State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-1561/P2
ALL:all:all

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** ???.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

***-0546/P1.1*SECTION 1.** 5.05 (2m) (c) 6. b. of the statutes is amended to read:

5.05 **(2m)** (c) 6. b. The board shall enter into a written contract with any individual who is retained as special counsel setting forth the terms of the engagement. The contract shall set forth the compensation to be paid such counsel by the state. The contract shall be executed on behalf of the state by the board's legal counsel, who shall file the contract in the office of the secretary of state. The compensation shall be charged to the appropriation under s. ~~20.455 (1) (b)~~ 20.505 (1) (d).

***-1535/P3.1*SECTION 2.** 13.106 (1) (intro.) of the statutes is repealed.

***–1535/P3.2*SECTION 3.** 13.106 (1) (a), (b), (c), (d) and (e) of the statutes are renumbered 13.106 (3) (ac), (ag), (aL), (ap) and (at).

***–1535/P3.3*SECTION 4.** 13.106 (3) (intro.) of the statutes is amended to read:

13.106 **(3)** (intro.) By October 15 of each even–numbered year, the Medical College of Wisconsin and the University of Wisconsin–Madison Medical School shall submit a report to the governor, the joint committee on finance, and ~~to~~ the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), that provides information on all of the following:

***–1535/P3.4*SECTION 5.** 13.106 (3) (a) of the statutes is renumbered 13.106 (3) (ax).

***–1535/P3.5*SECTION 6.** 13.106 (4) of the statutes is created to read:

13.106 **(4)** (a) In this subsection, "rural or underserved urban medicine program" includes the Wisconsin Academy for Rural Medicine, the Training in Urban Medicine and Public Health program, any community medical education program of the Medical College of Wisconsin, and any other rural or underserved urban medicine program established after the effective date of this paragraph .... [LRB inserts date].

(b) By October 15 of each year, the Medical College of Wisconsin and the University of Wisconsin–Madison Medical School shall submit an annual report to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that provides information on all of the following:

1. The number of students enrolled in rural or underserved urban medicine programs.

2. The medical specialties and residency locations of the students in rural or underserved urban medicine programs.

3. The initial postresidency practice locations for graduates of rural or underserved urban medicine programs.

***–1130/9.1*SECTION 7.** 13.48 (2) (b) 3. of the statutes is amended to read:

13.48 **(2)** (b) 3. ~~The~~ Except as provided in sub. (14) (am), the building commission may lease space in buildings described under subd. 2. to other governmental bodies or to nonprofit associations organized for public purposes and shall charge those bodies or associations an annual rental which shall be not less than the cost of operating, maintaining and amortizing the construction cost of the leased space.

***–1130/9.2*SECTION 8.** 13.48 (14) (title) of the statutes is amended to read:

13.48 **(14)** (title) SALE OR LEASE OF ~~LANDS~~ PROPERTY.

***–1130/9.3*SECTION 9.** 13.48 (14) (a) of the statutes is amended to read:

13.48 **(14)** (a) In this subsection, "agency" has the meaning given ~~for "state agency" in s. 20.001 (1), except that the term does not include the Board of Regents of the University of Wisconsin System~~ in s. 16.52 (7).

***–1130/9.4*SECTION 10.** 13.48 (14) (am) of the statutes is amended to read:

13.48 **(14)** (am) Except as provided in this paragraph ~~and subject to par. (d)~~, the building commission shall have the authority to sell or lease all or any part of ~~a~~ state–owned ~~building or structure or state–owned land, including farmland, where such authority is not otherwise provided to an agency by law~~ real property unless the sale or lease is prohibited under the state or federal constitution or federal law or the sale is conducted as a part of a procedure to enforce an obligation to this state, and may transfer ~~land~~ real property under its jurisdiction among agencies. The commission may sell or lease property under this paragraph with or without the approval of the agency having jurisdiction over the property and regardless of

whether the property is included in an inventory submitted under par. (d). The building commission does not have the authority to sell or lease any state–owned real property under this paragraph after the department of administration notifies the commission in writing that an offer of sale or sale or lease agreement with respect to a property is pending under s. 16.848 (1). If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the building commission under this paragraph is restored. Except with respect to property identified in s. 16.848 (2), if any agency has authority to sell or lease real property under any other law, the authority of that agency does not apply after the commission notifies the agency in writing that an offer of sale or sale, or a lease agreement, is pending with respect to the property under this paragraph. If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. If the commission sells or leases any state–owned real property under this subsection, the commission may attach such conditions to the sale or lease as it finds to be necessary or appropriate to carry out the sale or lease in the best interest of the state. This paragraph does not apply to real property that is exempted from sale or lease by the department of administration under s. 16.848.

***-1130/9.5*SECTION 11.** 13.48 (14) (b) of the statutes is amended to read:

13.48 **(14)** (b) ~~Subject to par. (d), the~~ The building commission shall sell ~~or lease~~ on the basis of either public bids, with the building commission reserving the right to reject any or all bids in the best interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process. Buildings, structures and land mentioned in this subsection shall be subject to general property taxes levied by those taxing bodies within whose area they lie if used for commercial

purposes, and shall be subject to special assessments for public improvements in the same manner and to the same extent as privately owned ~~buildings, structures and land~~ real property, subject to approval of the building commission when required under s. 66.0703 (6).

***-1130/9.6*SECTION 12.** 13.48 (14) (bg) of the statutes is created to read:

13.48 **(14)** (bg) If any property that is proposed to be sold by the commission under par. (am) is co-owned by a nonstate entity, the commission shall afford to that entity the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by the commission.

***-1130/9.7*SECTION 13.** 13.48 (14) (br) of the statutes is created to read:

13.48 **(14)** (br) If the building commission sells or leases any real property under par. (am) that was under the jurisdiction of an agency prior to the sale or lease, the agency shall convey all systems, fixtures, or additional property interests specified by the commission to the purchaser or lessee of the property on terms specified by the commission. If the commission sells or leases a state-owned heating, cooling, or power plant that is under the jurisdiction of an agency, the agency shall convey all real and personal property associated with the plant to the purchaser or lessee on terms specified by the commission.

***-1130/9.8*SECTION 14.** 13.48 (14) (c) of the statutes is renumbered 13.48 (14) (c) (intro.) and amended to read:

13.48 **(14)** (c) (intro.) ~~If~~ Except as provided in par. (e), if there is any outstanding public debt used to finance the acquisition ~~of a building, structure or land or the~~, construction, or improvement of ~~a building or structure~~ any property that is sold or leased under par. ~~(b)~~ (am), the building commission shall deposit a sufficient amount of the net proceeds from the sale or lease of the ~~building, structure or land~~ property

in the bond security and redemption fund under s. 18.09 to repay the principal and pay the interest on the debt, and any premium due upon refunding any of that debt. ~~Except as provided in s. 51.06 (6), if~~ If there is any outstanding public debt used to finance the acquisition, construction, or improvement of any property that is sold or leased under par. (am), the building commission shall then provide a sufficient amount of the net proceeds from the sale or lease of the property for the costs of maintaining federal tax law compliance applicable to the debt. If the property was acquired, constructed, or improved with federal financial assistance, the commission shall pay to the federal government any of the proceeds required by federal law. If the property was acquired by gift or grant or with gift or grant funds, the commission shall adhere to any restriction governing use of the proceeds. Except as required under par. (e) and ss. 20.395 (9) (qd) and 51.06 (6), if there is no such debt outstanding, ~~or,~~ there are no moneys payable to the federal government, and there is no restriction governing use of the proceeds, and if the net proceeds exceed the amount required to ~~repay that principal and pay that interest and premium~~ be deposited, paid, or used for another purpose under this subsection, the building commission shall ~~deposit~~ use the net proceeds or remaining net proceeds ~~in the budget stabilization fund.~~ to pay principal and interest costs on other outstanding public debt. For the purpose of paying principal and interest costs on other outstanding public debt under this paragraph, the commission may cause outstanding bonds to be called for redemption on or following their optional redemption date, establish one or more escrow accounts to redeem bonds at their optional redemption date, or purchase bonds in the open market. To the extent practical, the commission shall consider all of the following in determining which public debt to redeem:

***–1130/9.9*SECTION 15.** 13.48 (14) (c) 1. to 4. of the statutes are created to read:

13.48 **(14)** (c) 1. To the extent that debt service on the property being sold or leased was paid from a segregated fund, other outstanding public debt related to that segregated fund should be redeemed.

2. The extent to which general obligation debt that was issued to acquire, build, or improve the property being sold or leased is subject to current optional redemption, would require establishment of an escrow, or could be assigned for accounting purposes to another statutory bond purpose.

