

27d4

**Gov Agency: DOA**—General Agency Provisions  
Free Books to Organizations Program

**Recommendations:**

**Paper No. 138:** Alternative 3

**Comments:** While the governor may have had good intentions for this program, it just isn't working. After issuing an RFP, DOA received no proposals from contractors. Furthermore, the governor identified the program as part of the 5% agency cut, if necessary. Clearly, DOA does not have the time or the inclination to manage the program, and JFC should end it now before committing future funding.

**Prepared by:** Julie



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 20, 1999

Joint Committee on Finance

Paper #138

### Free Books to Organizations Program (DOA -- General Agency Provisions)

---

#### CURRENT LAW

Base funding of \$100,000 GPR annually is provided for the free books to organizations program.

#### GOVERNOR

No change to current law.

#### DISCUSSION POINTS

1. The free books to organizations program was created in 1997 Act 27. Under the statutes the following is specified regarding the operation of the program:

a. DOA is required to solicit competitive sealed proposals from organizations having the capability to provide free books to educational and social service organizations in this state for the purpose of promoting literacy and to contract with the organization submitting the most advantageous competitive sealed proposal;

b. In cooperation with the Governor, DOA is required to seek additional resources from foundations and private donors to support the program;

c. The Governor is required to cooperate with DOA in providing free books to organizations and in seeking resources from foundations and private donors to support the program; and

d. A nonstatutory provision in 1997 Wisconsin Act 27 directs the Secretary of DOA to:  
(1) require the submission of expenditure estimates for all moneys appropriated to the program; and

(2) withhold approval of any estimated expenditures until the Secretary receives a report after November 30, 1997, from the Governor and the employe in DOA who is responsible for administering the program concerning their success in obtaining the additional resources for the program from foundation and private donors. The provision further states that if the Secretary is satisfied that the efforts to obtain additional resources have been sufficient, the Secretary may approve expenditure of moneys appropriated to the program.

2. Under state procurement law, the requirement to seek competitive sealed proposals is met by the use of an RFP (request for proposal) process. On November 2, 1998, DOA issued a RFP to select an entity to operate the free books to organizations program. The RFP specified that the contract would be effective for one year with the possibility of two, one-year renewals. As an additional requirement of the RFP, DOA chose to add the requirement that "the successful contractor will independently solicit additional funds from private enterprises on behalf of DOA, [which is] required under s. 16.23(2), to augment the money needed to administer, store, sort, and distribute books for this program." No proposals were actually submitted in response to this RFP.

3. The Department indicates that although there is no requirement under the law for a proposed contractor to solicit private funds on behalf of DOA, the requirement that the successful bidder also solicit private funds was included because the Department does not have the fund raising expertise necessary and it believed that a successful bidder was more likely to have such expertise.

4. Current law related to DOA's authority to add the requirement for the solicitation of private funds is open to interpretation. On the one hand, no specific language in current law prohibits DOA from having the successful contractor seek private funds. Further, state agencies generally have broad authority to implement programs in a manner that is consistent with the statutes. Thus, while the statutes specifically place the responsibility to seek private funds with DOA and the Governor, it could be argued that the Department is not prohibited from contracting for the required fund raising efforts.

5. Conversely, 1997 Act 27 created a separate statutory section specifying DOA's and the Governor's roles in fund raising for the program that was clearly not linked to selection of an organization to distribute the free books. Further, the nonstatutory provision specified that the "...employe of the department of administration who is charged with the responsibility to administer" the program is required to report to the Secretary of DOA on the "success in obtaining the additional resources" for the program.

6. Since the program will presumably not be operating in this biennium, the Committee may wish to review the status of the program for possible modifications or termination.

7. If the Committee believes that placing fund raising requirements on any proposed contractor for the program should not be required, the following are two modifications that could be considered:

- The statutes could be modified to specifically prohibit DOA from requiring a contractor who will distribute the free books from also having to raise private funds. As a result,

DOA and the Governor would be required to undertake separate efforts to seek additional private sources of funding for the program.

- The requirement that DOA and the Governor seek private funds for the program could be deleted, thereby eliminating the need for either DOA and the Governor to either solicit a private firm to raise additional funds or to devote staff efforts to this activity.

8. Alternatively, the Committee could consider repealing the program. In this regard, the Committee should note that as part of the required budget exercise to propose 5% base reductions to the Governor, DOA indicated that the free books to organizations program could be eliminated. Further, since no providers bid on providing services under the initial RFP, it could be argued that the program may not be operable and therefore, the program could be repealed and funding (\$100,000 GPR annually) could be eliminated from the Governor's budget.

### ALTERNATIVES

The following alternatives are mutually exclusive.

*No* 1. Include statutory language to specifically prohibit the Department of Administration from requiring a contractor under the free books for organizations program from also having to raise private funds to support the free books distribution.

*No* 2. Delete the requirement that the Department of Administration and the Governor seek private funds for the free books for organizations program.

*3* 3. Repeal the free books for organizations program and delete funding of \$100,000 GPR annually.

<b>Alternative 3</b>	<b>GPR</b>
1999-01 FUNDING (Change to Bill)	-\$200,000

*ok* 4. Maintain current law.

Prepared by: Jere Bauer

MO# *Art 3*

1	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	JAUCH	<input checked="" type="radio"/>	N	A
	MOORE	<input checked="" type="radio"/>	N	A
	PLACHE	<input checked="" type="radio"/>	N	A
	WIRCH	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	<input checked="" type="radio"/>	N	A
2	GARD	<input checked="" type="radio"/>	N	A
	PORTER	<input checked="" type="radio"/>	N	A
	KAUFERT	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	DUFF	<input checked="" type="radio"/>	N	A
	WARD	<input checked="" type="radio"/>	N	A
	HUBER	<input checked="" type="radio"/>	N	A
	RILEY	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0