



# Establishing a competition council in Minnesota

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## CONTENTS

<b>Background</b>	<b>1</b>
<b>Introduction</b>	<b>2</b>
<b>Setting up a competition council</b>	<b>3</b>
<i>Statutory definition of a council</i>	
<i>Membership</i>	
<i>Selection process</i>	
<i>Terms of office</i>	
<i>Compensation</i>	
<i>Removal</i>	
<i>Expiration date</i>	
<b>What should the competition council do?</b>	<b>4</b>
<i>Operating principles for the competition council</i>	
<i>Choosing which public services will face competition</i>	
<i>"Managed cooperation" and other ways to improve public service</i>	
<i>Performance-based organizations</i>	
<b>Examples from other states</b>	<b>6</b>
<b>Potential pitfalls of introducing competition</b>	<b>7</b>
<b>Keys to successful competition in the public sector</b>	<b>8</b>
<b>Appendix A</b>	
<i>Sample methodology for evaluating competition opportunities</i>	
<b>Sources</b>	

## Background

A new law passed during Minnesota's 2001 legislative session requires the director of the Minnesota Office of Strategic and Long-range Planning to create a competition council.

According to the law, "the competition council must make recommendations to the executive and legislative branches on opportunities, strategies and best practices for competitive delivery of services or goods currently delivered by government."

This report offers some initial considerations for creating a council to pursue more competitive delivery of goods and services now provided by Minnesota state government.

It is intended to fully inform any next steps toward establishing a competition council.

Economists would define "competitive" as the product or service that offers the greatest *value* at the lowest overall *cost* to the state.

According to the research literature on competition, there are a broad range of options for achieving this "highest overall value, lowest lifetime cost" result, including:

- Managed competition
  - Public versus private*
  - Private versus private*
  - Public versus public*
- Franchise agreements
- Creation of internal markets
- Vouchers
- Commercialization (government stops the activity altogether)
- Self-help (also referred to as "transfer to nonprofit organization")
- Volunteers
- Government corporations (e.g., United States Postal Service)
- Asset sale or long-term lease
- Private infrastructure development and operation

While there are strong disagreements among various interests regarding the pros and cons of each of these options, there is considerable evidence that higher performance in government, as anywhere, requires that people's performance is measured, compared, recognized and appropriately rewarded or corrected.

Why do we have the system that we have? One reason may be that policy debates on any given issue often lack clarity about what markets do well and what governments do well. This confusion arises, in part, because all parties to the policy process are often part of a cycle in which:

1. Citizens perceive a need and petition government to fill it.
2. Government enacts new laws, regulations, tax credits, grant programs or subsidies to satisfy the need.
3. These government actions sometimes have unintended consequences and may or may not resolve the original perceived problem.
4. People start the cycle again by calling for additional government intervention to remedy the unintended wrongs of the previous government action (number 2 above).
5. The cycle usually continues with little explicit discussion about how market forces might help solve the problem or what aspects of the problem the market could never solve.

Thus, policy-makers often layer well-intended solutions on top of one another – like barnacles accumulating on the ship of state – in ways that distort the market and miss opportunities to harness its power.

Markets cannot solve all problems. But finding ways to align private interests with public goals can be a reasonable and prudent *first* strategy for many issues. If market forces cannot lead to the desired public outcome – or if the nature of the issue warrants more direct government intervention – then other public policy approaches may be appropriate.

### **Managed competition**

Managed competition has become among the most popular strategies for introducing market forces into government work. Its stated goal is not simply to reduce cost, but to increase value for the money spent. Broadly defined, it is a carefully directed use of market forces within the public sector. It requires potential providers of government services, whether they are private firms or government agencies, to compete against one another for government work on the basis of their performance.

The increased attention that managed competition has been receiving at all levels of government is due to several factors:

- Budgetary problems faced by government.
- Ongoing interest in, and pressure for, improving the quality of public services.
- More questioning of whether governments should, or can afford to, provide certain services or should rely on the private sector.

Governments have used two main tools to implement managed competition: competitive bidding and competitive benchmarking.