3. The fiscal benefit of redeeming outstanding debt with higher interest costs.

4. The costs of maintaining federal tax law compliance in the selection of general obligation debt to be redeemed.

***–1130/9.10*SECTION 16.** 13.48 (14) (cm) of the statutes is created to read:

13.48 **(14)** (cm) If there are any outstanding revenue obligations, issued pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or improvement of any property that is sold or leased under par. (am), the commission shall deposit a sufficient amount of the net proceeds from the sale or lease of the property in the respective redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the principal and pay the interest on the revenue obligations, and any premium due upon refunding any of the revenue obligations. If there are any outstanding revenue obligations, issued pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or improvement of any property that is sold or leased under par. (am), the commission shall then provide a sufficient amount of the net proceeds from the sale or lease of the property for the costs of maintaining federal tax law compliance applicable to the revenue obligations. For the purpose of paying principal and interest costs on other outstanding revenue obligations, the

commission may cause outstanding revenue obligations to be called for redemption on or following their optional redemption date, establish one or more escrow accounts to redeem obligations at their optional redemption date, or purchase bonds on the open market. Except as required under par. (e) and ss. 20.395 (9) (qd) and 51.06 (6), if the net proceeds exceed the amount required to be deposited, paid, or used for another purpose under this paragraph, the department shall ~~used~~ use the net proceeds or the remaining net proceeds to pay principal and interest costs on other similar revenue obligations.

***–1130/9.11*SECTION 17.** 13.48 (14) (d) 1. of the statutes is repealed.

***–1130/9.12*SECTION 18.** 13.48 (14) (d) 2. of the statutes is renumbered 13.48 (14) (d) and amended to read:

13.48 **(14)** (d) Biennially, beginning on January 1, ~~1984, each agency having surplus land~~ 2014, each agency shall submit to the department of administration an inventory of all real property under its jurisdiction together with the estimated fair market value of each property. The agency shall specifically identify any under utilized assets in the inventory. No later than July 1 following receipt of the inventories, the department of administration shall obtain appraisals of all properties in the inventories that are identified by the department for potential sale and shall submit to the building commission ~~and the joint committee on finance~~ an inventory containing the location, description and fair market value of each parcel of ~~surplus land~~ property identified for potential sale.

***–1130/9.13*SECTION 19.** 13.48 (14) (d) 3. of the statutes is repealed.

***–1130/9.14*SECTION 20.** 13.48 (14) (d) 4. of the statutes is repealed.

***–1022/P5.1*SECTION 21.** 13.48 (19) of the statutes is amended to read:

13.48 **(19)** ALTERNATIVES TO STATE CONSTRUCTION. Whenever the building commission determines that the use of innovative types of design and construction processes will make better use of the resources and technology available in the building industry, the building commission may waive any or all of s. 16.855, except s. 16.855 (13) and (14m), if such action is in the best interest of the state and if the waiver is accomplished through formal action of the building commission. The building commission may authorize the lease, lease purchase or acquisition of such facilities constructed in the manner authorized by the building commission. Subject to the requirements of s. 20.924 (1) (i), the building commission may also authorize the lease, lease purchase or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program.

***-1130/9.15*SECTION 22.** 13.48 (20) of the statutes is amended to read:

13.48 **(20)** RESIDENCE HALLS. ~~The~~ Except as provided in sub. (14) (am), the building commission may approve the sale or lease of state–owned residence halls by the board of regents of the University of Wisconsin System to another state agency or a nonstate nonprofit agency for purposes provided in s. 36.11 (1) (e).

***-1130/9.16*SECTION 23.** 13.48 (22) of the statutes is amended to read:

13.48 **(22)** SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may lease or resell lands acquired in the capitol planning area for public or private redevelopment and may set such conditions of sale or lease as it deems necessary to ensure development compatible with the needs of the community and the state. This subsection does not apply to lands that are authorized to be sold or leased under s. 16.848 while an offer of sale, sale, or lease agreement is pending or while the lands are leased.

***-1130/9.17*SECTION 24.** 13.48 (23) of the statutes is amended to read:

13.48 **(23)** LEASE OF SPACE FOR COMMERCIAL USE. ~~The~~ Except as provided in sub. (14) (am), the building commission may lease space in state office buildings for commercial use, including without limitation because of enumeration, retail, service and office uses. In doing so the building commission shall consider the cost and fair market value of the space as well as the desirability of the proposed use. Such leases may be negotiated or awarded by competitive bid procedures. All such leases of space in state office buildings shall provide for payments in lieu of property taxes.

***–1130/9.18*SECTION 25.** 13.482 (2) (a) of the statutes is amended to read:

13.482 **(2)** (a) For the purpose of providing housing for state departments and agencies, including housing for state offices and the completion of the state office building, and to enable the construction, financing and ultimate acquisition thereof by the state, the building commission may acquire any necessary lands, and, subject to s. 13.48 (14) (am), lease and re–lease any lands owned by the state and available for the purpose to the Wisconsin State Public Building Corporation or other nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17). The lease and re–lease shall be for a term or terms not exceeding 50 years each and shall be made on the condition that such corporation shall construct and provide on such leased lands such building projects, including buildings, improvements, facilities or equipment or other capital items, as the building commission requires, and shall re–lease the same to the building commission upon satisfactory terms as to the rental, maintenance and ultimate acquisition by the state as is in its best interests in the judgment of the building commission. After such leases and re–leases are executed and until the projects are acquired by the state, they shall be operated by the building commission through the department of administration, which shall have charge of such property as provided in ss. 16.85 and

16.8511. The building commission shall operate the projects in such manner as to provide revenues therefrom sufficient to pay the costs of operation and maintenance of the project and to provide for the payments due the Wisconsin State Public Building Corporation or other nonstock, nonprofit corporation but if the building commission finds and declares that the housing available in any such project is in excess of the current housing needs or requirements of the state departments and agencies occupying or availing themselves of the space in or capacity of such project, the building commission need not operate such project in a manner to provide revenues therefrom sufficient to pay the costs of operation and maintenance of the project and to provide for the rental payments due the Wisconsin State Public Building Corporation or other nonstock, nonprofit corporation.

***-1130/9.19*SECTION 26.** 13.488 (1) (a) of the statutes is amended to read:

13.488 **(1)** (a) Without limitation by reason of any other statutes except s. 13.48 (14) (am), the power to sell and to convey title in fee simple to a nonprofit-sharing corporation any land and any existing buildings thereon owned by the state for such consideration and upon such terms and conditions as in the judgment of the building commission are in the public interest.

***-1130/9.20*SECTION 27.** 13.488 (1) (b) of the statutes is amended to read:

13.488 **(1)** (b) ~~The~~ Except as provided in s. 13.48 (14) (am), the power to lease to a nonprofit-sharing corporation for terms not exceeding 50 years each any land and existing buildings thereon owned by the state upon such terms, conditions and rentals as in the judgment of the building commission are in the public interest.

***-0546/P1.2*SECTION 28.** 14.11 (2) (b) of the statutes is amended to read:

14.11 **(2)** (b) When special counsel is employed, a contract in writing shall be entered into between the state and such counsel, in which shall be fixed the

compensation to be paid such counsel by the state. The contract shall be executed in behalf of the state by the governor, and shall be filed in the office of the secretary of state. Such compensation shall be charged to the special counsel appropriation in s. ~~20.455 (1) (b)~~ 20.505 (1) (d).

***-0839/P4.1*SECTION 29.** 15.01 (6) of the statutes is amended to read:

15.01 **(6)** "Division," "bureau," "section," and "unit" means the subunits of a department or an independent agency, whether specifically created by law or created by the head of the department or the independent agency for the more economic and efficient administration and operation of the programs assigned to the department or independent agency. The ~~office of justice assistance in the department of administration and the~~ office of credit unions in the department of financial institutions, the office of the inspector general in the department of health services, and the office of children's mental health in the department of health services have the meaning of "division" under this subsection. The office of the long–term care ombudsman under the board on aging and long–term care and the office of educational accountability in the department of public instruction have the meaning of "bureau" under this subsection.

****NOTE: This is reconciled s. 15.01 (6). This SECTION has been affected by drafts with the following LRB numbers: –0839/p3, –1163/p1, and –1235/4.

***-0839/P4.2*SECTION 30.** 15.02 (3) (c) 1. of the statutes is amended to read:

15.02 **(3)** (c) 1. The principal subunit of the department is the "division". Each division shall be headed by an "administrator". The ~~office of justice assistance in the department of administration and the~~ office of credit unions in the department of financial institutions and the office of children's mental health in the department of health services have the meaning of "division" and the ~~executive staff director of the~~

~~office of justice assistance in the department of administration and the~~ director of credit unions in the department of financial institutions and the director of the office of children's mental health in the department of health services have the meaning of "administrator" under this subdivision.

****NOTE: This is reconciled s.15.02 (3) (c) 1. This SECTION has been affected by drafts with the following LRB numbers: –0839/p3 and –1235/4.

***–0707/2.1*SECTION 31.** 15.05 (3) of the statutes is repealed and recreated to read:

15.05 **(3)** ASSISTANT DEPUTY SECRETARY AND EXECUTIVE ASSISTANT. (a) Each secretary may appoint an assistant deputy secretary to serve at his or her pleasure outside the classified service. The assistant deputy secretary shall perform duties as the secretary prescribes.

(b) The attorney general, the adjutant general, the director of the technical college system, the state superintendent of public instruction, and the director of the historical society may appoint an executive assistant to serve at his or her pleasure outside the classified service. The executive assistant shall perform duties as his or her appointing authority prescribes.

