

GOVERNMENT CODE

CHAPTER 2162. STATE COUNCIL ON COMPETITIVE GOVERNMENT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2162.001. DEFINITIONS. In this chapter:

(1) "Council" means the State Council on Competitive Government.

(2) "Local government" means a county, municipality, special district, school district, junior college district, or other legally constituted political subdivision of the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 56, eff. June 20, 2003.

Sec. 2162.002. COMPETITION, INNOVATION, AND CREATIVITY IN STATE SERVICES. The state shall encourage competition, innovation, and creativity among service providers to improve the quality of the state's services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 2162.051. COMPOSITION OF COUNCIL. (a) The State Council on Competitive Government consists of the following individuals or the individuals they designate:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the comptroller;
- (4) the speaker of the house of representatives;
- (5) the commission's presiding officer; and
- (6) the commissioner of the Texas Workforce Commission representing labor.

(b) The governor is the presiding officer of the council.

(c) If the speaker of the house of representatives is not permitted by the constitution to serve as a voting member of the council, the speaker serves as a nonvoting member.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.09, eff. Sept. 1, 2003.

Sec. 2162.052. MEETINGS. (a) The council shall meet as often as necessary to perform its duties.

(b) The council is subject to:

- (1) the open meetings law, Chapter 551; and
- (2) the open records law, Chapter 552.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 2162.101. GENERAL POWERS. In performing its duties under this chapter, the council may:

(1) adopt a rule governing any aspect of the council's duties or responsibilities;

(2) hold a public hearing or conduct a study; and

(3) consult a private commercial source.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2162.102. SELECTION OF SERVICE PROVIDER THROUGH COMPETITION. (a) The council shall identify commercially available services being performed by state agencies and study the services to determine if they may be better provided by selecting the service providers through competition with other state agency providers of the services or private commercial sources.

(b) If the council determines that a service identified under Subsection (a) may be better provided by selecting the service provider through competition, the council shall require the state agency providing the service to engage in any process, including competitive bidding, developed by the council to select a service provider through competition with other state agency providers of the service or private commercial sources.

(c) In performing its duties under this chapter, the council may:

(1) require a state agency to conduct a hearing, study, review, or cost estimate, including an agency in-house cost estimate or a management study, concerning any aspect of a service identified under Subsection (a);

(2) develop and require state agencies to use methods to accurately and fairly estimate and account for the cost of providing a service identified under Subsection (a);

(3) require that a service identified under Subsection (a) be submitted to competitive bidding or another process that creates competition with private commercial sources;

(4) prescribe, after consulting affected state

agencies, the specifications and conditions of purchase procedures that must be followed by the commission and a state agency or a private commercial source engaged in competitive bidding to provide a service identified under Subsection (a);

(5) award a contract to a state agency providing the service, another state agency, a private commercial source, or a combination of those entities, if the bidder presents the best and most reasonable bid, which is not necessarily the lowest bid; and

(6) determine the terms of a contract for service or interagency contract to provide a service identified under Subsection (a).

(d) To the extent the council determines is feasible, a local government may voluntarily participate in a contract awarded by the council or a state agency under this chapter. A local government that purchases a good or a service under a contract awarded under this chapter is considered to have satisfied any state law requiring the local government to follow a competitive purchasing procedure for the purchase.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 57, eff. June 20, 2003.

Sec. 2162.103. COST COMPARISON AND CONTRACT CONSIDERATIONS. (a) In comparing the cost of providing a service, the council shall consider the:

(1) cost of supervising the work of a private contractor; and

(2) cost of a state agency's performance of the service, including:

(A) the costs of the comptroller, attorney general, and other support agencies; and

(B) other indirect costs related to the agency's performance of the service.

(b) A bid or contract must include an analysis of health care benefits, retirement, and workers' compensation insurance for a contractor's employees that are reasonably comparable to the health care benefits, retirement, and workers' compensation insurance of the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.66, eff. Sept. 1, 1997.

Sec. 2162.104. DUTIES OF AFFECTED STATE AGENCIES. A state agency shall perform an activity required by the council in performing its duties or exercising its powers under this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2162.105. EXEMPTION FROM PURCHASING LAWS. A contract by the council or a decision regarding whether a state agency is required to engage in competitive bidding is exempt from another state law regulating or limiting state purchasing or a purchasing decision.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.