*Competitive bidding* forces organizations to compete to provide goods and services paid for by the public sector. There are three basic variations:

- private-versus-private competition (also known as *contracting out* or *outsourcing*);
- public-versus-private competition in which public agencies are allowed to compete with private firms; and
- public-versus-public competition, in which only public organizations are allowed to bid.

*Competitive benchmarking* measures and compares the performance of public and private organizations. It publicizes the results in report cards, performance tables, and other types of scorecards. This creates a psychological competition between organizations, appealing to their members' pride and desire to excel. It can also be used as the basis for financial rewards.

## **Introduction**

The legislative intent for creating a competition council is to foster an environment in government that encourages and rewards entrepreneurial drive, creativity, innovation and economic efficiency – an environment that leads to the greatest value for citizens at the lowest lifetime cost.

Competition proponents argue that it can be a powerful force for improving government performance because it breaks down the historical monopoly that some government employees have in their work, forcing them to compete for work just like businesses in a private marketplace.



Labor unions and others often counter that private contractors cost less because they may pay their workers less and offer fewer benefits. And while some research suggests that this is frequently the case for low-skilled jobs, such as custodial work, there is also some evidence that reducing costs does not necessarily translate into lower worker pay.

Authors of *The Reinventor's Fieldbook: Tools for Transforming Your Government* cite a study by the Council of State Governments, for example, which concluded that in many instances private organizations can provide services at lower cost without lowering wages. Apparently, this is because "private firms give fewer days off with full pay, use more part-time workers, have greater managerial authority to hire and reward good workers, and, if necessary, to discipline or fire unsatisfactory ones [and] have clearer job definitions and greater accountability."

## Setting up a competition council

There are four basic questions that members of a competition council would need to answer to ensure that competitive forces actually improve public outcomes:

*1. What are the goals of creating competition?* Successfully introducing competition first requires being very clear about the goals it is meant to achieve. The literature recommends that *effectiveness* and *efficiency* be key criteria, but that states should retain responsibility for service quality and accountability.

*2. Which aspects of public work should be opened to competition?* There are four key functions that must

be performed in providing goods and services to the public:

- **Policymaking:** deciding whether a service should be provided at all, and if so, at what levels of service and quality.
- **Funding:** how to pay for the service and who should bear the costs.
- **Administration and oversight:** managing the day-to-day operations.
- **Service delivery:** providing the actual goods or service.

There must be a clear understanding of which of these basic functions should be carried out by the public sector and which by the private sector. In some instances it might be appropriate to split the responsibilities even within these functional areas.

*3. Which option would work best for introducing competition?* As listed earlier, there is a whole continuum of options between an all-government approach and total reliance on the private sector. Deciding on the right tool for creating competition appears to be a key factor for success.

*4. Are the conditions right for competition?* In order for competition to produce beneficial results, it is necessary for there to be a well-developed and competitive private sector market for the activity under consideration. Many activities are taken up by government precisely because the private sector is unwilling or unable to do them efficiently or effectively.

Past experience suggests that agencies with vested interests, and others who are naturally leery of competitive forces, will be suspicious of whoever is empowered to identify services for competitive bidding. This reality makes it all the more crucial to establish a neutral, nongovernmental council with balanced representation,

## Statutory definition of a council

Minnesota Statute 15.014 defines a council as a committee on which "at least one-half of the members are required to be certain officers or representatives of specified businesses, occupations, industries, political subdivisions, organizations, or other groupings of persons other than geographical regions."

According to the same statute, committees or councils that last two years or less are designated as "advisory task forces."

## Membership

In addition to being a manageable size, perhaps no larger than seven to nine, the council should include a balance of viewpoints. Its membership might include:

- Labor unions (such as MAPE and AFSCME)
- Entrepreneurs and business leaders
- Legislative representatives
- Executive branch representatives
- Government groups such as the Citizens League
- Academic researchers who have done relevant work

## Selection process

The legislation requiring establishment of a competition council gives authority for creating it to the director of the Office of Strategic and Long-range Planning. The director could seek input on membership from the governor and the Minnesota House and Senate. The aim should be to end up with a broad, diverse mix of people who offer unique perspectives and expertise, are creative, forward-looking and understand the importance of evaluating the full,

short- and long-term costs and benefits of any decision, product or service.