****NOTE: This is reconciled s. 15.05 (3). This SECTION has been affected by drafts with the following LRB numbers: –0026 and –0707.

***–0707/2.2*SECTION 32.** 15.05 (5) (title) of the statutes is amended to read:

15.05 **(5)** (title) ~~EXECUTIVE~~ ASSISTANT DEPUTY SECRETARY AND EXECUTIVE ASSISTANT APPROVALS.

***–0798/P5.1*SECTION 33.** 15.06 (3) (a) 4. of the statutes is created to read:

15.06 **(3)** (a) 4. The members of the employment relations commission.

***–0798/P5.2*SECTION 34.** 15.06 (3) (c) of the statutes is created to read:

15.06 **(3)** (c) Each member of the employment relations commission shall be appointed to two–thirds of a full–time equivalent position.

***–0798/P5.3*SECTION 35.** 15.06 (4m) of the statutes is amended to read:

15.06 **(4m)** EXECUTIVE ASSISTANT. Each ~~commission chairperson under s. 230.08 (2) (m) and each~~ commissioner of the public service commission may appoint an executive assistant to serve at his or her pleasure outside the classified service. The executive assistant shall perform duties as the ~~chairperson or~~ commissioner prescribes.

***–1137/P4.1*SECTION 36.** 15.07 (2) (c) of the statutes is created to read:

15.07 **(2)** (c) The chairperson of the charter school oversight board shall be designated by the governor.

***–0839/P4.3*SECTION 37.** 15.105 (19) of the statutes is repealed.

***–0839/P4.4*SECTION 38.** 15.107 (18) (b) 1. of the statutes is amended to read:

15.107 **(18)** (b) 1. The ~~executive director of the office of justice assistance~~ attorney general, the adjutant general, the secretary of natural resources, the secretary of transportation, and a representative from the department of administration with knowledge of information technology, or their designees.

***–1163/1.1*SECTION 39.** 15.193 of the statutes is created to read:

15.193 Same; specified divisions. (1) OFFICE OF THE INSPECTOR GENERAL. There is created in the department of health services an office of the inspector general.

***–1235/5.1*SECTION 40.** 15.194 of the statutes is created to read:

15.194 Same; offices. (1) OFFICE OF CHILDREN'S MENTAL HEALTH. There is created an office of children's mental health in the department of health services.

The director of the office shall be appointed by the governor to serve at the pleasure of the governor.

***–0628/P2.1*SECTION 41.** 15.205 (title) of the statutes is repealed.

***–0628/P2.2*SECTION 42.** 15.205 (4) of the statutes is renumbered 15.105 (34), and 15.105 (34) (intro.), as renumbered, is amended to read:

15.105 **(34)** CHILD ABUSE AND NEGLECT PREVENTION BOARD. (intro.) There is created a child abuse and neglect prevention board, which is attached to the department of ~~children and families~~ administration under s. 15.03. The board shall consist of 20 members as follows:

***–0839/P4.5*SECTION 43.** 15.255 (1) (a) 1. of the statutes is amended to read:

15.255 **(1)** (a) 1. ~~Six~~ Seven representatives of local law enforcement in this state, at least one of whom shall be a sheriff and at least one of whom shall be a chief of police.

***–0839/P4.6*SECTION 44.** 15.255 (1) (a) 7. of the statutes is repealed.

***–1137/P4.2*SECTION 45.** 15.375 (1) of the statutes is created to read:

15.375 **(1)** CHARTER SCHOOL OVERSIGHT BOARD. (a) There is created a charter school oversight board attached to the department of public instruction under s. 15.03. The board shall consist of the state superintendent of public instruction or his or her designee and the following members appointed for 3–year terms:

1. Two members appointed by the governor, at least one of whom has served on the governing board of a charter school established under s. 118.40 (2r), has been employed by a charter school established under s. 118.40 (2r), or has served on the governing body of an entity specified in s. 118.40 (2r) (b) 1.

2. a. Two members, who are not legislators, appointed by the senate majority leader.

b. One member, who is not a legislator, appointed by the senate minority leader.

c. Two members, who are not legislators, appointed by the speaker of the assembly.

d. One member, who is not a legislator, appointed by the assembly minority leader.

3. Two members, appointed by the state superintendent of public instruction, who in addition to the qualifications under par. (b) have served on the governing board of a charter school established under s. 118.40 (2r), have been employed by a charter school established under s. 118.40 (2r), or have served on the governing body of an entity specified in s. 118.40 (2r) (b) 1.

(b) The appointing authorities under par. (a) shall ensure to the extent feasible that members appointed to the board are geographically diverse and have experience and expertise in governing public and nonprofit organizations; in management and finance; in public school leadership, assessment, and curriculum and instruction; and in education law; and understand and are committed to the use of charter schools to strengthen public education.

(c) No member of the board appointed under par. (a) may serve more than 2 consecutive terms.

(d) The board does not have rule–making authority.

***–0469/1.1*SECTION 46.** 15.406 (6) (a) 1. of the statutes is amended to read:

15.406 **(6)** (a) 1. Six massage therapists or bodywork therapists licensed under ch. 460 who have engaged in the practice of massage therapy or bodywork therapy for at least 2 years preceding appointment. One member appointed under this subdivision shall be a representative of a massage therapy or bodywork therapy school approved by the educational approval board under s. ~~38.50~~ 440.55. One

member appointed under this subdivision shall be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members appointed under this subdivision shall be directly or indirectly affiliated with a massage therapy or bodywork therapy school or program.

***–0798/P5.4*SECTION 47.** 15.58 of the statutes is renumbered 15.225 (2) and amended to read:

15.225 **(2)** EMPLOYMENT RELATIONS COMMISSION; ~~CREATION~~. There is created an employment relations commission which is attached to the department of workforce development under s. 15.03.

***–0469/1.2*SECTION 48.** 15.945 (title) of the statutes is repealed.

***–0469/1.3*SECTION 49.** 15.945 (1) of the statutes is renumbered 15.405 (18) and amended to read:

15.405 **(18)** EDUCATIONAL APPROVAL BOARD. There is created an educational approval board which is attached to the ~~technical college system board~~ department of safety and professional services under s. 15.03. The board shall consist of not more than 7 members, who shall be representatives of state agencies and other persons with a demonstrated interest in educational programs, appointed to serve at the pleasure of the governor.

***–0545/2.1*SECTION 50.** 16.004 (15) (a) of the statutes is amended to read:

16.004 **(15)** (a) In this subsection, "state agency" means ~~a~~ any office, department, or independent agency in the executive branch of state government ~~that has a secretary who serves at the pleasure of the governor~~.

***–0545/2.2*SECTION 51.** 16.004 (15) (b) of the statutes is repealed and recreated to read:

16.004 **(15)** (b) 1. At its own discretion, the department may provide legal services to any state agency that has a secretary who serves at the pleasure of the governor and shall assess the state agency for legal services provided by the division of legal services.

2. At the request of any state agency that does not have a secretary who serves at the pleasure of the governor, the department may provide legal services to the state agency and shall assess the state agency for legal services provided by the division of legal services.

3. The department shall credit all moneys received from state agencies under this paragraph to the appropriation account under s. 20.505 (1) (kr).

***-1023/P4.1*SECTION 52.** 16.004 (15) (bm) of the statutes is repealed.

***-0697/1.1*SECTION 53.** 16.004 (18) of the statutes is created to read:

16.004 **(18)** INTERGOVERNMENTAL AFFAIRS OFFICES. The secretary may maintain intergovernmental affairs offices to conduct public outreach and promote coordination between agencies, as defined in s. 16.70 (1e), and authorities, as defined in s. 16.70 (2) ~~and the Wisconsin Economic Development Corporation~~.

***-1560/2.1*SECTION 54.** 16.004 (18) of the statutes is created to read:

16.004 **(18)** CAPITAL INVESTMENT PROGRAM. In consultation with the director of the office of business development, the secretary shall provide $25,000,000 in fiscal year 2013–14 for a capital investment program to make coinvestments in business startups and investment capital projects.

****NOTE: This subsection assumes that you will place $25,000,000 in the schedule under s. 20.505 (1) (f) in fiscal year 2013–14.

***-1023/P4.2*SECTION 55.** 16.283 (1) (b) 3. of the statutes is amended to read:

16.283 **(1)** (b) 3. A person who is in receipt of an award from the U.S. department of veterans affairs of a service–connected disability rating under 38 USC 1114 or 1134 of at least ~~30~~ 20 percent.

***–1023/P4.3*SECTION 56.** 16.283 (3) (b) of the statutes is renumbered 16.283 (3) (b) 1m.

***–1023/P4.4*SECTION 57.** 16.283 (3) (b) 2m. of the statutes is created to read:

16.283 **(3)** (b) 2m. The department may, without conducting an investigation, certify a business, financial adviser, or investment firm having its principal place of business in this state and currently performing a useful business function if the business, financial advisor, or investment firm is certified, or otherwise classified, as a disabled veteran–owned business, financial advisor, or investment firm by an agency or municipality of this or another state, a federally recognized American Indian tribe, or the federal government, or by a private business with expertise in certifying disabled veteran–owned businesses if the business uses substantially the same procedures the department uses in making a determination under subd. 1m.

