



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0511/1  
MCP:sac:jf

## 2015 ASSEMBLY BILL 166

April 15, 2015 - Introduced by Representatives BARCA, DANOU, ZEPNICK and OHNSTAD. Referred to Committee on State Affairs and Government Operations.

1     **AN ACT to repeal** 16.75 (1) (b) 2. and 16.75 (2m) (b) 2.; **to renumber and amend**  
2             16.75 (1) (a) 1.; **to amend** 16.75 (1) (b) 1., 16.75 (1) (b) 3., 16.75 (1) (c), 16.75 (2m)  
3             (a), 16.75 (2m) (b) 1. and 16.75 (2m) (c); and **to create** 16.75 (1) (a) 1. c. of the  
4             statutes; **relating to:** the purchase of food by the Board of Regents of the  
5             University of Wisconsin System.

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### ***Analysis by the Legislative Reference Bureau***

Current law generally authorizes state agencies to purchase materials, supplies, or equipment under certain circumstances. With some exceptions, purchases for which the estimated cost exceeds \$50,000 require bids to be invited or sealed proposals to be solicited and the order must be awarded to the lowest responsible bidder or most competitive sealed proposal. In determining the lowest responsible bidder the agency must consider the location of the agency, the quantities of the articles to be supplied, the conformity of the bids with the specifications in the invitation to bid, and the purpose for which the materials, supplies, or equipment are required and their delivery date. In determining the most competitive sealed proposal, the agency must consider factors outlined in the solicitation for competitive sealed proposals.

This bill creates an exception to these provisions if the Board of Regents of the University of Wisconsin System (board) is purchasing food. Under this bill, when the board is considering bids or proposals for the purchase of food, factors other than price may not comprise more than 50 percent of the total factors used to determine the lowest bid or most competitive sealed proposal.

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Current law also provides that if the estimated cost of a purchase is \$25,000 or less, the department may use simplified procedures for making an award. This bill allows the department to use simplified procedures if the estimated cost of a purchase is \$50,000 or less.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 16.75 (1) (a) 1. of the statutes is renumbered 16.75 (1) (a) 1. a. and  
2 amended to read:

3           16.75 (1) (a) 1. a. All orders awarded or contracts made by the department for  
4 all materials, supplies, equipment, and contractual services to be provided to any  
5 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),  
6 (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754, 50.05  
7 (7) (f), 153.05 (2m) (a), 165.987, and 287.15 (7), shall be awarded to the lowest  
8 responsible bidder, ~~taking into consideration~~ to be determined as provided in subd.  
9 1. b. and c.

10           b. Except as provided in subd. 1. c., the person who determines the lowest  
11 responsible bidder shall consider life cycle cost estimates under sub. (1m), when  
12 appropriate, the location of the agency, the quantities of the articles to be supplied,  
13 their conformity with the specifications, and the purposes for which they are  
14 required and the date of delivery.

15           **SECTION 2.** 16.75 (1) (a) 1. c. of the statutes is created to read:

16           16.75 (1) (a) 1. c. If the Board of Regents of the University of Wisconsin–System  
17 is purchasing food and the purchase is subject to par. (b), factors other than price may  
18 not comprise more than 50 percent of the total factors used to determine the lowest  
19 responsible bidder.

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1           **SECTION 3.** 16.75 (1) (b) 1. of the statutes is amended to read:

2           16.75 (1) (b) 1. ~~Except as provided in subd. 2., when~~ When the estimated cost  
3 exceeds ~~\$25,000~~ \$50,000, the department shall invite bids to be submitted.

4           **SECTION 4.** 16.75 (1) (b) 2. of the statutes is repealed.

5           **SECTION 5.** 16.75 (1) (b) 3. of the statutes is amended to read:

6           16.75 (1) (b) 3. If subd. 1. ~~or 2.~~ requires bids to be solicited, the department  
7 either shall solicit sealed bids to be opened publicly at a specified date and time, or  
8 shall solicit bidding by auction to be conducted electronically at a specified date and  
9 time. Whenever bids are invited, due notice inviting bids shall be published as a class  
10 2 notice, under ch. 985 or posted on the Internet at a site determined or approved by  
11 the department. The bid opening or auction shall occur at least 7 days after the date  
12 of the last insertion of the notice or at least 7 days after the date of posting on the  
13 Internet. The notice shall specify whether sealed bids are invited or bids will be  
14 accepted by auction, and shall give a clear description of the materials, supplies,  
15 equipment, or contractual services to be purchased, the amount of any bond, share  
16 draft, check, or other draft to be submitted as surety with the bid or prior to the  
17 auction, and the date and time that the public opening or the auction will be held.

18           **SECTION 6.** 16.75 (1) (c) of the statutes is amended to read:

19           16.75 (1) (c) ~~Except as provided in sub. (7), when the estimated cost is \$25,000~~  
20 \$50,000 or less, the award may be made in accordance with simplified procedures  
21 established by the department for such transactions.

22           **SECTION 7.** 16.75 (2m) (a) of the statutes is amended to read:

23           16.75 (2m) (a) ~~Except as otherwise required by law, if the secretary or his or~~  
24 her designee determines that the use of competitive sealed bidding is not practicable  
25 or not advantageous to this state, the department may solicit competitive sealed

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1 proposals. Each request for competitive sealed proposals shall state the relative  
2 importance of price and other evaluation factors. If the Board of Regents of the  
3 University of Wisconsin-System is purchasing food, factors other than price may not  
4 comprise more than 50 percent of the total factors used to determine the most  
5 competitive sealed proposal.

6 **SECTION 8.** 16.75 (2m) (b) 1. of the statutes is amended to read:

7 16.75 (2m) (b) 1. ~~Except as provided in subd. 2., when~~ When the estimated cost  
8 exceeds ~~\$25,000~~ \$50,000, the department may invite competitive sealed proposals.

9 **SECTION 9.** 16.75 (2m) (b) 2. of the statutes is repealed.

10 **SECTION 10.** 16.75 (2m) (c) of the statutes is amended to read:

11 16.75 (2m) (c) When the estimated cost is ~~\$25,000~~ \$50,000 or less, the  
12 department may award the order or contract in accordance with simplified  
13 procedures established by the department for such transactions.

14 **SECTION 11. Initial applicability.**

15 (1) This act first applies with respect to bids or proposals solicited on the  
16 effective date of this subsection.

17 (END)