The state should use the Secretary of State's open appointments process and other means to advertise the creation of the council's positions widely throughout the state. The state should use this opportunity to educate potential council members, affected interests and the public about the competition council's purpose and goals.

### **Terms of office**

In order to keep the membership fresh and creative, members of the competition council should be appointed to one or two-year terms. Members may serve until their successors are appointed and qualify.

### **Compensation**

Minnesota Statute 15.059 describes the terms, compensation, removal and expiration date of advisory councils and committees. Creating the council under this statute is optional, but, if used, members of the competition council would be entitled to a per diem of \$55 per day (for time spent on council activities) plus expenses as outlined in the commissioner's plan adopted under Section 43A.18, subdivision 2. Members may also receive compensation for child care expenses if they would not have otherwise incurred them. Members could decline any and all of these payments.

### **Removal**

The appointing authority may remove a member at any time. In the case of a vacancy on the council, the appointing authority may appoint a replacement for the remainder of the unexpired term.

### **Expiration date**

The existing statute governing advisory bodies states that they automatically expire after a certain date unless explicitly reauthorized in law. Changes made to Minnesota Statute 15.059 during the 2001 legislative session set an automatic sunset date of June 30, 2003 for all advisory councils, committees and task forces, unless otherwise provided for in law.

## **What should the competition council do?**

Minnesota state government already relies on the private sector in a variety of areas, such as road building and educational testing. But the legislative intent behind the competition council is to have a thoughtful group of people able to identify best practices for government on a continual basis by looking at what other states have done (and are doing) and by recommending creative ways to achieve continuous improvement in the outcomes that Minnesotans care about.

Evidence suggests that carefully managed competition can, under the right circumstances, offer the public improved service delivery at lower cost. It also shows, however, that the reverse is true: poorly managed competition or competition under the wrong circumstances can lose money and result in poor delivery.

It is therefore important that the state approach increased competition for government goods and services in a deliberate and logical manner, clearly establishing its objectives and choosing carefully how, when and where it makes sound policy and economic sense.

### **Operating principles for the competition council**

The competition council should develop a set of operating principles. It is recommended that the council:

- Gather information from the widest practical range of sources, both experts and affected parties.
- Create an environment for discussion and information sharing that is frank, open, respectful and invites innovation.
- Consider impacts on the whole system (short-term and long-term costs and benefits).
- Explore, first, the ability of competitive markets, accurate prices and incentives to achieve a desired outcome before considering other government-based solutions.
- Be results oriented.

### **Choosing which public services will face competition**

One of the first orders of business for a new competition council will be developing some decision rules or principles to help them determine which government activities are appropriate to open up to competition and which are not (see *Appendix A* for an example).

The literature on competition in government is full of advice about starting small, moving forward in phases and beginning with services that are easiest to bid out. This approach increases the chances of achieving success before considering larger reforms.

The authors of *The Reinventor's Fieldbook: Tools for Transforming Your Government*, David Osborne and Peter Plastrik, warn that "decisions about which public services to deliver through contractors are subject to the traditions, histories,



ideologies, and public values of a particular nation, state or community."

For example, they recommend avoiding competition if introducing it would:

- Jeopardize important public policy goals, such as safeguarding due process rights or providing security.
- Replace a governmental monopoly with a private one.
- Put at risk critical public capabilities.
- Violate the public's strongly held values about a particular activity being a governmental responsibility.

These same authors survey six different approaches for identifying which government services to subject to competition. They quickly note that only the last three of these are very effective:

1. Asking only public organizations to identify targets.
2. Asking only private providers to identify targets.
3. Having a group of elected officials identify targets.
4. Setting up a nongovernmental commission to select targets.
5. Requiring each organization to competitively bid a certain amount of services each year.
6. Making competitive bidding mandatory.

Of these options, Osborne and Plastrik strongly recommend number four, setting up a neutral, nongovernmental commission to identify and select candidates for competition.