***–1023/P4.5*SECTION 58.** 16.283 (3) (d) of the statutes is amended to read:

16.283 **(3)** (d) If a business, financial adviser, or investment firm applying for certification under this section fails to provide the department with sufficient information to enable the department to conduct an investigation under par. (b) 1m. or does not qualify for certification under par. (b), the department shall deny the application. A business, financial adviser, or investment firm whose application is denied may, within 30 days after the date of the denial, appeal in writing to the secretary. The secretary shall enter his or her final decision within 30 days after receiving the appeal.

***–1023/P4.6*SECTION 59.** 16.285 (1) (b) of the statutes is amended to read:

16.285 **(1)** (b) The department shall implement a program for the certification of woman–owned businesses. The department ~~shall compile and periodically update a list of businesses certified under this section and shall make the list available to the public on the Internet~~ may, without conducting an investigation, certify a business currently performing a useful business function in this state as a woman–owned business if the business is certified, or otherwise classified, as a woman–owned business by an agency or municipality of this or another state, a federally recognized American Indian tribe, or the federal government, or by a private business with expertise in certifying woman–owned businesses if the business uses substantially the same process as the department promulgates by rule for implementing this subsection.

***-1023/P4.7*SECTION 60.** 16.285 (2) of the statutes is amended to read:

16.285 **(2)** The department shall develop, maintain, and keep current a computer database of businesses in the state that are owned by women, containing demographic statistics and information on the types of industries represented, sales volume and growth rates, generation of jobs by both new and existing businesses, and any other relevant characteristics. The department shall compile and periodically update a list of businesses certified under sub. (1) and make the list available to the public on the Internet.

***-1023/P4.8*SECTION 61.** 16.287 (2) (c) of the statutes is amended to read:

16.287 **(2)** (c) The department, without investigation, may certify a business incorporated in this state or having its principal place of business in this state if the business is certified or otherwise classified as a minority business by an agency or municipality of this or another state, a federally recognized American Indian tribe, or the federal government, or by a private business with expertise in certifying

minority businesses if the private business uses substantially the same procedures as those used by the department in making a determination under par. (b).

***-1023/P4.9*SECTION 62.** 16.287 (2) (e) of the statutes is amended to read:

16.287 **(2)** (e) If a business refuses to provide the department with sufficient information to enable it to conduct an investigation under par. (b) or if the business does not qualify for certification under par. (b), (c) or (d), the department shall deny the application. A business whose application is denied may, within 30 days after the date of the denial, appeal in writing to the secretary. The secretary shall enter his or her final decision within 30 days after receiving the appeal.

***-1245/2.1*SECTION 63.** 16.309 (title) of the statutes is amended to read:

16.309 (title) **Community development block grant ~~housing~~ programs.**

***-1245/2.2*SECTION 64.** 16.309 (1) of the statutes is amended to read:

16.309 **(1)** The department may administer ~~housing~~ programs, including the housing improvement grant program ~~and~~, the initial rehabilitation grant program, the community development grant program, and the revolving loan fund program, that are funded by a community development block grant, 42 USC 5301 to 5320.

***-1130/9.21*SECTION 65.** 16.310 (5) of the statutes is amended to read:

16.310 **(5)** NONAPPLICATION. This section does not apply to property that is authorized to be sold ~~under~~ or leased or property that is operated under contract as provided in s. 16.848 while an offer of sale, sale, or lease agreement is pending or while the property is leased or under contractual operation.

***-0492/6.1*SECTION 66.** 16.505 (4) (b) of the statutes is amended to read:

16.505 **(4)** (b) ~~Except as provided in par. (c), no~~ No agency may change the funding source for a position authorized under this section unless the position is

authorized to be created under a different funding source in accordance with this section.

***–0492/6.2*SECTION 67.** 16.505 (4) (c) of the statutes is repealed.

***–1023/P4.10*SECTION 68.** 16.70 (2) of the statutes is amended to read:

16.70 **(2)** "Authority" means a body created under subch. II of ch. 114 or subch. III of ch. 149 or under ch. 231, 232, 233, 234, 237, 238, or 279.

***–1023/P4.11*SECTION 69.** 16.70 (2j) of the statutes is created to read:

16.70 **(2j)** "Commodity" means materials, supplies, or equipment, but does not include a service.

***–1023/P4.12*SECTION 70.** 16.70 (3) of the statutes is amended to read:

16.70 **(3)** "Contractual services" includes all services, materials to be furnished by a service provider in connection with services, and any limited trades work involving less than $30,000 to be done for or furnished to the state or any agency, but does not include maintenance or support that is incidental to the purchase of a commodity.

***–1023/P4.13*SECTION 71.** 16.70 (3j) of the statutes is created to read:

16.70 **(3j)** "Delegated agency" means an agency that has a designated purchasing agent to whom the department has delegated the authority to purchase under s. 16.71 (1).

***–1023/P4.14*SECTION 72.** 16.70 (8) of the statutes is amended to read:

16.70 **(8)** "Municipality" means a county, city, village, town, school district, board of school directors, sewer district, drainage district, technical college district, authority, or any other public or quasi–public corporation, officer, board or other body having the authority to award public contracts.

***–1023/P4.15*SECTION 73.** 16.70 (13m) of the statutes is created to read:

16.70 **(13m)** "Standard specification" means a requirement or qualification that is chemical, physical, or both chemical and physical that describes the commodity or service to be purchased but is not a trade name.

***-1023/P4.16*SECTION 74.** 16.701 (title) of the statutes is amended to read:

16.701 (title) **Subscription service and procurement system.**

***-1023/P4.17*SECTION 75.** 16.701 (1m) of the statutes is created to read:

16.701 **(1m)** The department may provide an electronic procurement system to manage all aspects of procurement under this subchapter. The electronic procurement system may supplement or supplant the subscription service under sub. (1). If the department provides an electronic procurement system under this subsection, the department may require that an agency use the system. The department may assess agencies and vendors for the costs of the system under this subsection in accordance with a method the department develops.

***-1023/P4.18*SECTION 76.** 16.701 (2) of the statutes is amended to read:

16.701 **(2)** The department may permit prospective vendors to provide product or service information through the service established under sub. (1) or through the system provided under sub. (1m). The department may prescribe fees or establish fees through a competitive process for the use of the service or system under this subsection.

***-1023/P4.19*SECTION 77.** 16.7015 of the statutes is amended to read:

16.7015 Bidders list. The department may maintain a bidders list. ~~Any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list if authorized by the delegation.~~ The bidders list shall include the names and addresses of all persons who request to be notified of bids or competitive sealed proposals, excluding those to be awarded under s. 16.75 (1) (c) or

(2m) (c), that are solicited by the department or ~~other~~ delegated agency for the procurement of materials, supplies, equipment, or contractual services under this subchapter. Any bidders list ~~maintained by the department~~ may include the names and addresses of any person who requests to be notified of bids or competitive sealed proposals that are solicited by any agency. The department or ~~other~~ delegated agency shall notify each person on ~~its~~ the bidders list of all bids or competitive sealed proposals that are solicited by the department or ~~other~~ delegated agency. The department ~~or other agency~~ may remove any person from ~~its~~ the bidders list for cause.

***-1023/P4.20*SECTION 78.** 16.705 (1) of the statutes is amended to read:

16.705 **(1)** The department or ~~its agents~~ a delegated agency may contract for services which can be performed more economically or efficiently by such contract. The department shall, by rule, prescribe uniform procedures for determining whether services are appropriate for contracting under this subsection.

***-1023/P4.21*SECTION 79.** 16.705 (1b) (intro.) and (c) of the statutes are created to read:

16.705 **(1b)** (intro.) The determinations under sub. (1) do not apply to a contract entered into by any of the following:

(c) The department under s. 16.848 (1).

****NOTE: This is reconciled s. 16.705 (1b) (c). This SECTION has been affected by drafts with the following LRB numbers: LRB–1023/p2 and LRB–1130/6.

***-1023/P4.22*SECTION 80.** 16.705 (1m) of the statutes is renumbered 16.705 (1b) (a) and amended to read:

16.705 **(1b)** (a) ~~Subsection (1) does not apply to contracts entered into by the~~ The service award board under s. 16.25 (4) (b).

***-1023/P4.23*SECTION 81.** 16.705 (1n) of the statutes, as affected by 2011 Wisconsin Act 266, is renumbered 16.705 (1b) (b) and amended to read:

16.705 **(1b)** (b) ~~Subsection (1) does not apply to a contract entered into by the~~ The department of corrections for global positioning system tracking services under s. 301.48 (3) or 301.49.

