NRC/NAS)
- Federal Advisory Committees (FACAs)

A comprehensive list of program and agency eliminations where the product or service will be provided by the private sector, rather than by government, should be tied to deficit reduction and the debt limit.

[DON'T LET AMERICA BE LIKE THE OLD SOVIET UNION](#) – Ronald Reagan used to tell this [joke](#): The man goes to the official Soviet auto agency showroom, puts down his money and is told that he can take delivery of his automobile in exactly 10 years.

"Morning or afternoon?" the purchaser asks.

"It's ten years from now, what difference does it make?" replies the clerk.

"Well," says the car-buyer, "the plumber's coming in the morning."

The same government inefficiency exists when government in the United States operates commercial activities.

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