#### EXAMPLES OF FUNCTIONS THAT GOVERNMENTS HAVE OPENED TO COMPETITION

Adoption services	Mail/postal services	Utilities (electric/gas)
Air traffic control	Mass public transit	Vehicle maintenance
Airports	Medical insurance	Wastewater treatment
Animal control/shelters	Municipal water supply	Welfare
Campgrounds	Museums	Weatherization
Concessions	Nursing homes/services	Wildlife resources
Data processing	Parks and preserves	Weather forecasting
Day care centers	Parking lots/fines	
Dropout prevention	Personnel management/recruiting	
Employment training	Printing/publishing	
Food services	Prisons and jails	
Fire suppression	Road maintenance and repair	
Garbage/refuse collection	Renewals of drivers/vehicle licenses	
Hazardous waste management	Satellites/telecommunications	
Information technology	Schools	
Inner-city housing	Security personnel/systems	
Inspection/testing services	Social security/pensions	
Janitorial services	Sports facilities/stadiums	
Landfills/solid waste	Street cleaning	
Landscaping	Substance abuse treatment	
Liability insurance	Tax collections/returns processing	
Libraries	Telephone services	
Locator services	Toll roads/bridges	

National, state and local governments have introduced competitive forces into a wide variety of functions.

In the area of welfare alone, more than 30 states are considering, or have already contracted with, private companies to deliver aspects of these programs, ranging from screening welfare applicants to running welfare-to-work programs, according to a survey by the American Public Welfare Association.

Although governments have introduced competition into a broad array of areas, the literature on the topic recommends starting slowly with lower-skill services or functions that could be easily automated. Minnesota's competition council might identify which activities within Minnesota state government best match these characteristics as a way to define the initial universe of possibilities.

One way to do this would be to have the competition council sponsor a series of forums two or three times per year. Each forum could focus on a single set of services that the council is considering for greater competition. Outside experts could testify before the council to help inform their deliberations about which, if any, of the services under consideration would benefit from greater competition.

These outside participants might be asked to:

- Clearly define any problems in particular government services, from their perspective.
- Identify opportunities to better harness market forces to address these problems and define government's appropriate role, if any.
- Suggest solutions.

## "Managed cooperation" and other ways to improve public service

Identifying government services to subject to greater private sector competition is not the only option for improving public service.

The council could also evaluate the state's personnel practices. The very nature of collective bargaining, in which unions argue that all their members are of equal caliber and should therefore be treated the same, runs counter to rewarding stand-out performance. Salaries based on seniority and the size of one's budget and staff can make government employees natural enemies of competition.

Another option is to tie employee compensation to how well they contribute to the organization's goals. Doing so would have huge implications for the current "step increase" approach that rewards longevity more than excellence.

### Performance-based organizations

One specific example of introducing competitive forces into the public sector without actually shedding a function is being developed within the Ventura administration. *Performance-based organizations* are discrete units within government that commit to clear objectives, specific measurable goals, customer service standards, and targets for improved performance. Once designated, they have customized managerial flexibilities and a competitively hired chief executive officer, who signs an annual performance agreement. A share of his or her pay depends on the organization's performance. In the United Kingdom, all 138 executive agencies have been converted to this approach.

Officials within the Ventura administration hope to adapt this idea, drawing also on the experience of Minnesota's charter schools, to identify an entire unit or division within state government that would welcome much greater administrative flexibility in exchange for a commitment to measurable performance goals. The parent agency would retain responsibility for policy direction, but the new *Chartered Performance Organization* would be responsible for day-to-day operations, based on three key characteristics:

1. A clear focus on, and accountability for, producing specific results for citizens.
2. Agreed upon consequences for success and failure.
3. Flexibility in terms of finances, human resources, purchasing and other administrative functions and processes.

The administration hopes to introduce legislation in the 2002 session asking the Legislature to endorse this approach on a pilot basis.