***-1023/P4.24*SECTION 82.** 16.705 (1r) (intro.) of the statutes is amended to read:

16.705 **(1r)** (intro.) Notwithstanding s. 16.75 (2m) and (3m), and except as provided in s. 16.75 (2) (b) and (7), the department ~~and its agents~~ or a delegated agency may purchase contractual services only if those services are performed within the United States, which, notwithstanding s. 990.01 (40) and (44), includes only the 50 states and the District of Columbia. This requirement does not apply to any of the following:

***-1023/P4.25*SECTION 83.** 16.705 (2) of the statutes, as affected by 2011 Wisconsin Act 32, is renumbered 16.705 (2) (a) and amended to read:

16.705 **(2)** (a) The department shall promulgate rules for the procurement of contractual services by the department ~~and its designated agents~~ or a delegated agency, including but not limited to rules prescribing approval and monitoring processes for contractual service contracts~~,~~; except as provided in par. (b), a requirement for agencies, except for the University of Wisconsin System, to conduct a uniform cost–benefit analysis of each proposed contractual service procurement involving an estimated expenditure of more than ~~$25,000~~ $50,000 in accordance with standards prescribed in the rules~~,~~; and, except as provided in par. (b), a requirement for agencies, except for the University of Wisconsin System, to review periodically, and before any renewal, the continued appropriateness of contracting under each

contractual services agreement involving an estimated expenditure of more than ~~$25,000~~ $50,000.

(c) Each officer requesting approval to engage any person to perform contractual services shall submit to the department written justification for such contracting which shall include a description of the contractual services to be procured, justification of need, justification for not contracting with other agencies, a specific description of the scope of contractual services to be performed, and justification for the procurement process if a process other than competitive bidding is to be used. The department may not approve any contract for contractual services unless it is satisfied that the justification for contracting conforms to the requirements of this section and ss. 16.71 to 16.77.

***–1023/P4.26*SECTION 84.** 16.705 (2) (b) of the statutes is created to read:

16.705 **(2)** (b) A cost–benefit analysis or continued appropriateness review is not required for the following services:

1. Services that federal or state law requires to be performed by contract.

2. Services that are incidental to the purchase of a commodity.

3. Services that must be provided per a contract, license, or warranty, by the original equipment manufacturer or publisher.

4. Services that cannot be performed by state employees because the state lacks the required infrastructure.

5. Services that are expected to be completed within 12 months.

6. Web–based software application services that are delivered and managed remotely.

***–1023/P4.27*SECTION 85.** 16.705 (9) of the statutes is amended to read:

16.705 **(9)** The department shall maintain a list of persons that are or have been a party to a contract with the state under this subchapter who have violated a provision of this subchapter or a contract under this subchapter or who have been debarred from contracting with the federal government or any agency. The parties on the list are ineligible for state contracts and no state contract may be awarded to a party on the ineligible list. The department may remove any party from the ineligible list if the department determines that the party's practices comply with this subchapter and ~~provide~~ the party provides adequate safeguards against future violations of this subchapter or contracts under this subchapter or, if the person was on the list due to debarment, the person is no longer debarred. The department shall promulgate rules that provide procedures to implement this subsection.

***–1023/P4.28*SECTION 86.** 16.71 (3) of the statutes is amended to read:

16.71 **(3)** ~~If~~ The department, department of revenue, or delegated agency shall comply with the requirements under s. 565.25 if the department makes or delegates to the department of revenue or to any other ~~designated purchasing agent under sub. (1)~~ delegated agency the authority to make a major procurement, as defined in s. 565.01 (4), for the department of revenue~~, the department, department of revenue, or designated purchasing agent shall comply with the requirements under s. 565.25~~.

***–1023/P4.29*SECTION 87.** 16.72 (2) (a) of the statutes is renumbered 16.72 (2) (a) 1. and amended to read:

16.72 **(2)** (a) 1. The department shall prepare standard specifications, as far as possible, for all ~~state~~ purchases~~. By "standard specifications" is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used~~ statewide except those purchases under subd. 2. On the formulation, adoption and

modification of any standard specifications, the department ~~of administration~~ shall also seek and be accorded without cost, the assistance, advice, and cooperation of other agencies and officers.

3. Each specification adopted under subd. 1. or 2. for any ~~commodity~~ purchase shall, insofar as possible, satisfy the requirements of any and all agencies which use it in common.

***-1023/P4.30*SECTION 88.** 16.72 (2) (a) 2. of the statutes is created to read:

16.72 **(2)** (a) 2. Delegated agencies shall adopt standard specifications for all delegated purchases.

***-1023/P4.31*SECTION 89.** 16.72 (2) (b) of the statutes is amended to read:

16.72 **(2)** (b) Except as provided in ss. 16.25 (4) (b), 16.751, and 565.25 (2) (a) 4., the department or delegated agency shall prepare or review specifications for all materials, supplies, equipment, other permanent personal property and contractual services not purchased under standard specifications. Such "nonstandard specifications" may be generic or performance specifications, or both, prepared to describe in detail the article which the state desires to purchase either by its physical properties or by its programmatic utility. When appropriate for such nonstandard items or services, trade names may be used to identify what the ~~state~~ department or delegated agency requires, but wherever possible 2 or more trade names shall be designated and the trade name of any Wisconsin producer, distributor or supplier shall appear first.

***-1023/P4.32*SECTION 90.** 16.72 (2) (c) of the statutes is amended to read:

16.72 **(2)** (c) To the extent possible, the department or delegated agency shall write specifications so as to permit the purchase of materials manufactured in the United States, as defined in s. 16.754 (1) (b).

***–1023/P4.33*SECTION 91.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

16.72 **(2)** (e) (intro.) In writing the specifications under this subsection, the department ~~and any other designated purchasing agent under s. 16.71 (1)~~ or delegated agency shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. Each authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, and the Health Insurance Risk–Sharing Plan Authority, in writing specifications for purchasing by the authority, shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. The specifications shall include requirements for the purchase of the following materials:

***–1023/P4.34*SECTION 92.** 16.72 (2) (f) of the statutes is amended to read:

16.72 **(2)** (f) In writing specifications under this subsection, the department, any ~~other designated purchasing agent under s. 16.71 (1)~~ delegated agency, and each authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, and the Health Insurance Risk–Sharing Plan Authority shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state, consistent with the priorities established under s. 287.05 (12). All specifications under this subsection shall discourage the purchase of single–use, disposable products and require, whenever practical, the purchase of multiple–use, durable products.

***–1023/P4.35*SECTION 93.** 16.72 (4) (a) of the statutes is amended to read:

16.72 **(4)** (a) Except as provided in ss. 16.71 and 16.74 or as otherwise provided in this subchapter and the rules promulgated under s. 16.74 and this subchapter, all supplies, materials, equipment, and contractual services shall be purchased ~~for and furnished to any agency~~ only upon requisition to the department. The department shall prescribe the form, contents, number, and disposition of requisitions and shall promulgate rules as to time and manner of submitting such requisitions for processing. ~~No~~ Except as provided in ss. 16.71 and 16.74 or as otherwise provided in this subchapter and the rules promulgated under s. 16.74 and this subchapter, no agency or officer may engage any person to perform contractual services without the specific prior approval of the department for each ~~such~~ engagement. Purchases of supplies, materials, equipment, or contractual services by the legislature, the courts, or legislative service or judicial branch agencies do not require approval under this paragraph.

***–1023/P4.36*SECTION 94.** 16.72 (4m) of the statutes is repealed.

***–1023/P4.37*SECTION 95.** 16.73 (1m) of the statutes is created to read:

16.73 **(1m)** The department or a delegated agency may allow municipalities to participate in state procurement solicitations and use any current state contract.

***–1023/P4.38*SECTION 96.** 16.73 (5) of the statutes, as affected by ~~2013~~ 2011 Wisconsin Act 32, is amended to read:

16.73 **(5)** After the department designates the board of regents of the University of Wisconsin System or designates the University of Wisconsin–Madison as ~~its purchasing agent for any purpose under s. 16.71 (1)~~ a delegated agency, the board or the University of Wisconsin–Madison may enter into a contract to sell any materials, supplies, equipment or contractual services purchased by the board or the

University of Wisconsin–Madison to the University of Wisconsin Hospitals and Clinics Authority, and may contract with the University of Wisconsin Hospitals and Clinics Authority for the joint purchase of any materials, supplies, equipment or contractual services if the sale or purchase is made consistently with that delegation and with this subchapter.

***–1023/P4.39*SECTION 97.** 16.75 (1) (a) 1. of the statutes is amended to read:

16.75 **(1)** (a) 1. All orders awarded or contracts made by the department or a delegated agency for all materials, supplies, equipment, and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754, ~~16.964 (8),~~ 50.05 (7) (f), 153.05 (2m) (a), 165.987, and 287.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

****NOTE: This is reconciled s. 16.75 (1) (a) 1. This SECTION has been affected by drafts with the following LRB numbers: LRB–0839/p3 and LRB–1023/p3.

***–1023/P4.40*SECTION 98.** 16.75 (1) (a) 2. of the statutes is amended to read:

16.75 **(1)** (a) 2. If a vendor is not a Wisconsin producer, distributor, supplier or retailer and the department determines that the state, foreign nation or subdivision thereof in which the vendor is domiciled grants a preference to vendors domiciled in that state, nation or subdivision in making governmental purchases, the department, a delegated agency, and any agency making purchases under s. 16.74 shall give a preference over that vendor to Wisconsin producers, distributors, suppliers and retailers, if any, when awarding the order or contract. The department

may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subdivision.

***-1023/P4.41*SECTION 99.** 16.75 (1) (b) 1. and 3. of the statutes, as affected by 2011 Wisconsin Act 32, are consolidated, renumbered 16.75 (1) (b) and amended to read:

16.75 **(1)** (b) ~~Except as provided in subd. 2., when~~ When the estimated cost exceeds ~~$25,000~~ $50,000, the department or delegated agency shall invite bids to be submitted. ~~3.~~ If ~~subd. 1. or 2. requires~~ bids are to be solicited, the department or delegated agency either shall solicit sealed bids to be opened publicly at a specified date and time, or shall solicit bidding by auction to be conducted electronically at a specified date and time. Whenever bids are invited, due notice inviting bids shall be published as a class 2 notice, under ch. 985 or posted on the Internet at a site determined or approved by the department. The bid opening or auction shall occur at least 7 days after the date of the last insertion of the notice or at least 7 days after the date of posting on the Internet. The notice shall specify whether sealed bids are invited or bids will be accepted by auction, and shall give a clear description of the materials, supplies, equipment, or contractual services to be purchased, the amount of any bond, share draft, check, or other draft to be submitted as surety with the bid or prior to the auction, and the date and time that the public opening or the auction will be held.

***-1023/P4.42*SECTION 100.** 16.75 (1) (b) 2. of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

***-1023/P4.43*SECTION 101.** 16.75 (1) (c) of the statutes is amended to read:

16.75 **(1)** (c) Except as provided in sub. (7), when the estimated cost is ~~$25,000~~ $50,000 or less, the award may be made in accordance with simplified procedures established by the department for such transactions.

***-1023/P4.44*SECTION 102.** 16.75 (1m) of the statutes is amended to read:

16.75 **(1m)** The department or a delegated agency shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. Each authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin Aerospace Authority, and the Health Insurance Risk–Sharing Plan Authority shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated in the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance and disposition or resale. The department shall prepare documents containing technical guidance for the development and use of life cycle cost estimates, and shall make the documents available to interested parties, including local governmental units.

***-1023/P4.45*SECTION 103.** 16.75 (2m) (a) of the statutes is amended to read:

16.75 **(2m)** (a) Except as otherwise required by law, if the secretary or his or her designee determines that the use of competitive sealed bidding is not practicable or not advantageous to this state, the department or delegated agency may solicit competitive sealed proposals. Each request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

***–1023/P4.46*SECTION 104.** 16.75 (2m) (b) 1. and 3. of the statutes, as affected by 2011 Wisconsin Act 32, are consolidated, renumbered 16.75 (2m) (b) and amended to read:

16.75 **(2m)** (b) ~~Except as provided in subd. 2., when~~ When the estimated cost exceeds ~~$25,000~~ $50,000, the department or delegated agency may invite competitive sealed proposals. ~~3.~~ If competitive sealed proposals are to be invited, the department or delegated agency shall publish a class 2 notice under ch. 985 or post notice on the Internet at a site determined or approved by the department. The notice shall describe the materials, supplies, equipment, or contractual services to be purchased, the intent to make the procurement by solicitation of proposals rather than by solicitation of bids, any requirement for surety and the date the proposals will be opened, which shall be at least 7 days after the date of the last insertion of the notice or at least 7 days after the date of posting on the Internet.

***–1023/P4.47*SECTION 105.** 16.75 (2m) (b) 2. of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

***–1023/P4.48*SECTION 106.** 16.75 (2m) (c) of the statutes is amended to read:

16.75 **(2m)** (c) When the estimated cost is ~~$25,000~~ $50,000 or less, the department or delegated agency may award the order or contract in accordance with simplified procedures established by the department for such transactions.

***–1023/P4.49*SECTION 107.** 16.75 (2m) (d) of the statutes is amended to read:

16.75 **(2m)** (d) For purposes of clarification, the department or delegated agency may discuss the requirements of the proposed order or contract with any person who submits a proposal and shall permit any offerer to revise his or her proposal to ensure its responsiveness to those requirements.

***–1023/P4.50*SECTION 108.** 16.75 (2m) (e) of the statutes is amended to read:

16.75 **(2m)** (e) The department or delegated agency shall determine which proposals are reasonably apt to be awarded the order or contract and shall provide each offerer of such a proposal a fair and equal opportunity to discuss the proposal. The department or delegated agency may negotiate with each offerer in order to obtain terms that are advantageous ~~to this state~~. Prior to the award of the order or contract, any offerer may revise his or her proposal. The department or delegated agency shall keep a written record of all meetings, conferences, oral presentations, discussions, negotiations, and evaluations of proposals under this section.

***-1023/P4.51*SECTION 109.** 16.75 (2m) (f) of the statutes is amended to read:

16.75 **(2m)** (f) In opening, discussing, and negotiating proposals, the department or delegated agency may not disclose any information that would reveal the terms of a competing proposal.

***-1023/P4.52*SECTION 110.** 16.75 (2m) (g) of the statutes is amended to read:

16.75 **(2m)** (g) After receiving each offerer's best and final offer, the department or delegated agency shall determine which proposal is most advantageous and shall award the order or contract to the person who offered it. The ~~department's~~ department or delegated agency shall base its determination ~~shall be based~~ only on price and the other evaluation factors specified in the request for proposals. The department or delegated agency shall state in writing the reason for the award and shall place the statement in the contract file. This paragraph does not apply to procurements under s. 16.751.

***-1023/P4.53*SECTION 111.** 16.75 (3m) (b) 1. of the statutes is amended to read:

16.75 **(3m)** (b) 1. The department, a delegated agency, and any agency making purchases under s. 16.74 shall attempt to ensure that 5 percent of the total amount expended under this subchapter in each fiscal year is paid to minority businesses.

***–1023/P4.54*SECTION 112.** 16.75 (3m) (b) 2. of the statutes is amended to read:

16.75 **(3m)** (b) 2. The department, a delegated agency, and any agency making purchases under s. 16.74 shall make efforts to ensure that a portion of the total amount expended under this subchapter in each fiscal year is paid to disabled veteran–owned businesses.

***–1023/P4.55*SECTION 113.** 16.75 (3m) (b) 3. of the statutes is amended to read:

16.75 **(3m)** (b) 3. Except as provided under sub. (7), the department, a delegated agency, and any agency making purchases under s. 16.74 may purchase materials, supplies, equipment, and contractual services from any minority business or disabled veteran–owned business, or a business that is both a minority business and a disabled veteran–owned business, submitting a qualified responsible competitive bid that is no more than 5 percent higher than the apparent low bid or competitive proposal that is no more than 5 percent higher than the most advantageous proposal. In administering the preference for minority businesses or disabled veteran–owned businesses established in this paragraph, the department, a delegated agency, and any agency making purchases under s. 16.74 shall maximize the use of minority businesses or disabled veteran–owned businesses which are incorporated under ch. 180 or which have their principal place of business in this state.

***–1023/P4.56*SECTION 114.** 16.75 (3t) (c) (intro.) of the statutes is amended to read:

16.75 **(3t)** (c) (intro.) The department of corrections shall periodically provide to the department of administration a current list of all materials, supplies, equipment, or contractual services, excluding commodities, that are supplied by prison industries, as created under s. 303.01. The department of administration shall distribute the list to all ~~designated purchasing agents under s. 16.71 (1)~~ delegated agencies. Except as otherwise provided in sub. (6) (am), prior to seeking bids or competitive sealed proposals with respect to the purchase of any materials, supplies, equipment, or contractual services enumerated in the list, the department of administration or ~~any other designated purchasing agent under s. 16.71 (1)~~ delegated agency shall offer prison industries the opportunity to supply the materials, supplies, equipment, or contractual services if the department of corrections is able to provide them at a price that is equal to or lower than one which may be obtained through competitive bidding or competitive sealed proposals and is able to conform to the specifications. If the department of administration or ~~other purchasing agent~~ delegated agency is unable to determine whether the price of prison industries is equal to or lower than one obtained through competitive bidding or competitive sealed proposals, it may solicit bids or competitive proposals before awarding the order or contract. This paragraph does not apply to the printing of the following forms:

***–1023/P4.57*SECTION 115.** 16.75 (5) of the statutes is amended to read:

16.75 **(5)** The department or delegated agency may require of bidders, persons making proposals under sub. (2m) or contractors such sureties as, in its judgment, are deemed advisable and may decide as to their responsibility and competency. The

department or delegated agency may require a contractor to provide a bond furnished by a surety company authorized to do business in this state, for the proper performance of each contract.

***–1023/P4.58*SECTION 116.** 16.75 (6) (c) of the statutes is amended to read:

16.75 **(6)** (c) If the governor or, if acting as the governor's designee, the secretary determines that it is in the best interest of this state to do so, he or she may, ~~with the approval of the governor,~~ waive the requirements of subs. (1) to (5) and may purchase supplies, ~~material~~ materials, equipment, or contractual services, other than printing and stationery, from a private source other than a source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the purchase is expected to exceed ~~$25,000~~ $50,000, the department shall first publish a class 2 notice under ch. 985 or post a notice on the Internet at the site determined or approved by the department under sub. (1) (b) describing the materials, supplies, equipment, or contractual services to be purchased, stating the intent to make the purchase from a private source without soliciting bids or competitive sealed proposals and stating the date on which the contract or purchase order will be awarded. The date of the award shall be at least 7 days after the date of the last insertion or the date of posting on the Internet.