Competition can be an important factor in getting good outcomes. But somewhat ironically, *cooperation* within teams and across agencies can be just as crucial. Research suggests that to be successful, states must carefully tailor competition to support cooperation among employees in order to avoid stimulating the wrong behavior, such as hoarding information or hoarding successful innovations.

In addition to contemplating greater competition in parts of the public sector, perhaps the council should find ways to reward managed cooperation, by setting specific goals and rewarding agencies for cooperating in

achieving those goals. For example, at the agency level, reward systems could give teams rather than individuals incentives for high performance.

## Examples from other states

A number of other states have either studied or tried some form of competition in the public sector. Their experiences represent both hope for success and cautionary tales about what not to do.

**Kansas.** The public agency that previously delivered child welfare services, such as adoption and foster care, no longer delivers these services, but instead is charged with purchasing them, effectively creating a market for high quality adoption and foster care. The agency's main responsibilities are now to purchase the highest value services and monitor the private contracts. State officials admit that they did not have enough data to accurately estimate the cost of this transition, which turned out to be \$352.6 million over four years, 63 percent higher than originally projected.

**Michigan.** Michigan created a commission in 1992 to study the possibilities for greater competition in state government. The state reviewed every function in every department with the aim of making recommendations to either open them to competition, eliminate, retain or modify them. After more than two years, the process generated a lot of paper but reportedly little real impact, with some initiatives actually costing taxpayers more. After a half-dozen relatively big-ticket efforts, one or two major successes and a batch of smaller projects, no one seems to



know how much money the initiatives are saving. Their experience suggests that it is a mistake to attempt to do everything at once.

**Virginia.** The Virginia Commonwealth Competition Council was established in 1995 as an independent agency in state government. The 15-member bipartisan council has three staff and is charged with providing on-going direction for Virginia's competition initiatives, and identifying state services that could be opened to greater competition. Of the 15 members, the General Assembly appoints eight (two legislators and two citizens appointed by the House; two legislators and two citizens appointed by the Senate). The Governor appoints the remaining seven (four government executives and three business leaders).

According to its executive director, the council's two main keys to success are that the Governor, the Legislature and citizens are represented on it and that it is a permanent body charged with continuous improvement in state government. The director believes that making the council permanent has meant that it did not have to "reinvent the 'competitive government' wheel with each administration or passing fad." The Commonwealth's Competition Council has an extensive Web site: [www.egovcompetition.com](http://www.egovcompetition.com), including a database of best practices: [http://www.vipnet.org/coc/best\\_practices/bestpractices.html](http://www.vipnet.org/coc/best_practices/bestpractices.html).

A 1997 study by the federal General Accounting Office studied competition efforts in Virginia, New York, Michigan, Georgia, Massachusetts and the city of Indianapolis, Indiana. According to the executive director of Virginia's competition council, among the states studied, only Virginia's council remains.

**Wisconsin.** Wisconsin garnered national attention when it dramatically redesigned its welfare programs to require assistance recipients to work. The Wisconsin Works (W-2) program also led to partially privatizing the administration of welfare benefits and introduced performance measures. According to research by the Reason Public Policy Institute, roughly 70 percent of the state's caseload is handled by private entities, both for-profit and nonprofits. Over the first two years, the state saved an estimated \$10.25 million, the difference between what it paid private vendors and what it would have had to pay the counties to administer the program.

## Potential pitfalls of introducing competition

This sampling from other states suggests that Minnesota's leaders need to be aware of the potential problems and risks that competition carries with it to ensure that any new competition council will make recommendations that are in the best interests of Minnesota's citizens.

Potential problems and risks that governments face when they move toward a greater degree of competition for services include:

- Accountability – how can government ensure that it does not lose control, but rather retains an appropriate degree of oversight and responsibility?
- Accurate cost comparisons – government needs to ensure that it accurately projects the savings from using the private sector. There is a tendency for governments to

overstate administrative savings by understating the cost of such functions as preparation and oversight of contracts and contractors.

- Realization of net benefits – what steps are needed to ensure that the potential benefits of competition are captured for taxpayers and not shifted to contractors through increased profit margins, overcharging or corrupt business practices?