***–1023/P4.59*SECTION 117.** 16.75 (6) (d) of the statutes is amended to read:

16.75 **(6)** (d) If the governor or, if acting as the governor's designee, the secretary determines that it is in the best interest of this state to do so, he or she may issue a general waiver of the requirements of subs. (1) to (5) permitting the purchase of specified materials, supplies, equipment, or contractual services, except printing and stationery, from a private source. A general waiver may be issued for any period up to one year. The governor or, if acting as the governor's designee, the secretary may impose any necessary or appropriate condition or restriction on the waiver.

***–1023/P4.60*SECTION 118.** 16.75 (8) (a) 1. of the statutes is amended to read:

16.75 **(8)** (a) 1. The department, any ~~other designated purchasing agent under s. 16.71 (1)~~ delegated agency, any agency making purchases under s. 16.74, and each authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, and the Health Insurance Risk–Sharing Plan Authority shall, to the extent practicable, make purchasing selections using specifications developed under s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and recovered materials.

***–1023/P4.61*SECTION 119.** 16.75 (9) of the statutes is amended to read:

16.75 **(9)** The department, any ~~other designated purchasing agent under s. 16.71 (1)~~ delegated agency, any agency making purchases under s. 16.74, and any authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, and the Health Insurance Risk–Sharing Plan Authority shall, to the extent practicable, make purchasing selections using specifications prepared under s. 16.72 (2) (f).

***–1023/P4.62*SECTION 120.** 16.75 (10e) (a) of the statutes is amended to read:

16.75 **(10e)** (a) In this subsection, "energy consuming equipment" means any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, or refrigeration~~, or any other function, and that consumes energy~~.

***–1023/P4.63*SECTION 121.** 16.75 (10e) (b) of the statutes is amended to read:

16.75 **(10e)** (b) If s. 16.855 (10s) (a) provides an applicable standard for the type of ~~agency~~ energy consuming equipment being purchased and the purchase will cost more than $5,000 per unit the department, any ~~other designated purchasing agent under s. 16.71 (1)~~ delegated agency, any agency making purchases under s. 16.74, and any authority may not purchase that type of energy consuming equipment

unless the specifications for the equipment meet the applicable standards. If there is an applicable standard under s. 16.855 (10s) (a), but the energy consuming equipment meeting that standard is not reasonably available, the department, ~~purchasing agent~~ delegated agency, agency, or authority shall ensure, for purchases over $5,000 per unit, that the energy consuming equipment that is purchased maximizes energy efficiency to the extent technically and economically feasible. The department, ~~purchasing agent~~ delegated agency, agency, or authority shall not determine that energy consuming equipment that meets the applicable standard under s. 16.855 (10s) (a) either is not reasonably available on the basis of cost alone or is not cost–effective unless the difference in the cost of the purchase and installation of the equipment that meets the standard and the equipment that would otherwise be installed is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed over the anticipated life of the equipment.

***–1023/P4.64*SECTION 122.** 16.75 (10m) of the statutes is amended to read:

16.75 **(10m)** The department, any ~~other designated purchasing agent under s. 16.71 (1)~~ delegated agency, any agency making purchases under s. 16.74, and any authority shall not enter into any contract or order for the purchase of materials, supplies, equipment, or contractual services with a person if the name of the person, or the name of an affiliate of that person, is certified to the department by the secretary of revenue under s. 77.66.

***–1130/9.22*SECTION 123.** 16.84 (1) of the statutes is amended to read:

16.84 **(1)** Have charge of, operate, maintain and keep in repair the state capitol building, the executive residence, ~~the light, heat and power plant,~~ any heating, cooling, and power plants serving state properties that are not operated by an agency,

as defined in s. 16.52 (7), or by a purchaser, lessee, or contractor under s. 13.48 (14) or 16.848 (1), the state office buildings and their power plants, the grounds connected therewith, and such other state properties as are designated by law. All costs of such operation and maintenance shall be paid from the appropriations under s. 20.505 (5) (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and interest payments on state facilities and payments to the United States under s. 13.488 (1) (m).

***-1130/9.23*SECTION 124.** 16.848 (title) of the statutes is amended to read:

16.848 (title) **Sale, lease, or contractual operation of ~~certain~~ state property or facilities.**

***-1130/9.24*SECTION 125.** 16.848 (1) of the statutes is amended to read:

16.848 **(1)** Except as provided in sub. (2), the department may offer for sale or lease any state–owned real property, if the department determines that the sale or lease is in the best interest of the state, unless prohibited under the state or federal constitution or federal law or the sale is conducted as a part of a procedure to enforce an obligation to this state. Any sale may be either on the basis of public bids, with the department reserving the right to reject any bid in the best interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process. If the department receives an offer to purchase property offered under this subsection, the department may submit a report to the building commission recommending acceptance of the offer. The report shall contain a description of the property and the reasons for the recommendation. The department may recommend the sale of ~~a parcel of~~ property with or without the

approval of the agency, as defined in s. 16.52 (7), having jurisdiction ~~of~~ over the property and regardless of whether the property is included in an inventory submitted under s. 13.48 (14) (d). If the building commission approves the proposed sale, the department may sell the property. Except with respect to property identified in sub. (2), if any agency, as defined in s. 16.52 (7), has authority to sell or lease real property under any other law, the authority of that agency does not apply after the department notifies the agency in writing that an offer of sale or sale, or a lease agreement, is pending with respect to the property under this subsection. If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. If the department sells or leases any state–owned real property under this subsection, the department may attach such conditions to the sale or lease as it finds to be necessary or appropriate to carry out the sale or lease in the best interest of the state. If the department sells or leases a state–owned heating, cooling, or power plant under this subsection, the department may contract with the purchaser or lessee for the operation of the plant.

***–1130/9.25*SECTION 126.** 16.848 (1e) of the statutes is created to read:

16.848 **(1e)** If the department sells, leases, or contracts with a purchaser or lessee for the operation of any real property under sub. (1) that was under the jurisdiction of an agency, as defined in s. 16.52 (7), prior to the sale, lease, or contract, the agency shall convey all systems, fixtures, or additional property interests specified by the department to the purchaser or lessee of the property on terms specified by the department. If the department sells, leases, or contracts with a purchaser or lessee for the operation of a state–owned heating, cooling, or power plant that is under the jurisdiction of an agency, as defined in s. 16.52 (7), the agency

shall convey all real and personal property associated with the plant to the purchaser or lessee on terms specified by the department.

***–1130/9.26*SECTION 127.** 16.848 (1m) of the statutes is created to read:

16.848 **(1m)** If any property that is proposed to be sold by the department under sub. (1) is co–owned by a nonstate entity, the department shall afford to that entity the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by the department.

***–1130/9.27*SECTION 128.** 16.848 (1s) of the statutes is created to read:

16.848 **(1s)** (a) If the department sells, leases, or contracts with a purchaser or lessee for the operation of any facility under sub. (1) that is operated by an agency, as defined in s. 16.52 (7), on the day prior to the effective date of the sale, lease, or contract, the secretary shall, notwithstanding s. 16.50 (1), require submission of expenditure estimates for approval under s. 16.50 (2) for each agency that proposes to expend moneys from any appropriation for the operation of the facility during the fiscal biennium in which the facility is sold or leased or operated under contract.

(b) Notwithstanding s. 16.50 (2), the secretary shall disapprove any such estimate for the period during which the facility is not operated by the agency. The secretary may then require the use of the amounts of any disapproved expenditure estimates for the purpose of purchase of contractual services from the facility or payment of the costs of purchasing services that were provided by the facility from an alternative source. If the department sells, leases, or contracts for the operation of a facility under this subsection, the secretary may identify any full–time equivalent positions authorized for the agency that was operating the facility the duties of which primarily relate to the management or operation of the facility, and may decrease the authorized full–time equivalent positions for the agency by the

number of positions so identified effective on the effective date of the sale, lease, or contract.

(c) Notwithstanding s. 20.001 (3) (a) to (c), the secretary may lapse or transfer to the general fund from the unencumbered balance of appropriations to any agency, other than sum sufficient appropriations or appropriations of program revenues to the Board of Regents of the University of Wisconsin System or appropriations of segregated or federal revenues, any amount appropriated to an agency that is determined by the secretary to be allocated for the management or operation of the facility that was sold or leased or operated under contract effective on the effective date of the sale, lease, or contract.

(d) The secretary shall report any action taken under this subsection to the cochairpersons of the joint committee on finance.