- Quality control – there need to be mechanisms in place to ensure that citizens end up being well served. This could include a place for citizens to go with complaints and periodic performance audits.

- Legal considerations – the state's legal liability and other issues regarding contract law pose potential problems.

- Service disruptions – how does government protect against untimely disruptions in service due to inadequate performance or withdrawal from service?

- Resistance from affected workers – one of the strongest obstacles to managed competition is often employee unions.

- Dismantling of public institutions and skills – what are the short-term and long-term implications of dismantling public institutions and public labor skills, in the event that use of the private sector turns out to be less desirable than initially hoped for? Many attempts to inject competition and market forces into government operations fail.

# Keys to successful competition in the public sector

Six key political and organizational needs for successfully implementing competitive strategies are:

## 1. Secure a political champion.

Since introducing competition in the public sector has inherent political risks and will inevitably meet with some resistance, having a political leader with a comprehensive vision and a workable framework for achieving better public outcomes is critical to success.

**2. Adopt a comprehensive approach, but move forward in phases.** Start off with projects in several major departments. This spreads out the opposition, democratizes the process and gives a better chance of achieving a ripple effect across government. Phasing in helps governments adjust to competition a step at a time. Each time the list of services that are open to competition is expanded, government can point to the success of competition in those that have gone before.

**3. Don't study it to death.** Put together a sound request for proposals that states precisely what outcomes you want but leaves the how to the discretion of the contractor. Then see what you get back from the market.

**4. Create a high-level executive position and specialized unit to manage outsourcing relationships.** Successful operation depends on being able to manage a network of service providers and market-based arrangements. Government needs the capacity to handle a variety of complex issues and relationships like

employee transitions, asset transfers, defining outcomes, performance goals and penalties, terminations, dispute resolution and risk management.

**5. Uncouple the purchaser and provider.** Split policy and regulatory functions from service delivery and compliance. Australia, the United Kingdom and New Zealand have all embraced this reform. The child welfare service reform in Kansas is one example. This frees policy advisers to advance policy options that are in the public's best interest but may be contrary to the self-interest of the department.

**6. Design an employee assistance strategy and try to protect workers from the threat of joblessness, if this is fiscally realistic.** Enlist the support of labor unions. Experience in the United States and elsewhere has demonstrated that making competition attractive for affected workers is vital to achieving the political support needed to implement competition strategies. There are a number of techniques to insulate workers almost entirely from potential job loss. These include:

- Working within the rate of natural attrition.
- Encouraging or requiring first consideration by contractors.
- Offering early retirement incentives.
- Retraining employees and placing them in other government jobs.
- Allowing public departments to bid for contracts – in the United Kingdom, national government agencies won about two-thirds of the first market tests in which they competed directly with the private sector.



**Appendix A**Sample methodology for  
evaluating competition  
opportunities**Commonwealth of Virginia  
Commonwealth Competition Council****Public/Private Performance Analysis Submittal**

Agency Name		Code	
Agency Address			
Telephone		Fax	
Date of Submittal			

**Description of function or activity under consideration**

--

Code of Virginia statute establishing this agency/institution:	§§
	§§

Funding source and percent of funding for this function/activity:

General ☐ %      Federal ☐ %      Special Revenue ☐ %

Other (please specify): \_\_\_\_\_ %

Cite item number(s) of the current Appropriation Act: \_\_\_\_\_ (19 )

Signature of Preparer:	_____
Printed Name	_____
Title	_____
Date	_____

Signature of Reviewer:	_____
Printed Name	_____
Title	_____
Date	_____

Signature of Agency Head or Head of Institution:	_____	<b>Recommended for competition</b>  Yes      No <input type="checkbox"/> <input type="checkbox"/>
Printed Name	_____	
Title	_____	
Date	_____	

# **Commonwealth of Virginia Commonwealth Competition Council**

## **Public/Private Performance Analysis**

### **Methodology to Evaluate Competition Opportunities**

- Level 1**      Three main steps to determine whether a function, task, operation or activity should undergo competition with the private sector:
- I.      Analyze the potential for competition
  - II.     Estimate the cost of the activity to the government
  - III.    Consider the public policy issues best serving the public safety and welfare of Virginia citizens
- Level 2**      Two steps in planning and implementing the competitive process:
- IV.    Plan the necessary procedures
  - V.     Implementation

These steps should be viewed as guides to assess competition opportunities. Not all questions, factors or analysis are applicable to every analysis. At the conclusion of each step, if the review of the activity continues to lend itself to a competitive effort, it is appropriate to proceed to the next step. If this is not the case, the reason(s) that would prohibit continued evaluation must be provided at the end of Level 1.