***-1130/9.28*SECTION 129.** 16.848 (2) (a) of the statutes is repealed.

***-1130/9.29*SECTION 130.** 16.848 (2) (b) of the statutes is repealed.

***-1130/9.30*SECTION 131.** 16.848 (2) (gw) of the statutes is repealed.

***-1130/9.31*SECTION 132.** 16.848 (4) (a) of the statutes is amended to read:

16.848 **(4)** (a) Except as provided in s. 13.48 (14) (e), if there is any outstanding public debt used to finance the acquisition, construction, or improvement of any property that is sold or leased under sub. (1), the department shall deposit a sufficient amount of the net proceeds from the sale or lease of the property in the bond security and redemption fund under s. 18.09 to repay the principal and pay the interest on the debt, and any premium due upon refunding any of the debt. If there is any outstanding public debt used to finance the acquisition, construction, or improvement of any property that is sold or leased under sub. (1), the department shall then provide a sufficient amount of the net proceeds from the sale or lease of

the property for the costs of maintaining federal tax law compliance applicable to the debt. If the property was acquired, constructed, or improved with federal financial assistance, the department shall pay to the federal government any of the net proceeds required by federal law. If the property was acquired by gift or grant or acquired with gift or grant funds, the department shall adhere to any restriction governing use of the proceeds. Except as required under ss. 13.48 (14) (e), 20.395 (9) (qd), and 51.06 (6), if there is no such debt outstanding, there are no moneys payable to the federal government, and there is no restriction governing use of the proceeds, and if the net proceeds exceed the amount required to be deposited, paid, or used for another purpose under this ~~paragraph~~ subsection, the department shall use the net proceeds or remaining net proceeds to pay principal and interest costs on other outstanding public debt.

***-1130/9.32*SECTION 133.** 16.848 (4) (b) 1. of the statutes is repealed and recreated to read:

16.848 **(4)** (b) 1. To the extent that debt service on the property being sold or leased was paid from a segregated fund, other outstanding public debt related to that segregated fund should be redeemed.

***-1130/9.33*SECTION 134.** 16.848 (4) (b) 2. of the statutes is repealed.

***-1130/9.34*SECTION 135.** 16.848 (4) (b) 3. of the statutes is amended to read:

16.848 **(4)** (b) 3. The extent to which general obligation debt that was issued to acquire, build, or improve the property being sold or leased is subject to current optional redemption, would require establishment of an escrow, or could be assigned for accounting purposes to another statutory bond purpose.

***-1130/9.35*SECTION 136.** 16.848 (4) (b) 5. of the statutes is amended to read:

16.848 **(4)** (b) 5. The costs of maintaining federal tax law compliance in the selection of general obligation debt to be redeemed.

***–1130/9.36*SECTION 137.** 16.848 (4) (c) of the statutes is created to read:

16.848 **(4)** (c) If there are any outstanding revenue obligations, issued pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or improvement of any property that is sold or leased under sub. (1), the department shall deposit a sufficient amount of the net proceeds from the sale or lease of the property in the respective redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the principal and pay the interest on the revenue obligations, and any premium due upon refunding any of the revenue obligations. If there are any outstanding revenue obligations, issued pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or improvement of any property that is sold or leased under sub. (1), the department shall then provide a sufficient amount of the net proceeds from the sale or lease of the property for the costs of maintaining federal tax law compliance applicable to the revenue obligations. For the purpose of paying principal and interest costs on other outstanding revenue obligations, the secretary may cause outstanding revenue obligations to be called for redemption on or following their optional redemption date, establish one or more escrow accounts to redeem obligations at their optional redemption date, or purchase bonds on the open market. Except as required under ss. 13.48 (14) (e), 20.395 (9) (qd), and 51.06 (6), if the net proceeds exceed the amount required to be deposited, paid, or used for another purpose under this paragraph, the department shall use the net proceeds or remaining net proceeds to pay principal and interest costs on other similar revenue obligations.

***–1122/4.1*SECTION 138.** 16.849 of the statutes is created to read:

16.849 Facility design services for state agencies. The department may provide facility design services to agencies, as defined in s. 16.70 (1e). The department may assess a fee to agencies for which the department performs services under this section.

***–1022/P5.2*SECTION 139.** 16.855 (1) of the statutes is renumbered **16.855 (1m)** and amended to read:

16.855 **(1m)** The department shall let by contract to the lowest qualified responsible bidder all construction work when the estimated construction cost of the project exceeds $50,000, except for construction work authorized under s. 16.858 and except as provided in sub. (1r) or (10m) or s. 13.48 (19). If factors other than dollar amounts are required to be evaluated for a project, the department shall specify a formula that will convert the other factors into a dollar value for comparison.

(1r) If a bidder is not a Wisconsin firm and the department determines that the state, foreign nation or subdivision thereof in which the bidder is domiciled grants a preference to bidders domiciled in that state, nation or subdivision in making governmental purchases, the department shall give a preference over that bidder to Wisconsin firms, if any, when awarding the contract, in the absence of compelling reasons to the contrary. The department may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subsection.

***–1022/P5.3*SECTION 140.** 16.855 (1g) of the statutes is created to read:

16.855 **(1g)** In this section:

(a) "Mechanical, electrical, or plumbing subcontractor" is a contractor that performs mechanical, electrical, plumbing, or fire protection work and enters into a contract with a general prime contractor to perform their division of work.

(b) "Qualified bidder" means a person that the department certifies under sub. (9m) (b) 1.

(c) "Qualified responsible bidder" means a person who is a qualified bidder and who is a responsible bidder.

(d) "Responsible bidder" means a person that the department certifies under sub. (9m) (b) 2.

(e) "Single prime contracting" means bidding and contracting through a process in which only a general prime contractor has a contractual relationship with the state and all mechanical, electrical, or plumbing subcontractors are selected by department and are subcontractors to the general prime contractor.

***-1022/P5.4*SECTION 141.** 16.855 (2) (a) 5. of the statutes is amended to read:

16.855 **(2)** (a) 5. Date~~,~~ when and place where plans will be available.

***-1022/P5.5*SECTION 142.** 16.855 (2) (a) 6. of the statutes is created to read:

16.855 **(2)** (a) 6. That the department shall consider only bids from persons who are responsible bidders and, unless sub. (9m) (ar) 2. applies, qualified bidders.

***-1022/P5.6*SECTION 143.** 16.855 (9) of the statutes is renumbered 16.855 (9m) (b) 1. c. and amended to read:

16.855 **(9m)** (b) 1. c. ~~The~~ If the department ~~may require bidders to submit~~ so requires or the bidder will be considered unqualified, the bidder has submitted a sworn ~~statements~~ statement as to financial ability, equipment, and experience in construction and ~~require such~~ other information as may be necessary to determine ~~their~~ the bidder's competency.

***-1022/P5.7*SECTION 144.** 16.855 (9m) of the statutes is created to read:

16.855 **(9m)** (ag) In this subsection, "bidder" includes a potential bidder.

(ar) 1. The department shall certify bidders as qualified bidders under par. (b) 1. and responsible bidders under par. (b) 2. and shall administer a registration process for all bidders submitting bids on any construction project under this section. The department shall issue, in a timely manner, a certification decision on a complete application for certification. A certification under this subdivision is valid for 2 years except the department may decertify a bidder if the department determines that the bidder no longer meets the qualifications under par. (b) and if the department follows a decertification process developed by rule that provides to the bidder notice, hearing, and a means to appeal.

2. Notwithstanding sub. (1m) or (14) (e), the department may waive the condition of certification as a qualified bidder if the project is of such magnitude as to limit competition if the conditions under par. (b) 1. were required.

3. The department shall consider for certification under par. (b) associations consisting of at least 2 contracting firms that are organized for the purpose of entering into a construction contract as a single entity if at least one of the contracting firms is qualified under par. (b) and if the assignment of, and provisions for the continuity of, the various responsibilities within the association are agreed upon before the contract is awarded.

(b) 1. To be certified as a qualified bidder, a bidder must meet all of the following conditions:

a. The bidder has completed at least one project that involved similar work to the work being bid and the project was at least 50 percent of the size or value of the division of the project being bid. If the department determines that more experience is necessary for a particular project, the department may include additional requirements in the specifications and certify bidders accordingly.

b. The bidder has access to all necessary equipment and the organizational capacity and technical competence necessary to perform the project work properly and expeditiously.

2. To be certified as a responsible bidder, a bidder must meet all of the following conditions:

a. The bidder maintains a permanent place of business.

b. The bidder submits a sworn statement, upon the department's request, that indicates that the bidder has adequate financial resources to complete the work being bid, taking into account any other work the bidder is currently under contract to complete.

c. The bidder is bondable for the term of the proposed contract.

d. The bidder has a record of satisfactorily completing projects. In determining this factor, the department shall consider if the bidder has completed all contracts in accordance with drawings and specifications; diligently pursued execution of the work and completed contracts according to the time schedule, taking account of extensions granted; fulfilled guarantee requirements of contracts; if the contract included an affirmative action program requirement, complied with the requirement; and, if the contract included a safety program requirement, complied with the requirement.

e. The bidder is not on an ineligible list that the department maintains under s. 16.705 (9) or 16.765 (9) or on a list that another agency maintains for persons who violated construction–related statutes or administrative rules.

f. The bidder has been in business for at least 12 months.

g. The bidder is a legal entity and authorized to do business in Wisconsin.