## Level 1

## I. Analyze the Potential for Competition

The objective of this analysis is to assess whether the specific activity lends itself to competition.

The questions and factors below are general in nature and are meant to ascertain whether more specific and serious analysis is warranted. The responses to these questions should be "yes" in order to proceed further for more serious evaluation. However, a "no" to one of the questions does not necessarily preclude going forward, but special consideration(s) may be required to assure success.

PLEASE CHECK THE APPROPRIATE ANSWER FOR THE FOLLOWING QUESTIONS:

	Yes	No
1. Can the service be, or is it already, available from the private sector?		
2. Is there more than one private contractor capable and interested in providing the activity to ensure competition?		
3. Can the activity or function be specified in advance with clear objectives and outcomes?		
4. Can the delivery of the activity be measured adequately to monitor performance?		
5. Is the economical delivery of the service more important than control and/or accountability?		
6. Would the funds/revenues presently available continue to be available if the private sector performs the activity?		
7. Can the private sector implement and deliver the activity quicker?		
8. Does the agency/institution have the ability and resources to manage/control/regulate the contract?		
9. Is the total function /activity suitable for contracting out?		
10. Are there current legal or regulatory barriers to contracting out the service?		
11. Will the agency/institution submit a proposal to perform the service?		

Provide explanation for negative answers in Section I above by specific number:

\_\_\_\_\_

## Level 1

### II. Estimate the Cost of the Activity to the Government

The objective of this section is to determine what it costs government to perform the activity and what future costs government can avoid by transferring the activity to the private sector during the course of the proposed contract.

Please provide estimated costs of the government activity for the base contract plus all option years for the following categories:

- personnel costs (full and part-time positions, including salaries, overtime, fringe benefits, etc.)
- operating costs (repairs and maintenance, vehicles, equipment, rent, utilities, materials and supplies, travel)
- capital costs (present and anticipated)
- capital leases
- insurance/liability costs
- operations overhead<sup>1</sup> costs
- general and administrative overhead<sup>2</sup> costs
- any other costs related to providing the service not included above

Total estimated government costs for base year plus option years:

Cost Category	State Performance Costs	Contract Administration and Support Costs <sup>3</sup>	Future Costs Eliminated If Activity Transferred To Private Sector
Personnel costs			
Operating costs			
Capital costs			
Capital leases			
Insurance/liability costs			
Operations overhead <sup>1</sup>			
General and administrative overhead <sup>2</sup>			
Any other costs related to providing the service not included above			
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated contractor cost to provide service for base contract plus all option years

\$

<sup>1</sup>Operations overhead is the cost incurred in support of the function by the supervisory workforce **one level** above the studied function.

<sup>2</sup>These are support costs, other than operations overhead, incurred in the support of the studied function. Examples are accounting functions, human resources, data processing and procurement.

<sup>3</sup>Estimated costs to assure contract compliance (contract payments, reviewing contract compliance).



## Level 1

### III. Consider the public policy issues best serving the public safety and welfare of Virginia citizens

The objective of this analysis is to determine if the services can be transferred to the private sector without public harm. The evaluation should address the following issues:

	Yes	No
1. Can the private contractor be replaced relatively easily during the term of the contract?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the economical delivery of the service more important than control and/or accountability?	<input type="checkbox"/>	<input type="checkbox"/>
3. Can the contract provide for the transfer of liability/or risk?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the public safety and/or welfare of the citizens protected in case of default?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the proposed privatization activity consistent with State law, rules and regulations?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the total function suitable for competition with the private sector?	<input type="checkbox"/>	<input type="checkbox"/>
7. Has the service been successfully contracted out in other public entities? Please identify: _____	<input type="checkbox"/>	<input type="checkbox"/>

#### Detailed Explanation

Provide explanation for negative answers in Section III above by specific number:

--

If the function is not recommended for competition, please provide rationale and detailed explanation:

--

## Level 2

The following are considerations in preparing the necessary procurement documents.

### IV. Plan the Necessary Procedures

The objective of this step is for the agency to evaluate the parameters of the proposed competition. This evaluation should address issues such as:

- Timing
  - Are there issues raised from Level 1 that need to be resolved prior to proceeding?
  - Does the timing of the competition effort affect potential cost savings?
  - How long will it take to award a contract?
  - What is the specific time schedule required to implement the contract?
- Personnel
  - What is the transition plan if contracting out the function impacts on State employees?
  - Will current State employees have an opportunity to present a proposal?
  - Will the private vendor be required to offer the right of first refusal or absorb existing State employees?
  - Can internal reorganization and different management techniques accomplish the same or similar goal?
- Cost
  - Is there a savings goal, short and long-term, without which privatization will not be considered?
  - Have performance measures been developed for this activity?
- Agency Impact
  - Does the privatization of this activity affect other programs and responsibilities (for example, other State agencies, departments)?
  - Are there alternative public solutions?
- Other
  - What is the best way to structure the competition (lease, contract, sale, partnership, pilot program)?
  - What process will be put in place to take over activity in case the contractor fails?



## Level 2

### V. Implementation

- Prepare Request for Proposal (RFP) and/or prepare proposal specifications
- Conduct procurement
- Review RFP responses
- Evaluate technical, cost realism and management issues of private performance vs. public performance
- Establish quality assurance oversight procedure or implement most efficient government organization
- Prepare required transition plan

Identify and discuss any barriers or impediments identified in Level 2.

## Sources

*Avoiding Managed Competition Pitfalls.* [www.privatization.org](http://www.privatization.org). August 2001.

Hall, Andy. "One-fourth of the women receiving welfare in 1990 have fallen off the radar, study says." *Wisconsin State Journal*. 12 December 2001.

Heinlein, Gary. "State Privatization Efforts Fall Short: Some Initiatives are Costing Taxpayers More." *The Detroit News*. 11 August 2000.

Legislative Analyst's Office. *Analysis of the 1996-97 Budget Bill, P&I Part V-6. Privatization in California State Government.* [www.lao.ca.gov/p965-6.html#A22](http://www.lao.ca.gov/p965-6.html#A22). October 2001.

Myers, Roger. "Privatization Called 'Failure' by Demos." *The Topeka Capital Journal*. 17 August 2000.

Osborne, David, and Plastrik, Peter. "Managed Competition." *The Reinventor's Fieldbook: Tools for Transforming Your Government*. San Francisco: Jossey-Bass, 2000.

*Political and Organizational Strategies for Streamlining.* [www.privatization.org](http://www.privatization.org). August 2001.

*Privatization.* National Center for Policy Analysis. [www.ncpa.org/pd/private/priv.html](http://www.ncpa.org/pd/private/priv.html). August 2001.

Rothschild, Scott. "Privatizing Kid Welfare Successful, But Costly." *Wichita Eagle*. 27 August 2000.

Sodders, Lisa M. "State System for Child Welfare Making Strides." *The Topeka Capital Journal*. 10 August 2001.

*Types and Techniques of Privatization.* [www.privatization.org](http://www.privatization.org). August 2001.

U.S. General Accounting Office. Report to the Chairman, House Republican Task Force on Privatization. *Privatization: Lessons Learned by State and Local Governments.* (GAO/GGD-97-48). Washington, D.C., March 1997.

Virginia Commonwealth Competition Council. [www.egovcompetition.com/home.htm](http://www.egovcompetition.com/home.htm). December 2001.

*Welfare Administration/Welfare-to-Work Services.* [www.privatization.org](http://www.privatization.org). August 2001.

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